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CONDOMINIUM DECLARATION  
CONTAINING  
COVENANTS, CONDITIONS, RESTRICTIONS AND  
RESERVATIONS  
FOR  
1600 CONTINENTAL PLACE CONDOMINIUM

TITLE OF DOCUMENT:

CONDOMINIUM DECLARATION FOR 1600

GRANTOR:

CONTINENTAL PLACE CONDOMINIUM

GRANTEE:

AMJEFF PROPERTIES, LLC

ABBREV. LEGAL DESCRIPTION:

THE GENERAL PUBLIC

LOT 3 & 4, MT. VERNON BINDING SITE

PLAN NO. BSP MV-1-98

FULL LEGAL APPEARS:

P. 68

TAX PARCEL NO.:

P114423

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ARTICLE I  
INITIAL MATTERS

1. INITIAL MATTERS REQUIRED UNDER THE GOVERNING LAW.

1.1. Name and Type of the Community and its Association.

The name of the Community is 1600 Continental Place Condominium. The Community is a condominium, as defined in the Governing Law. The Community's Association, described with greater particularity in Section 7.1 hereof, is a Washington Nonprofit Miscellaneous and Mutual Corporation known as 1600 Continental Place Condominium Association.

1.2. Description and Dedication of Real Property Included in Condominium.

The real estate included in the Condominium is legally described in the attached Exhibit "A". AmJeff Properties, LLC, hereinafter referred to as the "Declarant," hereby submits said land, together with all legally associated easements, rights, appurtenances and improvements, collectively referred to hereinafter as "the Property," to the provisions of the Washington Uniform Common Interest Ownership Act ("WUCIOA," or "Governing Law", i.e., Chapter 64.90 of the Revised Code of Washington).

1.3. Reference to Survey Map.

Contemporaneously with the recordation of this Declaration, the Declarant has recorded with the Auditor of Skagit County, Washington a record of survey showing the location and dimensions of the land described in Exhibit "A" and the location and dimensions of the improvements constructed or contemplated to be constructed thereon, together with other information required by the Governing Law; this instrument is hereinafter together referred to as the "Survey Map"; the Survey Map is recorded at Auditor's File No. 202110280215.

1.4. Purposes of Declaration and Survey Map.

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

1.4.2. General Purpose of Survey Map. Unlike a community created through the process of legal subdivision pursuant to chapter 58.17 RCW, where an approved plat creates various lots and tracts, the survey map for a condominium does not actually create the units or common elements in such condominium. Instead, in a condominium, the Declaration creates the Units and Common Elements in the Condominium, and the Survey Map referenced in Section 1.3 hereof exists only to depict the location and dimensions of the Units and significant Common Elements in this Condominium, and to provide disclosure as required by the Governing Law.

## ARTICLE II DEFINITIONS

### 2. DEFINITIONS.

2.1. "Allocated Interest" means the undivided interest in the Common Elements, the Common Expense liability, and votes in the Association allocated to each Unit by the provisions of Sections 5.3, 7.4.2 and 10.6 of this Declaration, pursuant to RCW 64.90.235.

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

2.3. "Association" or "Unit Owners' Association" means the unit owners association that is described in Article VII of this Declaration.

2.4. "Ballot" means a Record designed to cast or register a vote or consent in a form provided or accepted by the Association.

2.5. "Board" means the body with primary authority to manage the affairs of the Association, as provided in RCW 64.90.410(1).

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

2.7. "Common Expense" means any expense of the Association, including allocations to Reserves, allocated to all of the Unit Owners in accordance with common expense liability. The term "General Common Expenses" is sometimes used herein to describe Common Expenses other than Specially Allocated Expenses. General Common Expenses are described in Schedule 8.3.2 to Exhibit "D" to this Declaration.

2.8. "Common Expense liability" means the liability for Common Expenses allocated to each Unit pursuant to the Governing Law and Section 10.6 of this Declaration.

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

2.10. "Conversion building" is a term with a complex definition found at RCW 64.90.010(13). This Condominium does not contain a conversion building.

2.11. "Declarant" means, in general, any Person who (a) executes as declarant the Condominium Declaration, or (b) reserves any Special Declarant Right under the Declaration, or exercises Special Declarant Rights or to whom Special Declarant Rights are transferred of record, or (c) owns a fee interest in the Condominium and who is materially involved in the development of the Condominium, all as specifically defined at RCW 64.90.010(17).

2.12. "Declarant control" means the right of the Declarant or Persons designated by the Declarant to appoint and remove Officers and members of the Board of Directors or to veto or approve a proposed action of the Board or Association pursuant to Sections 8.1 and 16.5 of this Declaration and RCW 64.90.415(1)(a).

2.13. "Declaration" means this document, which creates the Condominium by setting forth the information required by Governing Law, and any amendments to this document.

2.14. "Development Rights" means any right or combination of rights reserved by the Declarant in the Declaration: (a) to add real property or improvements to the Condominium; (b) to create Units, Common Elements, or Limited Common Elements within real property included in or added to the Condominium; (c) to subdivide or combine Units or convert Units into Common Elements; (d) to withdraw real property from the Condominium; or (e) to reallocate Limited Common Elements with respect to Units that have not been conveyed by the Declarant. Development rights are personal to the Declarant and may be exercised, or not exercised, at the sole discretion of the Declarant. In this Condominium, Development rights are described in Subsection 3.3.1 hereof.

2.15. "Effective age" means the difference between the useful life and remaining useful life.

2.16. "Electronic transmission" or "electronically transmitted" means any electronic communication (a) not directly involving the physical transfer of a Record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient of the communication, and that may be directly reproduced in a tangible medium by a sender and recipient.

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

2.18. "Foreclosure" means a statutory forfeiture or a judicial or nonjudicial foreclosure of a security interest or a deed or other conveyance in lieu of a security interest.

2.19. "Full funding plan" means a reserve funding goal of achieving one hundred percent fully funded Reserves by the end of the thirty-year study period described under RCW 64.90.550, in which the Reserve Account balance equals the sum of the estimated costs required to maintain, repair, or replace the deteriorated portions of all Reserve Components.

2.20. "Fully funded balance" means the current value of the deteriorated portion, not the total replacement value, of all the Reserve Components. The fully funded balance for each Reserve Component is calculated by multiplying the current replacement cost of that Reserve Component by its effective age, then dividing the result by that Reserve Component's useful life. The sum total of all Reserve Components' fully funded balances is the Association's fully funded balance.

2.21. "Governing Documents" means the Declaration, the Survey Map, any Rules or resolutions adopted by the Board of Directors, and any amendments to any such instruments.

2.22. "Governing Law" means the Washington Uniform Common Interest Ownership Act (Chapter 64.90 RCW) or any successor statute, and any amendments thereto.

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

2.24. "Limited Common Element" means a portion of the Common Elements allocated by Article VI of the Declaration or by operation of RCW 64.90.210(1)(b) and/or (3) for the exclusive use of one or more but fewer than all of the Units.

2.25. "Manager" or "Managing Agent" shall mean a natural person or business entity regularly engaged in the business of managing common interest communities.

