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Document Title: DECLARATION OF CONDOMINIUM

Grantor/Declarants: WILLIAM M. MOORE

Grantee: 4TH STREET CONDOMINIUM

Short Legal: Lots 4 through 7, Rearrangement Block 4,
BOWMAN'S CENTRAL SHIP HARBOR
WATERFRONT PLAT OF ANACORTES

TPN: 3776-004-008-0026(P56772)

NOTICE TO RECORDER:

AS REQUIRED BY RCW CHAPTER 64.34, AT THE TIME OF RECORDING
THIS DECLARATION INSERT IN ARTICLE 27, PAGE 16 THE CROSS
REFERENCE RECORDING DATA OF THE SURVEY MAP AND PLANS
RECORDED IN CONNECTION HEREWITH.

**DECLARATION ESTABLISHING
COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND
EASEMENTS
FOR
4th STREET CONDOMINIUM**

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**DECLARATION ESTABLISHING
COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND
EASEMENTS
FOR
4th STREET CONDOMINIUM**

THIS DECLARATION is made by the party signed as Declarant at the end hereof, to submit the property hereinafter described to the Washington Condominium Act (Chapter 64.34 RCW):

ARTICLE 1. INTERPRETATION

Section 1.1 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of this Condominium under the provisions of Washington law. Insofar as it affects this Declaration and Condominium, the provisions of the Act under which this Declaration is operative shall be liberally construed to effectuate the intent of this Declaration.

Section 1.2 Consistent with the Act. The terms used herein are intended to have the same meaning as given in the Act unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

Section 1.3 Covenant Running with the Land. This Declaration shall operate as a set of covenants running with the land, or equitable servitudes, binding on Declarant, his heirs, successors and assigns, all subsequent owners of the property or a unit, together with their grantees, successors, heirs, executors, administrators, devisees or assigns, supplementing and interpreting the Act, and operating independently of the Act, should the Act or any part thereof be, in any respect, inapplicable.

Section 1.4 Captions and Exhibits. Captions given to the various sections herein are for convenience only and are not intended to modify or affect the meaning of any substantive provisions of this Declaration. Any exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference.

Section 1.5 Inflationary Increase in Dollar Limits. Any dollar amounts specified in the Declaration in connection with any proposed action or decision of the Board or Association shall 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 of January 1 of the calendar year following the year in which the Declaration is recorded, to adjust for any deflation in the value of the dollar. In the event this index is discontinued, the Board shall select a comparable index for this purpose.

Section 1.6 **Definitions.**

The Act. The Act means the Washington Condominium Act (Chapter 64.34 RCW), as amended from time to time.

Administration. Administration means all forms of activities in the managing, operating or administering of any affairs or functions relating to the condominium project or property which are allocated to the Board or Association or Declarant's authority, including maintenance, repair, replacement, restoration, rebuilding, or reconstruction, or the making of alteration, improvements or additions, and all aspects of operation.

Allocated Interests. Allocated interests means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.

Assessment. Assessment means all sums chargeable by the association against a unit including, without limitation: (a) Regular and special assessments for common expenses, charges, and fines imposed by the association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorney fees, incurred by the association in connection with the collection of a delinquent owner's account.

Association. Association means the unit owner's association organized in accordance with the Act, the bylaws and with this Declaration as it is recorded, or as they may be amended.

Board of Directors. Board of directors means the body, regardless of name, with primary authority to manage the affairs of the association.

Bylaws. Bylaws means the Bylaws of the Association as initially promulgated by the Declarant and as amended from time to time which, with this Declaration, provide for the organization of the association and for the administration of the property.

Common Elements. Common elements means all portions of a condominium other than the units.

Common Expenses. Common expenses means the overall costs and expenses of operation and maintenance of the Condominium and all easements appurtenant thereto, together with any allocations to reserves.

Common Expense Liability. Common expense liability means the liability for common expenses allocated to each unit pursuant to this declaration and the Act.

Declarant. Declarant shall mean William M. Moore, a single man, and his representatives, successors, and assigns.

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

Eligible Mortgagee. Eligible mortgagee means the holder of a mortgage on a unit that has filed with the secretary of the association a written request that it be given copies of notices of any action by the association that requires the consent of mortgagees. For the purpose of this declaration the term "eligible mortgagee" includes insurers and guarantors of mortgages.

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

Identifying Number. Identifying number means the number, letter, or combination thereof, designating only one unit in this declaration as it is recorded or as it may be amended.

Limited Common Elements. Limited common elements means a portion of the common elements allocated by this declaration or by operation of the Act for the exclusive use of one or more but less than all of the units.

Majority. Majority, for the purposes of this declaration, means the unit owners with 51% or more of the votes in accordance with the percentages assigned to the units by this Declaration.

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

Mortgagee. Mortgagee means the secured party under a mortgage, deed of trust, or other real property security interest covering a unit. For the purposes of this declaration this term includes the vendor under a real estate contract.

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

Real Property. Real property means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, right and interests appurtenant thereof which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance.

Structures. Structures means the building or buildings situate within the boundaries of a Unit.

Unit. Unit means a portion of the condominium designated for separate ownership, the boundaries of which are described pursuant to Article 5.2 which are intended for residential use and occupancy, as provided herein, referred to as a "unit" in the Act.

Unit Owner. Unit owner means the Declarant or other person or persons owning a unit in fee simple, but does not include a person who has an interest in a unit solely as security for an obligation. Unit owner means the vendee, not the vendor, of a unit under a real estate contract.

This definition shall not include persons who, on a month-to-month or other basis, rent or lease their unit from a unit owner.

ARTICLE 2. NAME.

Section 2.1 **Name of Project.** The name of this project shall be 4th Street Condominium.

Section 2.2 **Name of Owners' Association.** The name of the owners' association shall be 4th Street Condominium Owners' Association.

ARTICLE 3. SUBMISSION OF THE PROPERTY TO THE CONDOMINIUM ACT.

Declarant, being the sole owner of the property, makes this Declaration for the purpose of submitting the property to the Washington Condominium Act. Declarant declares that the property shall be held, used, conveyed, encumbered, leased, occupied, rented and improved subject to the covenants, conditions, restrictions, reservations, and easements stated in this Declaration, all of which are in furtherance of the division of the property into condominium units and common areas and facilities and shall be deemed to run with the land and be a burden and benefit to Declarant and all persons who own or acquire an interest in the property or any part thereof, and their grantees, successors, heirs, executors, administrators, and assigns.

ARTICLE 4. DESCRIPTIONS OF LAND.

The land on which the homes and improvements provided for in this declaration is legally described as:

Lots 4 through 7, Rearrangement Block 4, "BOWMAN'S CENTRAL SHIP HARBOR WATERFRONT PLAT OF ANACORTES", as per plat recorded in Volume 3 of Plats, page 14, records of Skagit County, Washington.

TOGETHER WITH that portion of the North ½ of vacated alley and of vacated Broadway Avenue which upon vacation reverted to said premises by operation of law.

(TPN 3776-004-008-0026 (P56772)).

ARTICLE 5. UNITS.

Section 5.1 **Number of Units.** Declarant hereby establishes a condominium consisting of two (2) air space units, which are both designated for residential purposes.

Section 5.2 **Boundary of Units.** Each unit comprises an envelope of space, the horizontal boundaries of which represent the extension upward and downward of the side surface boundaries depicted on the Survey Map and Plans and the vertical boundaries are represented by the subsurface and above surface elevations described on the Survey Map and Plans. A Unit shall include all Structures, improvements and fixtures now or hereafter located within said space.

Section 5.3 **Identification of Each Unit.** Each unit is identified by one, three-digit numeral designation, which numeral is the same as the numeral designation of the particular Structure situated within that unit.

Section 5.4 **Unit Location.** The location of the horizontal and vertical boundaries of each unit is shown on the Survey Map and Plans.

Section 5.5 **Surface Square Footage.** The surface square footage of each of the units is as follows:

<u>Unit</u>	<u>Square Footage</u>	<u>Ownership Percentage</u>
Unit 407	6,532	50%
Unit 411	6,390	50%

Section 5.6 **Parking.** There are no parking spaces in the Condominium outside of the units. Each unit owner must park in his/her garage or in the driveway within the unit. The driveway is restricted to use for parking of operative vehicles.