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

2.27. "Nominal reserve costs" means that the current estimated total replacement costs of the Reserve Components are less than fifty percent of the Annual Budgeted expenses of the Association, excluding contributions to the Reserve Fund.

2.28. "Notice" means a notice provided under the provisions of RCW 64.90.515.

2.29. "Occupant" means a natural Person lawfully occupying any Unit; the term includes without limitation Unit Owners, and family members, employees and tenants of Unit Owners.

2.30. "Organizational Documents" means the instruments filed with the Secretary of State to create the Association and the instruments governing the internal affairs of the Association including, but not limited to, its Articles of Incorporation and Bylaws.

2.31. "Person" means an individual, corporation, business trust, estate, the trustee or beneficiary of a trust that is not a business trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal entity.

2.32. "Phasing Amendment" means an amendment to the Declaration and/or Survey Map recorded by the Declarant unilaterally pursuant to RCW 64.90.250(a) to exercise a Development Right.

2.33. "Preventative Maintenance" means such Upkeep as shall be necessary from time to time to prevent premature failure of any component of a Unit or the Common Elements.

2.34. "Purchaser" means any Person, other than the Declarant or a dealer, who or which by means of a voluntary transfer acquires a legal or equitable interest in a Unit other than as security for an obligation.

2.35. "Qualified Financial Institution" means a bank, savings association, or credit union the deposits of which are insured by the federal government.

2.36. "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

2.37. "Remaining useful life" means the estimated time, in years, before a Reserve Component will require major maintenance, repair, or replacement to perform its intended function.

2.38. "Replacement cost" means the estimated total cost to maintain, repair, or replace a Reserve Component to its original functional condition.

2.39. "Reserve" or "Reserves," when used as a noun, means money on deposit in a Reserve Fund or Reserve Account, which terms are synonymous, established pursuant to RCW 64.90.535.

2.40. "Reserve Component" means a physical component of the Condominium which the Association is obligated to maintain, repair, or replace, which has an estimated useful life of less than thirty years, and for which the cost of such maintenance, repair, or replacement is infrequent, significant, and impractical to include in an Annual Budget.

2.41. "Reserve Study Professional" means an independent Person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a Reserve Study in accordance with RCW 64.90.545 and 64.90.550. For the purposes of interpreting this definition, "independent" means a person who is not an employee, Officer, or Director, and has no pecuniary interest in the Declarant, Association, or any other party for whom the Reserve Study is prepared.

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

2.43. "Residential Unit" means a Unit suitable for use for residential purposes, with Unit boundaries described in Section 4.2 hereof. There are not Residential Units in this Condominium.

2.44. "Residential purposes" means use for dwelling and human habitation, and for reasonable social, recreational or other uses normally incident to such purposes.

2.45. "Rule" means a policy, guideline, restriction, procedure, or regulation of the Association, however denominated, that is not set forth in the Declaration or Organizational Documents and that governs the conduct of Persons or the use or appearance of property.

2.46. "Security interest" means an interest in real estate or personal property, created by contract or conveyance that secures payment or performance of an obligation. "Security interest" includes a lien created by a mortgage, deed of trust, real estate contract, lease intended as security, assignment of lease or rents intended as security, and any other consensual lien or title retention contract intended as security for an obligation.

2.47. "Special Declarant Rights" means rights reserved for the benefit of the Declarant to: (a) Complete any improvements indicated on the Survey Map or described in the Declaration or the public offering statement pursuant to RCW 64.90.610(1)(h); (b) Exercise any development right; (c) Maintain sales offices, management offices, signs advertising the Condominium, and models; (d) Use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate that may be added to the Condominium; (e) Make the Condominium subject to a Master Association; (f) Merge or consolidate the Condominium with another condominium; (g) Appoint or remove any Officer or Board member of the Association or any master association or to veto or approve a proposed action of the Board or Association, pursuant to RCW 64.90.415(1); (h) Control any construction, design

review, or aesthetic standards committee or process; (i) Attend Meetings of the Unit Owners and, except during an executive session, the Board; and (j) Have access to the records of the Association to the same extent as a Unit Owner. In this Condominium, Special Declarant Rights that have been reserved by the Declarant for this Condominium are described in Section 16.5 hereof.

2.48. "Special Limited Common Elements" means those Limited Common Elements that shall be repaired, replaced and subjected to periodic maintenance by the Association **at the expense of the Owner of the Unit to which such Limited Common Element is allocated**, under Sections 6.2.3 and 10.8 of this Declaration. In this Condominium, the Special Limited Common Elements consist of any items described in Subsections 6.1.5 and 6.1.6 hereof. The term shall also include any structure or facility that in the future is constructed in the Common Elements with the Board's approval at the request of a Unit Owner, and as to which the Board determines that it would be inequitable for other Unit Owners to contribute to the costs of Upkeep associated therewith; the Board may require that such a Special Limited Common Element be insured by the Owner of the Unit to which it is appurtenant, under Subsection 11.5.2 hereof. The Board is hereby authorized to unilaterally record a memorandum of its approval of a Special Limited Common Element in the County land records, indexed to the Declaration and the affected Unit.

2.49. "Specially Allocated Expense" means any expense of the Association, including allocations to Reserves, allocated to some or all of the Unit Owners and assessable against their respective Units pursuant to RCW 64.90.480 (4) through (8).

2.50. "Specially Allocated Assessment" means an Assessment made or deemed to be made by the Association against Units to which Specially Allocated Expenses are allocated under Section 10.8 of this Declaration.

2.51. "Survey Map" means the Map for the Condominium and any amendment thereto prepared in accordance with the Governing Law. Pursuant to RCW 64.90.245(1), the Survey Map is to be construed as comprising a part of this Declaration.

2.52. "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

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

2.54. "Transition meeting" means the Meeting of the Association held pursuant to RCW 64.90.415(4) to terminate any period of Declarant Control.

2.55. "Unit" means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described in Section 4.2 hereof.

2.56. "Unit Owner" means the Declarant or any other Person who owns a Unit, but does not include a Person who has an interest in a Unit solely as security for an obligation. "Unit Owner" means the vendee and not the vendor of a Unit under a real estate contract.



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

2.58. "Useful life" means the estimated time during which a Reserve Component is expected to perform its intended function without major maintenance, repair, or replacement.

2.59. "Writing" does not include an electronic transmission.

2.60. "Written" means embodied in a tangible medium.

### ARTICLE III

#### DESCRIPTION OF LAND, PROJECT TYPE, BUILDINGS, DEVELOPMENT RIGHTS

#### 3. LAND, PROJECT TYPE, BUILDINGS & DEVELOPMENT RIGHTS.

##### 3.1. Land and Street Address.

The Buildings and other improvements of this Condominium are constructed on certain real property located at 1600 Continental Place, Mount Vernon, Skagit County, Washington, which is more particularly described in Exhibit "A" which is attached hereto and is by this reference incorporated herein.

##### 3.2. Project Type – Buildings & Neighborhood.

3.2.1. Project Type. This Project is a nonresidential condominium with Units designed to support commercial uses. Possible commercial uses of the Units in the Condominium are described in greater particularity in Subsections 9.1.1 and 9.1.2 of this Declaration.

3.2.2. Buildings & Neighborhood. The Condominium is located in a commercial area in the city of Mount Vernon in which active commercial uses are prominent, and where lawful commercial activities, along with vehicular and pedestrian traffic associated therewith, persist throughout the day and into the evening hours. This Condominium contains one building, containing four (4) Units as depicted on the Survey Map.

##### 3.3. Development Rights.

3.3.1. Description. Pursuant to RCW 64.90.225(1)(g), the Declarant has reserved Development rights that are personal to the Declarant and may be exercised, or not exercised, at the sole discretion of the Declarant. These include the rights: to create additional improvements comprising Common Elements or Limited Common Elements within the real property included in the Condominium, as described more particularly in Sections 5.1, and/or 6.1 of this Declaration,

including but not limited to: signage facilities, common area landscaping, additional parking areas and other items deemed necessary or desirable by the Declarant or the City of Mount Vernon; to add new Units, or to combine or subdivide Units and/or relocate their common boundaries; to assign portions of the Common Elements as Limited Common Elements pursuant to RCW 64.90.225(1)(f).

3.3.2. Procedure for Exercise. The following procedures govern the exercise of Development Rights:

(a) General Procedure. To exercise any reserved Development Right, the Declarant must prepare, execute, and record Phasing Amendments to the Declaration and Survey Map in accordance with the requirements of RCW 64.90.245 and RCW 64.90.285(3). The Declarant is the Unit Owner of any Units created.

(b) Phasing Amendment to Declaration. A Phasing Amendment to the Declaration shall assign an identifying number to each new Unit created, and, except in the case of subdivision or conversion of Units described in Subsection (c) hereof below, shall reallocate the Allocated Interests among all Units in existence following the amendment, using the same formulas or factors for allocation specified in Sections 5.3, 7.4.2 and 10.6 hereof. In general, the initial Allocated Interests would abate, *pro rata*, as new Units are added. The Phasing Amendment shall describe any Common Elements and any Limited Common Elements thereby created and, in the case of Limited Common Elements, designate the Unit to which each is allocated to the extent required under RCW 64.90.240.

(c) Subdividing or Combining Units. If the Declarant exercises a Development Right to [i] subdivide a Unit into two or more Units or [ii] combines two or more Units into a lesser number of Units, whether or not any part of a Unit is converted into Common Elements, or Common Elements are converted Units, the Phasing Amendment to the Declaration shall reallocate all the Allocated Interests of the original Unit[s] among the Unit[s] created by the subdivision or combination in any reasonable and equitable manner prescribed by the Declarant at the time of such subdivision or combination.

(d) Re-definitions of Boundaries of Development Units - New Survey Required. Upon the completion of improvements within a Development Unit, the Declarant shall cause the Survey Map for the Condominium to be amended to reflect the subdivision of the Development Unit into Common Elements as generally defined at Subsection 5.1.1 and/or 5.1.7 and 6.1.1 and or 6.1.4 hereof and the Unit(s) created within the Buildings, defined in the manner described at Subsection 4.2.2 hereof. A Phasing Amendment to the Declaration shall be concurrently recorded, confirming substantial completion of the constructed improvements and identifying significant attributes of the Unit(s) so created, including at minimum their identifying numbers, size, Allocated Interests, number of bedrooms and bathrooms, any Limited Common Elements allocated thereto, and any other matters required by the Governing Law.

3.3.3. Time Limits on Development Rights. The Declarant may exercise the Development Rights described in Subsection 3.3.1 of this Declaration within ten (10) years from

the date of the conveyance by the Declarant of the first Unit in the Condominium to a Person other than the Declarant or until a date that is 180 days following the sale of the last Unit in the Condominium, whichever first occurs. Declarant may commence construction of any improvements relating to such Development Rights at any time prior thereto, under the Easement Rights and Special Declarant Rights reserved in Sections 16.3 and 16.5 of this Declaration.

3.3.4. Sequence of Exercise of Rights. Subject to the time limitations stated in Subsection 3.3.2 hereof, and except as otherwise expressly provided elsewhere in this Declaration, the Development Rights described in Subsection 3.3.1 of this Declaration may be exercised with respect to different parcels of real property at different times, at any time, at different times and in any order, without further assurances or limitation of any sort, either in all or in any portion of the remainder of any such property subject to such Rights. In this regard, the Declarant states pursuant to RCW 64.90.225(h), that no assurances are made with reference to the sizes or location of any parcels of land that may be added to the Condominium, the sequence in which they might be added, or whether if any development right is exercised in any portion of specified real estate subject to that Development Right, that Development Right must be exercised in all or in any other portion of the remainder of that real estate.

3.3.5. Declarant's Liability for Expenses. In addition to the liability that a Declarant as a Unit owner has under the Governing Law, the Declarant alone is liable for all expenses in connection with real estate subject to development rights and no other Unit Owner and no other portion of the Condominium is subject to a claim for payment of those expenses. However, the expenses associated with the operation, maintenance, repair, and replacement of a Common Element that the Unit Owners have a right to use must be paid by the Association as a Common Expense. Unless the Declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the Declarant.

#### ARTICLE IV UNITS.

#### 4. UNITS.

##### 4.1. Number and Location of Units.

The Condominium contains a total of four (4) Units which are depicted on the Survey Map. The location of existing Units within the buildings and the dimensions of those Units are shown on the Survey Map. Exhibit "B" hereto contains a list of all existing Units, their identifying numbers, size and type, the Allocated Interests appurtenant to each Unit, and other information required by Governing Law

##### 4.2. Unit Boundaries.

The boundaries of each Unit are as follows:

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

(a) Upper Boundary: The horizontal or oblique planes of the bottom surfaces of the wood joists or other structural materials used in the structural portions of the ceiling except where there is a skylight or solar-tube, in which case the upper boundary exists at the underside of that fixture; the body of such fixture constitutes a Limited Common Element pursuant to Subsection 6.1.2 hereof.

(b) Lower Boundary: The horizontal plane of the top surface of the undecorated concrete floor slab or subflooring material, as the case may be.

(c) Mezzanine: The mezzanine floor, if any, of a Unit constitutes a part of the Unit rather than a horizontal boundaries thereof. While mezzanine floor space comprises a portion of the Unit's overall useable space, the existence or nonexistence of a mezzanine level is not taken into consideration in determining any of the Allocated Interests of the Unit.

4.2.2. Vertical (perimetric) Boundaries. The vertical boundaries of the Unit shall be the vertical planes that include the interior surfaces of framing members abutting the plaster, paneling or plasterboard, as the case may be, of all walls bounding the Unit, extended to intersections with each other and with the upper and lower boundaries. If so indicated on the Survey Map or any amendment thereto, the vertical boundaries of some Units may consist of planes extending vertically from the locations of those boundaries for such Units depicted on the Survey Map, to the intersections of those planes with the upper and lower boundaries of such Units; notwithstanding the general provisions of Section 4.3 hereof, such "plane boundaries" shall be deemed to exist independently from any constructed improvements.