ARTICLE 6. COMMON ELEMENTS.

Section 6.1 **Description.** The common elements consist of those specified in the Washington Condominium Act, as well as the following:

6.1.1 The land lying below the lower boundary and the airspace lying above the upper boundary of the Units.

Section 6.2 **Use.** Each owner shall have the right to use the common elements in common with the other owners.

Section 6.3 **Prohibition Against Abandonment, Partition, etc.** The owners shall not by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements and no other person shall have the right to have them partitioned or divided.

ARTICLE 7. LIMITED COMMON ELEMENTS

There are no limited common elements.

ARTICLE 8. ACCESS

Each unit has direct access to the public streets.

ARTICLE 9. PERCENTAGE OF UNDIVIDED INTEREST IN COMMON ELEMENTS

Section 9.1 **Schedule of Percentages.** The fraction of undivided interest in the common elements appertaining to each unit and its owner for all purposes, including voting, is as follows:

Each unit has a 50% undivided interest in the common elements for all purposes, and for voting.

ARTICLE 10. PERMITTED USES; MAINTENANCE OF UNITS; CONVEYANCES

Section 10.1 **Residential Purposes.** The units and structures constructed within the units shall be used, on an ownership, rental, or lease basis for single family residential purposes. **Timesharing** (as defined in RCW 64.36.010(11)) is prohibited. Other than as stated in this Section 10.1, there is no restriction on the right of any owner to lease or otherwise rent his or her unit.

Section 10.2 **Maintenance of Units Structures.** Each owner is responsible, at his/her own expense, for maintaining the interior and exterior of all structures within his/her unit and keeping them in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair and shall do all painting and repairs at any time necessary to maintain the good appearance and condition of the structures, and each owner will be responsible for the care, maintenance, cleanliness and orderliness of their lawn, landscaping, driveways and yards within each unit boundary.

10.2.1 The Association is authorized and empowered, but not required, to assess monies for maintenance, repair and replacement of any portion of a unit that has not been maintained in good condition and repair.

Section 10.3 **Effect on Insurance.** Nothing shall be done or kept in any unit or in the common elements that will increase the rate of insurance on the property without the prior written consent of the Board. Nothing shall be done or kept in any unit or in any common area that will result in the cancellation of insurance on any part of the property, or that would be in violation of any laws.

Section 10.4 **Signs.** Signs may be displayed so long as they comply with local laws.

Section 10.5 **Offensive Activity.** No noxious or offensive activity shall be carried on in or upon any unit or common element, nor shall anything be done therein or thereupon that may be or become an annoyance or nuisance to other owners. The Board's decision shall be binding as to this definition.

Section 10.6 **Alterations and Improvements.** Subject to the provisions of this Declaration, there are no regulations with respect to exterior alterations of or repairs to a structure or other improvement in a unit, or the construction of a structure or other improvement in a unit, except that no structure or improvement shall be erected, altered, placed, or permitted to remain in any unit unless the structure or other improvement complies with applicable laws, ordinances, and building codes.

ARTICLE 11 OWNERS' ASSOCIATION.

Section 11.1 **Form of Association.** The owners of units shall constitute an Owners' Association. The Association will be a nonprofit corporation formed under the laws of the State of Washington and will be known as the 4th Street Condominium Owners' Association. It will be governed by a board of directors, the number of which shall be set forth in the bylaws. The rights and duties of the members and of the corporation shall be governed by the provisions of the Condominium Act and of this Declaration.

Section 11.2 **Articles and Bylaws.** Declarant has adopted Articles of Incorporation and Bylaws.

Section 11.3 **Qualification for Membership.** Each fee owner of a unit (including Declarant) shall be a member of the Association and shall be entitled to one membership for each unit owned; 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. Ownership of a unit shall be the sole qualification for membership in the Association.

Section 11.4 **Transfer of Membership.** The Association membership of each owner (including Declarant) shall be appurtenant to the unit giving rise to such membership, and 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. 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 11.5 **Number of Votes.** The total voting power of all owners shall be two (2) votes and the total number of votes available to the owner of any one (1) unit shall be one (1).