4.3. Monuments as Boundaries.

4.3.1. General Principals. Except with respect to any "plane boundaries" described in Subsection 4.2.2 hereof, the physical boundaries of a Unit constructed in substantial accordance with the original Survey Map constitute its boundaries rather than any metes and bounds expressed in the Survey, regardless of settling or lateral movement of the Buildings or minor variance between boundaries shown on the Survey Map and those of the Buildings.

4.3.2. Shifting Boundaries of Units Bounded by Vertical Planes. In the event that the Declarant or any subsequent Owner of a Unit possessing "plane boundaries" described in Section 4.2.2 hereof, desires to erect any wall separating such Unit from an adjoining Unit, the boundaries of both such Units shall re-adjust automatically following construction of the wall such that the structural members of the new wall become Common Elements, and the new vertical boundaries of the affected Units shall be vertical planes which include the back surface of the paneling or wallboard, as the case may be, attached to the new wall, extended to intersections with the upper and lower boundaries of those Units.

#### 4.4. Additional Items Included in Units.

Each Unit contains: (i) all nonstructural interior partition walls located within the boundaries of the Unit; (ii) 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 a part of the Unit, and all other portions of the walls, floors, or ceilings are a part of the Common Elements; and (iii) all interior doors and all immediately visible fixtures, appliances, built-in cabinetry, and mechanical, electrical and intercom systems and equipment, commencing at the point of disconnection from the structural body of the building, or from utility lines, pipes or systems serving another Unit or the Common Elements.

#### 4.5. Items Excluded from a Unit.

A Unit shall be deemed not to include: pipes, wires, conduits and other utility lines, ventilation or other ducts, bearing walls and structural portions of the building running through a Unit that are utilized for or serve another Unit or the Common Elements, and all other property and fixtures of any kind that are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the Condominium.

#### 4.6. Maintenance of Units.

4.6.1. Unit Owners' Basic Responsibilities. Each Unit Owner, at his or her sole expense, shall have the right and the duty to keep the interior of his or her Unit and its fixtures, equipment, and appurtenances in good order, condition and repair and shall do all Preventative Maintenance, repairs and/or replacements at such times as are necessary to maintain the good appearance and condition of such Unit. Each Owner shall also be responsible for the maintenance, repair or replacement of any individual heating, ventilating or air-conditioning equipment, wherever located, installed for the sole and exclusive use of the Unit, and of any other device or equipment lying outside the boundaries of the Unit but installed for the sole and exclusive use of the Unit, and of any other fixtures, appliances, systems or equipment described in Section 4.4(iii) hereof. This Subsection shall not be construed as permitting any interference with or damage to the structural integrity of the building or interference with the use and enjoyment of the Common Elements or of the other Units or any of them, nor shall it be construed to limit the powers or obligations of the Board hereunder. See also Section 8.4 hereof.

4.6.2. Association's Rights. In the event that an Owner fails to properly maintain his or her Unit, which failure shall be deemed a nuisance and willful misconduct on the part of the Owner, the Association shall have the right, but not the obligation, to enter the Unit under the provisions of Section 8.4 hereof, and to perform any and all Upkeep to the Unit that is necessary under the circumstances. The costs so incurred by the Association shall constitute a Specially Allocated Assessment against the Unit under Subsection 10.8.2 hereof.

4.6.3. Prohibited Actions. No Owner or Occupant may interfere with or cause damage to the structural integrity of the building or interference with the use and enjoyment of the Common Elements or of the other Units or any of them. Nothing shall be hung from or attached to any

portions of the fire sprinkler system. Common electrical panel boxes and access doors thereto must not be opened, covered or blocked in any way; they must always remain accessible by the Association personnel, agents and contractors.

4.6.4. High Risk Components. The Board may from time to time determine that certain portions of the Units or certain fixtures or appliances within the Units (collectively, "High Risk Components"), pose a particular risk of damage to other Units and/or to the Common Elements or a heightened risk of harm to lawful Occupants of the Condominium if they are not properly inspected, maintained, repaired or replaced. By way of example, but not of limitation, these portions, fixtures or appliances may include smoke detectors, electric wall heaters, fireplaces, washer hoses, dryer vents and/or water heaters. The Board may require one or more of the following with regard to any High Risk Component located within a Unit:

(a) That it be inspected at specified intervals by the Board or an inspector or inspectors designated by the Board.

(b) That it be replaced or repaired at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective.

(c) That it be replaced or repaired with items or components meeting particular standards or specifications established by the Board.

(d) That when it is repaired or replaced, the installation include additional components or installations specified by the Board.

(e) That it be replaced or repaired by contractors having particular licenses, training or professional certification or by contractors approved by the Board.

(f) If the replacement or repair is completed by a Unit Owner, that it be inspected by a Person designated by the Board.

(g) If the replacement or repair is completed by Association, the costs so incurred shall be assessed to the Owner(s) of the affected Unit(s) pursuant to Subsection 10.8.2 hereof.

#### 4.7. Alteration of Units by Unit Owner.

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

4.7.1. May make improvements or alterations to the Owner's Unit that do not affect the structural integrity or mechanical, electrical or other utility systems of any other Unit or the Common Elements, or lessen the support of any portion of the Condominium; PROVIDED that the Owner shall (i) use reasonable efforts to minimize any disruption to Occupants of neighboring Units, (ii) accomplish the work using reputable registered building contractors, (iii) obtain any necessary municipal permits prior to performing such work, (iv) comply with all applicable

permitting requirements during performance of the work; (v) perform no work on any Common Elements, and (vi) accomplish the work in a good and workmanlike manner. The Board shall have the authority to promulgate further Rules regarding such activities.

4.7.2. May not change the appearance of the Common Elements or alter structural components of a Unit without the advance written permission of the Board;

4.7.3. May, after acquiring an adjoining Unit or an adjoining part of an adjoining Unit, and following approval of the Board of Directors, 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 of any other Units or the Common Elements, or lessen the support of any portion of the Condominium. Removal of partitions or creation of apertures under this Subsection is not a relocation of boundaries. The Board shall condition its approval on the Owner's agreement to perform any necessary construction work in accordance with the requirements of Subsection 4.7.1 hereof. The Board of Directors shall approve a Unit Owner's request, which request shall include the plans and specifications for the proposed removal or alteration, within thirty days from delivery of the request, unless the proposed alteration does not comply with the Governing Law or the Declaration or if it would impair the integrity of any structural, mechanical, plumbing or electrical systems in the Condominium. The failure of the Board of Directors to act upon a request within such period shall be deemed approval thereof.