Section 11.6 Voting Representative. An owner may, by written notice to the Board, designate a voting representative for the unit. The voting representative need not be an owner. The designation may be revoked at any time by written notice to the Board from a person having an ownership interest in a unit, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the unit, excepting cases in which the person designated is a mortgagee of the unit. This power of designation and revocation may be exercised by the guardian of an owner, the attorney-in-fact for the owner under a durable power of attorney, and the administrators or executors of an owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each unit shall be the group composed of all of its owners. If a unit is owned by a husband and wife and only one of them is at a meeting, the one who is present will represent the marital community.

Section 11.7 Joint Owner Disputes. The vote for a unit must be cast as a single vote. Fractional votes shall not be allowed. If joint owners are unable to agree how their vote shall be cast, they shall lose their right to vote on the matter in question.

Section 11.8 Pledged Votes. An owner may, but shall not be obligated to, pledge his or her vote on all issues or on specific issues to a mortgagee. If an owner is in default under a first mortgage on the unit for ninety (90) consecutive days or more, the mortgagee shall automatically be authorized to declare at any time thereafter that the owner has pledged his or her vote on all issues to the mortgagee during the continuance of the default. If the Board has been notified of any such pledge to a mortgagee, only the vote of the mortgagee will be recognized on the issues that are subject to the pledge.

Section 11.9 Annual and Special Meetings. There shall be an annual meeting of the members of the Association in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the owners no less than thirty (30) days before the meeting. The unaudited financial statement for the preceding year, if any, and the budget the Board has adopted for the current year, if any, shall be presented at the annual meeting for the information of the members. Special meetings of the members of the Association may be called at any time, in the manner provided in the Bylaws, for the purpose of considering matters which require the approval of all of the owners, or for any other reasonable purpose. Any eligible first mortgagee of a unit may attend or designate a representative to attend the meetings of the Association.

Section 11.10 Books and Records. The Board shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures of the Association, if any, in a form that complies with generally accepted accounting principles.

Section 11.11 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 or any of them, current copies of this Declaration, the Articles, Bylaws, and other rules governing the condominium and other books, records, and financial statements of the Association, if applicable, and the most recent annual

unaudited financial statement, if one is prepared. "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 copies.

ARTICLE 12. PROTECTION OF MORTGAGEES.

Section 12.1 Abandonment of Condominium Status. Except when acting pursuant to the provisions of the Act involving damage, destruction, or condemnation, the Association shall not: without prior written approval of one hundred percent (100%) of all eligible mortgagees and one hundred percent (100%) of the owners of record of the units, seek by act or omission to: abandon or terminate the condominium status of the project.

Section 12.2 Partitions and Subdivision. The Association shall not combine nor subdivide any unit, without the prior written approval of all eligible mortgagees and all owners of record of the units.

Section 12.3 Amendment to Declaration or Bylaws. Because this is a 2-unit condominium, the association shall not make any material amendment to this declaration or the bylaws (including changes in the percentages of interest in the common elements) without the prior written approval of all eligible mortgagees and all owners of record.

Section 12.4 Copies of Notices. A mortgagee of a unit (and any insurer or guarantor of such mortgage) shall be entitled to receive timely written notice: (a) that the owner/mortgagor of the unit has for more than sixty (60) days failed to meet any obligation under the condominium documents; (b) of any condemnation loss or casualty loss affecting a material portion of the property or the unit on which it holds a mortgage; (c) of any proposed action that requires the consent of a specified percentage of mortgagees.

ARTICLE 13. ADMINISTRATION OF PROPERTY; RIGHTS RETAINED BY DECLARANT.

Section 13.1 Transition Date. The "Transition Date" shall be the date upon which the authority and responsibility to administer and manage the Association and the condominium, subject to this Declaration and the Bylaws, passes to the Association. The Transition Date shall be on the date of title transfer of the first unit.

Section 13.2 Declarant's Powers Until Transition Date. Until the Transition Date, Declarant shall have the full power and authority to exercise all of the rights, duties, and functions of the Association and the offices of the Association, including but not limited to the adoption of rules and regulations, contracting for the purchase of goods and services and buying insurance.

ARTICLE 14. AUTHORITY OF THE BOARD.

Section 14.1 **Adoption of Rules and Regulations.** The Board is empowered to adopt, amend, and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration and to promote the comfortable use and enjoyment of the property. The rules and regulations of the Association shall be binding upon all owners and occupants and all other persons claiming any interest in the condominium.

Section 14.2 **Enforcement of Declaration, Etc.** The Board (or Declarant until the Transition Date) shall have the power and the duty to enforce the provisions of this Declaration, the Articles, the bylaws and the rules and regulations of the Association, as the same may be lawfully amended from time to time, for the benefit of the Association. If a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, the Articles, the Bylaws, or the rules or regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs, and attorney's fees.

ARTICLE 15. BUDGET AND ASSESSMENTS.

Section 15.1 **Budget.** The Board may adopt such fiscal year for the Association as it deems to be convenient, but unless another year is so adopted, then the fiscal year shall be the calendar year.

Section 15.2 **Preparation of Budget.** The Board may, as it deems necessary and appropriate, prepare a budget for the Association for the approaching fiscal year. In preparing such a budget, the Board shall estimate the common expenses of the Association to be paid during the fiscal year, if any, and make suitable provisions for accumulation of reserves, including amounts reasonably anticipated to be required, and shall take into account any surplus or deficit carried over from the preceding year and any expected income to the Association.

Section 15.3 **Assessments for Common Expenses.** Due to the unique nature of this condominium and the fact that there are no common elements other than the subsurface ground and air above the units, each unit owner will likely pay all obligations individually billed to his or her unit from third parties, and therefore there may be no common expenses. In the event there are common expenses, sums required by the Association for such common expenses as may be reflected in the annual budget or supplement thereto, may be divided into equal installments to be paid on such periodic basis as the Board may decide. Assessments for Common Expenses shall be assessed to the units and their respective owners in proportion to the units' percentages of undivided interest in the common elements. Such assessments begin to accrue with respect to each unit upon the closing of the initial sale of a unit by the owner.

Section 15.4 **Special Assessments.** If a special assessment becomes chargeable against a unit under the authority of this Declaration or the Bylaws, the Board shall determine the amount of such special assessment and fix the month or months in which it is to be paid.

Section 15.5 Notice of Assessment. The Board shall notify each owner in writing of the amount of any assessment issued under the authority of this Declaration or the Bylaws, and provide each owner with documentation to support the requested sum upon the request of an owner.

Section 15.6 Payment of Assessments. The Board shall establish a schedule for the payment of any assessments levied under this Section 15, and payments shall be due as provided in any such payment schedule. Failure to pay any such assessment by the dates determined by the Board shall render the assessment delinquent and subject to late charges, interest charges, and/or collection procedures as provided for in Section 16.

Section 15.7 Proceeds Belong to Association. All assessments and other receipts received by the Association on behalf of the condominium shall belong to the Association.

Section 15.8 Failure to Assess. Any failure by the Board or the Association to establish a budget or determine 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 owners from the obligation to pay assessments during that or any subsequent year. The assessments established for any preceding year shall continue until new assessment amounts and payment schedule is established.

Section 15.9 Certificate of Unpaid Assessments. Upon the request of any owner or mortgagee of a unit the Board will furnish a certificate in recordable form 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 15.10 Obligations Inuring to the Association or Owners. In the event that an owner of a unit shall default on an obligation or a unit owner's liability inures to the Association or another unit owner, then the Association may levy an assessment against the defaulting owner in an amount equal to the total amount necessary to compensate the Association or the other unit owner for satisfaction of such obligation or liability, along with any costs and attorney's fees incurred, along with interest at the maximum rate allowed by Washington State law at the time the assessment issues.

ARTICLE 16. LIENS AND COLLECTION OF ASSESSMENTS.