#### 4.8. Relocation of Unit Boundaries.

4.8.1. Relocation of Boundaries between Units. Subject to the provisions of any applicable building, zoning or other applicable regulations, and with the consent of any Eligible Mortgagees holding mortgages in the affected Units pursuant to Schedule 15.3 to Exhibit "D" to this Declaration, the boundaries between adjoining Units may be relocated, but only by an amendment to the Governing Documents as provided in Article XVII hereof, following application to the Board by the Owners of those Units. If the Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application must state the proposed reallocations. Where two or more entire Units are combined, the Allocated Interests allocated to the resulting Unit shall equal the sum of the Allocated Interests formerly allocated to each of the Units that were combined. Unless the Board of Directors determines, after receipt of all required information, that the reallocations are unreasonable or that the proposed boundary relocation does not comply with the Declaration, RCW 64.90.255, or other provisions of law, the Board must approve the application and prepare any amendments to the Declaration and Survey Map in accordance with the requirements of Subsection 4.8.3 below.

#### 4.8.2. Relocation of Boundaries between Units and Common Elements.

(a) Relocation Permitted. Subject to the other provisions hereof and to other provisions of law, boundaries between Units and Common Elements may be relocated to incorporate Common Elements within a Unit by an amendment to the Declaration upon application to the Association by the Unit Owner of the Unit who proposes to relocate a boundary. The

amendment may be approved only if the Unit Owner of the Unit, the boundary of which is being relocated, and Persons entitled to cast at least sixty-seven percent of the votes in the Association, including sixty-seven percent of the votes allocated to Units not owned by the Declarant, agree to such relocation.

(b) Payment of Fees or Charges. The Association may require payment to the Association of a one-time fee or charge, or continuing fees or charges, payable by the Unit Owners on whose behalf the boundaries are relocated.

4.8.3. Amendments to Declaration and Survey Map. In any circumstance described in this Section 4.8, the Association shall (i) prepare an amendment to the Declaration that identifies the Units involved, states the reallocations, is executed by those Unit Owners and the Association, contains words of conveyance between them, and is recorded in the name of the grantor, the grantee and the Association as appropriate and as required under RCW 64.90.285(3), in the Office of the County Auditor; and (ii) obtain and record an amendment to the Survey Map complying with the requirements of RCW 64.90.245, as necessary to show the altered boundaries between adjoining Units, and their dimensions and identifying numbers.

4.8.4. Costs to be assessed to affected Unit Owners. All costs, including reasonable attorneys' fees, incurred in preparing and recording amendments to the Governing Documents shall be paid to the Association by the Owners of the affected Units prior to recordation of the required amendments to the Governing Documents.

4.9. Combination and Subdivision of Units.

4.9.1. Subdivision of Units Prohibited. Subdivision of Units is prohibited in this Condominium, except (a) when occurring through an exercise of Development Rights, or (b) when the Unit Owner of any Unit that has been previously combined with another Unit, or that has had its common boundary adjusted with another, later desires to cause such adjustment to be reversed with the consent of the Owner(s) of any other Unit(s) affected thereby, in the manner provided in the Governing Law.

4.9.2. Combination of Units. Two or more Units may be combined into a lesser number of Units upon application to the Association by the Owners of those Units and upon approval by the Board pursuant to this Section 4.9. The application must include plans showing the relocated boundaries, a reallocation of all the Allocated Interests of the Units being combined among the Units resulting from the combination, and such other information as the Board may require. Unless the Board determines, after receipt of all required information, that the reallocations are unreasonable or that the proposed boundary relocation does not comply with the Declaration, RCW 64.90.240 and 64.90.255, or other provisions of law, the Board shall approve the application and prepare any amendments to the Declaration and Survey Map in accordance with the requirements of Subsection 4.9.4.



4.9.3. Payment of Fees or Charges. The Association may require payment to the Association of a one-time fee or charge, or continuing fees or charges, payable by the Unit Owners on whose behalf the boundaries are relocated.

4.9.4. Amendments to Declaration and Survey Map. In any circumstance permitted in this Section 4.9, the Association shall (i) prepare an amendment to the Declaration that identifies the Unit(s) involved, assigns an identifying number to each resulting Unit, is executed by those Unit Owners and the Association, contains words of conveyance between them, and reallocates the Allocated Interests formerly allocated to the Unit from which a combination was derived to the new Unit or, if two or more Units are derived from such combination, among the new Units in any reasonable manner prescribed by such Owners or on any other basis the Declaration requires, and is recorded in the name of the grantor, the grantee and the Association as appropriate and as required under RCW 64.90.285(3), in the Office of the County Auditor; and (ii) obtain and record an amendment to the Survey Map complying with the requirements of RCW 64.90.245, as necessary to show the altered boundaries between adjoining Units and their dimensions and identifying numbers. The amendments are effective upon recording.

4.9.5. Costs to be assessed to affected Unit Owners. All costs, including reasonable attorneys' fees, incurred in preparing and recording amendments to the Governing Documents shall be paid to the Association by the Owners of the affected Units prior to recordation of the required amendments to the Governing Documents.

4.9.6. Not Applicable to Exercise of Development Rights. This Section 4.9 does not apply to the Declarant's exercise of any development right to subdivide or combine a Unit previously created.

## ARTICLE V COMMON ELEMENTS

### 5. COMMON ELEMENTS.

#### 5.1. Description of Common Elements.

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

5.1.1. The land supporting the improvements of this Condominium, including all open spaces depicted on the Survey Map.

5.1.2. The roofs, foundations, columns, girders, studding, joists, beams, supports, main walls (as opposed to nonbearing interior partitions of Units), and all other structural parts of the Buildings, to the boundaries of the Units as described above in Section 4.2.

5.1.3. Installations of services for common use such as main power lines, exterior lighting, main water or sewer lines, pipes, conduits, and wires, wherever they may be located, whether in partitions or otherwise; any tanks, pumps, motors, fans, compressors, heating or cooling units, filtration systems, chutes or ducts serving common areas; any common trash receptacles, containers or "dumpsters," garbage enclosure, any common mailbox facilities, and in general any and all apparatus and installations existing for common use rather than for any one Unit.

5.1.4. The driveway areas which provide access to any Limited Common Elements reserved for parking, and any guest parking spaces or other parking areas not assigned to Units.

5.1.5. The yard and garden areas surrounding the Buildings and any sidewalks or paths providing rights of ingress and egress.

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

5.1.7. The Declarant has reserved the right to create additional Common Elements, pursuant to Development Rights described in Subsection 3.3.1 hereof, described as follows: common signage facilities, additional parking facilities and other items of common utility or benefit.

5.2. Partition, Conveyance, or Encumbrance.

5.2.1. Except as permitted by this Declaration or the Governing Law, the Common Elements shall remain undivided and are not subject to partition; any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void. No Unit Owner or other Person may bring any action for partition or division of the Common Elements, except as provided in Section 6.4 hereof. Portions of the Common Elements that are not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association, but only as provided below in this Section 5.2, if the Owners of Units to which at least eighty percent of the votes in the Association are allocated, including eighty percent of the votes allocated to Units not owned by the Declarant or an affiliate of the Declarant, along with that percentage of Eligible Mortgagees specified in Article XV of this Declaration consent to this action; but all the Owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest.

5.2.2. The Association, on behalf of the Unit Owners, may contract to convey or dedicate an interest in the Condominium, but the contract is not enforceable against the Association until approved pursuant to Subsections 5.2.1 and 5.2.3 hereof. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

5.2.3. An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner

as required for deeds, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording.

5.2.4. If the consent of eligible mortgagees holding security interests on at least eighty percent of the Units subject to security interests held by eligible mortgagees on the day the Unit Owners' agreement under Subsection 5.2.3 hereof is recorded, is obtained, then:

(a) A conveyance of Common Elements pursuant to this Section 5.2 terminates both the undivided interests in those Common Elements allocated to the Units and the security interests in those undivided interests held by all Persons holding security interests in the Units; and

(b) An encumbrance of Common Elements pursuant to this Section 5.2 has priority over all preexisting encumbrances on the undivided interests in those Common Elements held by all Persons holding security interests in the Units.

5.2.5. The consents of eligible mortgagees, or a certificate of the Secretary affirming that the requisite percentage of eligible mortgagees have consented, may be recorded at any time before the date on which the agreement under Subsection 5.2.3 becomes void. Such consents or certificates recorded are valid from the date they are recorded for purposes of calculating the percentage of consenting eligible mortgagees, regardless of later conveyance or encumbrances on those Units. If the required percentage of eligible mortgagees consent, a conveyance or encumbrance of Common Elements does not affect interests having priority over the Declaration or created by the Association after the Declaration was recorded.

5.2.6. Proceeds of the sale or a loan are an asset of the Association, but the proceeds of the sale of Limited Common Elements must be distributed equitably among the Unit Owners of Units to which the Limited Common Elements were allocated. This Section 5.2 does not apply to the incorporation of common elements into Units as a result of relocating Unit boundaries pursuant to Subsection 4.8.2 hereof, to subdividing or combining Units pursuant to Subsection 4.9.2 hereof, or to eminent domain proceedings, which are described in Schedule 12 to Exhibit "D" to this Declaration.

5.2.7. Any purported conveyance, encumbrance, or other voluntary transfer of Common Elements, unless made pursuant to this Section 5.2, is void. A conveyance or encumbrance of Common Elements pursuant to this Section 5.2 shall not deprive any Unit of its rights of access and support.

5.3. Allocated Interests in the Common Elements.

5.3.1. Initial Allocation. Pursuant to RCW 64.90.235, the Declarant has allocated to each existing Unit in the Condominium an undivided interest in the Common Elements of the Condominium, which is known as the Unit's Allocated Interest in the Common Elements. These undivided interests have been allocated among the Units generally in proportion to of the size of

each Unit relative to all other Units in the Condominium. Each Unit's Allocated Interest in the Common Elements is expressed as a percentage and is stated with particularity on the attached Exhibit "B."

5.3.2. Reallocation on Exercise of Development Rights. In the event that the Declarant exercises a Development Right to create additional Units in the Condominium, these initial Allocated Interests shall be reallocated pursuant to Subsection 3.3.2 hereof.

5.4. Maintenance, Repair and Replacement – Association.

5.4.1. General Responsibility of Condominium Association. The Condominium Association is generally responsible for maintenance, repair, and replacement of the Common Elements, including the Limited Common Elements, except as may be provided in Subsections 5.4.2 and 6.2 hereof.

5.4.2. Association Generally Installs & Repairs Limited Common Elements. See Subsection 6.2.4 hereof.

5.5. Schedules for Preventative Maintenance, Other Routine Maintenance and Reserves.

The Board, with the assistance of the Association's Manager and/or other competent professionals, shall develop a schedule of routine Preventative Maintenance for all components of the Common Elements that require same, establishing appropriate times during each year when such maintenance should occur, and identifying qualified contractors to perform such inspections and Preventative Maintenance. The Board should take particular care to inspect and properly maintain the exterior weather-proofing elements of the Buildings, including at minimum the roof, roof drains and scuppers, gutters, down-spouts, siding, flashing systems, caulking, deck membranes, exterior windows and doors, all major building systems including the plumbing, storm and sanitary sewer lines, ventilation systems, electrical systems, and any other areas of the Buildings that are susceptible to premature structural failure as a result of water intrusion or other factors; all such areas shall be regularly re-caulked, re-sealed or otherwise appropriately maintained or repaired. Periodically, the Association must conduct a Reserve Study in accordance with requirements of the Governing Law, as described in Subsection 10.3.3 hereof. In general, such a Reserve Study reasonably attempts to (i) ascertain the probable remaining useful life of each significant component of the Common Elements that will require replacement or major repairs, (ii) estimate the probable cost of such replacement or repair for each such component, (iii) establish an annual reserve Budget that would, when funded, minimize the necessity for the imposition of a Special Assessment upon the Owners within the foreseeable future.

5.6. Rights of Use and Access.

5.6.1. Owners' Rights of Use of Common Elements. Subject to the provisions of Section 5.7 below and other provisions of the Governing Documents, the Unit Owners have a right to use

the Common Elements that are not Limited Common Elements for the purposes for which the Common Elements were intended.

5.6.2. Right of Peaceful Assembly. Unit Owners may peacefully assemble on or in the Common Elements to consider matters related to the Condominium, but the Association may adopt Rules governing the time, place, and manner of those assemblies.

5.6.3. Units Subject to Rights of Access. Each Unit Owner shall afford to the Association and, as needed, to other Unit Owner(s), and to their respective agents or employees, access through such Owner's Unit and any appurtenant Limited Common Elements reasonably necessary for the purposes stated in Subsection 8.4.1 hereof, including necessary inspections by the Association, and for repairs to other Units or to Limited Common Elements serving same. If damage is inflicted on the Common Elements, or on any Unit through which access is taken, the Unit Owner responsible for the damage, or the Association if it is responsible, shall be liable for the repair thereof, as provided in Section 8.4 hereof.

5.7. No Interference with Common Elements.

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

5.8. Declarant to Receive Inspection Reports.

The Association shall promptly provide Declarant with copies of all inspection reports obtained by the Association in this regard, identifying any inspections that have been performed and what items of maintenance have been performed, for a period of five years following the sale of the last possible Unit that may be created in the Condominium. The Declarant reserves the right, but not the obligation, to undertake such inspection(s), maintenance and/or repair(s) should the Association fail to do so.

5.9. Parking Spaces.

5.9.1. Number, Assignment. The Condominium contains a total of thirty-seven (37) parking spaces that are described with particularity on Exhibit "C" to this Declaration. Parking spaces may be assigned to individual Units sometime in the future. Any unassigned parking spaces shall be considered to be visitors' parking spaces. Use of all parking spaces shall be governed by the provisions of Subsections 5.9.2 and 9.1.3 hereof.

5.9.2. Restrictions on Usage of Parking Spaces - Size and Location. The Condominium contains parking spaces of various sizes; some spaces may be too small, or may be located in areas that present height or maneuverability hazards due to encroaching structures, overhead fixtures or equipment, or insufficient room in driveway areas, making such spaces unsafe within which to

park larger vehicles. Each Occupant shall be responsible for determining whether the Occupant's motor vehicle will comfortably and safely fit in any parking space, and each Occupant shall be liable for any damage caused to the parking space, or to any equipment or structure lying over or adjacent to the parking space, and/or to any other motor vehicle or other property that may suffer loss or damage as a result of a failure to comply with these requirements. No Occupant whose vehicle is too large for a parking space shall park or attempt to park such vehicle in such space. An Occupant with a vehicle too large for a parking space assigned to such Occupant's Unit shall not park in the allocated space and instead shall attempt to utilize the opportunities for exchanging spaces afforded under Section 6.3 hereof.