Section 16.1 Assessments Are a Lien; Priority. All unpaid sums assessed by the Association to any unit under the authority of this Declaration or the Bylaws (together with interest, late charges, costs, and attorneys' fees in the event of delinquency) shall constitute a continuing lien on the unit and all its appurtenances from the date the assessment became due

until fully paid. A lien under this section shall be prior to all other liens and encumbrances on a unit except: (a) Liens and encumbrances recorded before the recording of the declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A mortgagee of a mortgage of record of a unit that obtains title through a mortgage foreclosure or deed of trust sale, or by taking a deed in lieu of foreclosure or sale, or a purchaser at a foreclosure sale, shall take the unit free of any claims for assessments by the Association chargeable to the unit that became due before taking title, but will be liable for the assessments that accrue after taking title; in which event the unit's past due assessments shall become new common expenses chargeable to all of the owners, including the mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to their respective percentages of undivided interest in the common elements; however, the owner shall continue to be personally liable for such past-due assessments, as provided in Section 16.3. For the purpose of this section, the terms "mortgages" and "mortgagee" shall not mean real estate contracts or a vendor or a designee or assignee of a vendor under a real estate contract.

Section 16.2 Lien May be Foreclosed. The lien for delinquent assessments may be foreclosed by suit by the managing agent or Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The managing agent or the Board, acting on behalf of the Association, shall have the power to bid on the unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

Section 16.3 Assessments are Personal Obligations. In addition to constituting a lien on the unit and all its appurtenances, all sums assessed by the Association chargeable to any unit (together with interest, late charges, costs and attorneys' fees in the event of delinquency) shall be the personal obligation of the owner of the unit when the assessment is made. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them.

Section 16.4 Late Charges and Interest on Delinquent Assessments. The Board may from time to time establish late charges and a rate of interest to be charged on assessments that may thereafter become delinquent. In the absence of another established non-usurious rate, delinquent assessments shall bear interest at the rate of 12% per annum. If an assessment against a unit is not paid when due, the Board may elect to declare all assessments against that unit for the remainder of the fiscal year to be immediately due and payable.

Section 16.5 Recovery of Attorneys' Fees and Costs. In any action to collect delinquent assessments, the prevailing party shall be entitled to recover as a part of its judgment a reasonable sum for attorneys' fees and expenses reasonably incurred in connection with the action, in addition to taxable costs permitted by law.

Section 16.6 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.

ARTICLE 17. FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE DOES NOT CONSTITUTE WAIVER.

The failure of the Board in any instance to insist upon the strict compliance with this Declaration or the Bylaws or rules and regulations of the Association, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition, or restriction. 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 the Board.

ARTICLE 18. LIMITATION OF LIABILITY.

Section 18.1 **Liability for Utility Failure, Etc.** Except to the extent covered by insurance obtained by the Board, neither the Association nor the Board (nor the Declarant, Declarant's managing agent, or the interim board of directors) shall be liable for: the failure of any utility or other service to be obtained and paid for by the Board; or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust, or sand which may lead or flow from outside or from any parts of the units, or from any of their pipes, drains, conduits, appliances, or equipment, or from any other place; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance, or orders of a governmental authority.

Section 18.2 **No Personal Liability.** So long as a Board member, or Association committee member, or Association officer, or Declarant or 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 where the consequences of such act, omission, error, or negligence is covered by insurance obtained by the Board.

ARTICLE 19. INDEMNIFICATION.

Each Board member and Association committee member and Association officer, and Declarant and the managing agent 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 he or she may be a party, or in which he may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he or she 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 his or her

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.

ARTICLE 20. INSURANCE.

Section 20.1 **Required Policies.** Due to the fact that there are no common elements and each unit contains its own home and outbuildings, each owner shall maintain his/her own homeowner's policy, just as if this were a home not within a condominium.

ARTICLE 21. CONDEMNATION.

Section 21.1 **Consequences of Condemnation; Notice.** If any unit or portion thereof or the 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 (referred to herein as a "taking") notice of the proceeding or proposed acquisition shall promptly be given to each owner and to each holder of a first mortgage and the provisions to this Article 21 shall apply.

Section 21.2 **Power of Attorney; Proceeds.** Each owner appoints the Association as attorney-in-fact for the purpose of representing the owners in condemnation proceedings and negotiation, settlements and agreements with the condemning authority for acquisition of common elements or any part thereof, from the condemning authority. The Board may appoint a trustee to act on behalf of the owners in carrying out the foregoing functions in lieu of the Association. All compensation, damages, or other proceeds of the taking, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Association or any trustee in trust for the owners and their first mortgagees as their interests may appear.

Section 21.3 **Complete Taking.** If the entire property is taken the condominium ownership shall terminate. The Condemnation Award shall be apportioned among the owners in proportion to their respective percentages of undivided interest in the common elements; provided, that if a standard different from the value of the property as a whole is employed to measure the Condemnation Award in the taking, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principle, the Board shall as soon as practicable determine the share of the Condemnation Award to which each owner is entitled. Each owner's share shall be applied first to the payment of all mortgages and liens on the owner's interest in accordance with the existing priorities and the balance of each share shall be distributed to the owner. No owner shall have any priority with respect to the Condemnation Award over the holder of a mortgage on the owner's unit.

ARTICLE 22. EASEMENTS.

Section 22.1 Utility Easements Granted by Declarant. Declarant grants to each company or municipality providing utility services to the condominium or to the owners of units in the condominium an easement for the installation, construction, maintenance, repair and reconstruction of all utilities serving the condominium or the owners, including, without limitation, such utilities services as water, sanitary sewer, storm sewer, electricity, cable television and telephone, and an easement for access over and under the roadways to the utility service facilities.

Section 22.2 Grant of Easement from Unit 411 to Unit 407. Declarant, with respect to and on behalf of Unit 411, for the mutual promises and covenants contained herein (no monetary consideration), hereby declares, establishes, and grants to Unit 407 a perpetual, nonexclusive, easement appurtenant, over, under, across, and through an area that is five (5) feet in width and located along the most easterly edge of the southern one-half (1/2) of the property owned by Unit 411, for the purposes of the owner or agent of Unit 407 maintaining, repairing, or improving the garage located upon and within the boundaries of Unit 407. This grant of easement is declared in anticipation of the sale of either or both of Units 407 and 411 to third parties. The Declarant expressly intends that this grant of easement survive any such sale, bind the heirs, successors, and assigns of Units 407 and 411, and shall not terminate or be extinguished by the operation of law, merger, or otherwise.

ARTICLE 23. AMENDMENTS OF DECLARATION OR SURVEY MAP AND PLANS OR BYLAWS.

Section 23.1 Procedures. An owner may propose amendments to this Declaration or the Survey Map and Plans or the Bylaws to the Board. One member of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of 100% of members entitled to vote, after notice has been given to all persons (including eligible holders) entitled to receive notices. Upon the adoption of an amendment and the obtaining of any necessary consents of eligible holders of mortgages as provided below, the amendment will become effective when a certificate of the amendment, executed by two officers of the Association, has been recorded in the public records.

Section 23.2 Percentages of Consent Required. Because this is a two-unit condominium, the percentages of consent of owners and eligible mortgagees required for the adoption of amendments to the Declaration, Survey Map and Plans, Articles, and Bylaws shall be 100%.

ARTICLE 24. ABANDONMENT OR TERMINATION OF CONDOMINIUM STATUS.

Except in cases of substantial damage to the property, a taking or condemnation of the property, the condominium status of the property shall not be abandoned or terminated by reason of any act or omission by the owners or the Association except with the consent of all owners by an instrument to that effect duly recorded, and then only if the mortgages and holders of all liens affecting any of the units consent thereto or agree, in either case by an instrument duly recorded, that their mortgages and liens be transferred to the percentage of the undivided interest of the owner in the property.

ARTICLE 25. 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 remainder complies with the Condominium Act, or, as covenants, effect the common plan.

ARTICLE 26. EFFECTIVE DATE.

This Declaration shall take effect upon recording.

ARTICLE 27. REFERENCE TO SURVEY MAP AND PLANS.

The Survey Map and Plans were filed with the Auditor of Skagit County, Washington, simultaneously with the recording of this Declaration under File No. 201703140018, in Volume of Condominiums, pages through .

DECLARANT:

William M. Moore
William M. Moore

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me **William M. Moore** to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged that he signed as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7TH day of MARCH, 2017.

Lia M Coleman
NOTARY PUBLIC in and for the State of Washington,
residing at: MOUNT VERNON
My commission expires: 8-25-2019

Notary Public
State of Washington
LIA M COLEMAN
Appointment Expires Aug. 25, 2019