## ARTICLE VI LIMITED COMMON ELEMENTS

### 6. LIMITED COMMON ELEMENTS.

#### 6.1. Description of Limited Common Elements.

Limited Common Elements are those portions of the Common Elements allocated to and reserved for the exclusive use of one or more, but fewer than all of the Units. They consist of:

6.1.1. Miscellaneous – Includes Exterior Doors and Windows. Any and all exterior doors, windows, skylights, shutters, awnings, and / or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are limited common elements allocated exclusively to that Unit. If any chute, flue, duct, wire, pipe, conduit, bearing wall, bearing column, or any other fixture (including without limitation any individual heating, ventilating or air conditioning equipment) lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the General Common Elements. See also Subsection 6.2.2 hereof.

6.1.2. Parking Spaces. The parking spaces or areas which are shown on the Survey Map, and which are assigned as indicated on Exhibit "C" to this Declaration.

6.1.3. Boundaries of Limited Common Elements. The boundaries of the Limited Common Elements are defined by the interior surfaces of any walls, floors, ceilings, doors, windows, ground, railings, painted striping, fence, curb or other structure that may support or enclose the same, but shall not include any of the exterior surfaces of the exterior walls of the Buildings, or the external or internal walls of decks.

6.1.4. Declarant's Right to Create New Limited Common Elements. The Declarant may create new Limited Common Elements under Development Rights reserved in Subsection 3.3.1 hereof.

#### 6.2. Maintenance and Installation of Limited Common Elements.

6.2.1. General Responsibility as Between Owner and Association. Each Owner of a Unit or Units to which any of the above-described Limited Common Elements are appurtenant shall be responsible for cleaning and caring for such Limited Common Elements, and keeping them in slightly condition. Except as provided in Subsection 6.2.2 below, the Board shall have exclusive control of painting, decorating, repairing, replacing and performing necessary periodic maintenance to all Limited Common Elements.

6.2.2. Owners' Special Rights and Responsibilities. Any mechanical equipment comprising any heating, ventilating or air conditioning system or elevator serving only one Unit but lying outside the boundaries of the Unit, or any other form of equipment installed by or for the Owner of a Unit within the Common Elements and serving only such Unit, shall be maintained, repaired and replaced by the Unit's Owner at the Owner's personal expense, by registered contractors approved in advance by the Board, in a functional, clean and tidy condition.

6.2.3. Financial Responsibilities as Between Owner and Association. Maintenance, painting, repair or replacement of the structure and finish of the Limited Common Elements, other than those described in Subsection 6.2.2 above, shall be a Common Expense. Notwithstanding the foregoing, the Board shall recover the costs of repairs to and replacement of the Special Limited Common Elements (described in Article II hereof), or of any such items damaged by the Occupant of the Unit, through Specially Allocated Assessments levied pursuant to Section 10.8 hereof.

6.2.4. Initial Installation of Limited Common Elements. Only the Declarant or the Association may install Limited Common Elements, including HVAC equipment. An Owner who attempts to install a Limited Common Element without the consent of the Declarant or the Association will be deemed guilty of willful misconduct because of the associated risks of harm to common property coupled with the risk of having the other Owners held liable to a contractor hired but unpaid by such Owner.

6.3. Reallocation between Units.

6.3.1. Permanent Reallocation. Where practical, a Limited Common Element may be reallocated between Units, but only with the approval of the Board of Directors 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, respectively. The Board of Directors shall approve the request of the Owner or Owners under this Subsection within thirty days, unless the proposed reallocation does not comply with the Governing Law or this Declaration. The failure of the Board of Directors 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.

6.3.2. Temporary Exchange or Rental of Parking or Storage Spaces. An Owner may rent a Limited Common Element parking space or storage area allocated to the Owner's Unit, or exchange such Limited Common Element with another Owner but (a) the affected Unit Owners shall provide Notice to the Board of the rental or exchange, and (b) such rental or exchange shall be terminated automatically and without notice upon the transfer of title of the Unit to which such

space or area is allocated in the Governing Documents. For security purposes, no rental of a parking space or storage area may be made to a Person who is not an Owner, tenant or other lawful Occupant of a Unit in the Condominium.

6.4. Change in Character.

A Limited Common Element may be (a) created from and reallocated to one or more Units from the General Common Elements, or (b) incorporated into an existing Unit or Units, only on the following conditions. Owners of Units to which at least sixty-seven percent of the votes in the Association are allocated, including the Owner(s) of the Unit(s) to which the Limited Common Element will be assigned or incorporated, along with that percentage of Eligible Mortgagees specified in Article XV of this Declaration, must agree to reallocate a Common Element as a Limited Common Element or to incorporate a General Common Element or a Limited Common Element into an existing Unit. Such reallocation or incorporation shall be reflected in an amendment to the Declaration and Survey Map, under the same conditions specified in Subsections 4.8.2 through 4.8.4 hereof.

ARTICLE VII  
UNIT OWNERS ASSOCIATION

7. UNIT OWNERS ASSOCIATION.

7.1. Name and Form of Association.

The name of the Association shall be "1600 Continental Place Condominium Association." The Association has been or will be incorporated by the Declarant prior to the first conveyance of a Unit in the Condominium as a non-profit corporation under the laws of the State of Washington. The rights and duties of the members and of said corporation shall be governed by the provisions of the Governing Law and of this Declaration. The Association shall remain organized as a nonprofit corporation. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Governing Law, the Governing Law shall control.

7.2. Powers & Duties of Association.

7.2.1. Duties & Responsibility of Association. The purposes for which the Association was formed are to maintain, repair, replace and manage the Common Elements of the Community, to provide necessary insurance coverage, and to enforce provisions of the Governing Documents, so as to protect the safety and well-being of Occupants of the Condominium and preserve the long-term value of the Condominium Property for the benefit of the Unit Owners. The Board shall consistently adopt Budgets for the Association for operations and Reserves that are reasonably calculated to assure that these essential purposes are realized each year of its existence, on into the indefinite future.



7.2.2. Statutory Powers Exercised by Board of Directors. Except for rights of Unit Owners explicitly reserved in the Governing Law or as elsewhere provided in the Governing Documents, the Board of Directors shall have the exclusive right and power to govern the Association and shall have all powers available to community associations under the Governing Law in order to do so. Such powers are set forth with particularity in the Initial Bylaws of the Association and, except as otherwise expressly provided herein are not limited in this Declaration.

7.2.3. Power to Assign Future Income. Without limiting the foregoing, the Association also shall have the power to assign its right to future income (including the right to collect and receive Common Expense Assessments), provided that any specific assignment is ratified in advance by the Owners under the following procedures authorized by the Governing Law:

(a) The Board must provide Notice of the intent to borrow to all Unit Owners. The Notice must include the purpose and maximum amount of the loan, the estimated amount and term of any Assessments required to repay the loan, a reasonably detailed projection of how the money will be expended, and the interest rate and term of the loan.

(b) In the Notice, the Board must set a date for a Meeting of the Unit Owners, which must not be less than fourteen and no more than sixty days after providing the Notice, to consider ratification of the borrowing.

(c) Unless at that Meeting, whether or not a quorum is present, Unit Owners holding a majority of the votes in the Association reject the proposal to borrow funds, the Association may proceed to borrow the funds in substantial accordance with the terms contained in the Notice.

7.2.4. Rights of Association Lenders. A lender who has extended credit to the Association secured by an assignment of income or an encumbrance on the Common Elements may enforce its security agreement in accordance with its terms, subject to the requirements of the Governing Law and other law. A requirement that the Association must deposit its periodic common charges before default with the lender to which the Association's income has been assigned, or increase its common charges at the lender's direction by amounts reasonably necessary to amortize the loan in accordance with its terms, does not violate the prohibitions on lender approval contained in RCW 64.90.295(1), but lender requirements for deposits of Association income must be consistent with the provisions of RCW 64.90.530(3) and (4); see Subsection 10.9.1 hereof for details.

7.2.5. Power to Determine Types of Commercial Uses Permitted in Units. The Declaration, during the Declarant Control Period, and thereafter the Board, in its sole and exclusive discretion and exercising reasonable business judgment, shall also have the right to determine the types of commercial uses and purposes to which Units in the Condominium may be put from time-to-time, giving due deference to the needs of existing Unit Owners and their investment-backed expectations. See Section 9.1.2 for further details.

7.3. Membership in Association.

Membership in the Association is automatically associated with and appurtenant to the ownership of a Unit in the Condominium under the Governing Law. Except in the case of a termination of the Condominium, the membership of the Association at all times consists exclusively of all Unit Owners. Rights and privileges of membership are specified in the Initial Bylaws of the Association.

7.4. Voting.

7.4.1. Voting Process. The manner of voting shall be as prescribed in the Initial Bylaws. In elections for Directors, the Owners of Residential Units may cast votes only for Residential Directors' positions and for candidates for any at-large positions. Similarly, the Owners of Commercial Units may cast votes only for Commercial Directors' positions and for candidates for any at-large positions.

7.4.2. Allocated Interests for Voting. The Declarant has allocated to each Unit in the Condominium an equal vote in the Association that is known as the Unit's Allocated Interest for voting, or "vote." In the event that the Declarant exercises a Development Right to add additional Units to the Condominium, each new Unit shall have a vote allocated to it such that all Units will continue to have equal voting power in the Association. See Subsections 3.3.2 and 7.4.3 hereof for further detail.

7.5. Bylaws of Association.

7.5.1. Initial Bylaws – Consistent with RCW 64.90.410. Initial Bylaws for the administration of the Association and for other purposes not inconsistent with this Declaration have been or will be prepared by the Declarant. Such Bylaws are designed to be consistent with the terms and conditions of the Governing Law including, but not limited to, RCW 64.90.410 dealing with Board members, Officers, and Committees; the Initial Bylaws are subject to the approval of the initial Board of Directors of the Association.

7.5.2. Continued Compliance of Bylaws with Governing Law. The Bylaws shall be continuously maintained in compliance with the Governing Law, and shall not be amended so as to become out of compliance.

7.5.3. Hierarchy of Authority. If a conflict ever exists between the Declaration and the Bylaws or other Organizational Documents, the Declaration prevails except to the extent the Declaration is inconsistent with the Governing Law.

ARTICLE VIII  
MANAGEMENT OF CONDOMINIUM ASSOCIATION

8. MANAGEMENT OF CONDOMINIUM ASSOCIATION.

8.1. Management by Declarant – Period of Declarant Control.

8.1.1. General Provisions for Declarant Control. Pursuant to RCW 64.90.415, the Declarant has reserved the rights to (a) appoint and remove the Officers and members of the Board of Directors of the Association, and (b) veto or approve a proposed action of the Board or the Association, for a period of time known herein as the "Declarant Control Period," which shall not to exceed ten (10) years. Further Limitations on the Declarant Control Period are specified in the Initial Bylaws.

8.1.2. Statutory Limitations on Declarant Control. Notwithstanding the period of time specified in the Bylaws, the period of Declarant Control shall terminate no later than the earliest of:

(a) Sixty days after conveyance of seventy-five percent of the Units that may be created to Unit Owners other than the Declarant;

(b) Two years after the last conveyance of a Unit, except to a Dealer;

(c) Two years after any right to add new Units was last exercised; or

(d) The day the Declarant, after giving Notice in a Record to Unit Owners, records an amendment to the Declaration voluntarily surrendering all rights to appoint and remove Officers and Board Members. Such Notice may include a requirement that that during the remainder of the Declarant Control Period, specified actions of the Association or Board, as described in a recorded amendment to the Declaration executed by the Declarant, be approved by the Declarant before they become effective, as provided in RCW 64.90.415(1)(b).

8.1.3. Further Information related to Declarant Control Period. At the termination of the Declarant Control Period, the Declarant shall provide the Association with all documents and things required under RCW 64.90.420. The Declarant's right to control the Association in this fashion is legally unrelated to the Declarant's rights to determine whether to pay all the expenses of the Association and/or when the Units will become subject to Assessments for Common Expenses by the Association under Section 10.12 hereof.

8.2. Professional Management.

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

8.3. Authority of the Board.

8.3.1. General Authority. The Board, for the benefit of the Condominium and the Owners, shall have the authority to manage the project and enforce the provisions of the Governing Documents and Bylaws. The Board has all powers and authority granted to the Association under

the Governing Law and this Declaration that are not expressly subject to the approval of Unit Owners.

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

8.3.3. Liens or Encumbrances. The Board may also pay any amount necessary to discharge any lien or encumbrance that is claimed to constitute a lien against Common Elements or any portion thereof in violation of RCW 64.90.490(1). Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally guilty of willful misconduct or gross negligence and thus liable for the cost of discharging it, and any costs and expenses incurred by the Board by reason of such lien or liens shall constitute Specially Allocated Assessments against the Units responsible, to the extent of their responsibility.

8.3.4. Acquisition of Property. The Board may acquire and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interests therein, and may dispose of the same by sale or otherwise. Except as may be otherwise required under the Governing Law, such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct.

8.3.5. No Business Authority. Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

8.3.6. Restrictions on Regulatory Authority. Pursuant to RCW 64.90.510, the Board may:

(a) Rules Regarding Flags and Political Signage. Adopt reasonable Rules governing the time, place, or manner of displaying the flag of the United States necessary to protect a substantial interest of the Association, and may also adopt Rules governing the time, place, size, number, and manner of the display of signs regarding candidates for public or Association office, or ballot issues, on or within a Unit or Limited Common Element. See Subsection 9.1.4 hereof for further details; and

(b) Rules Regarding Uses of or Leasing of Units. Adopt Rules that affect the use or occupancy of or behavior in Units that may be used for residential purposes, only to:

(i) Implement a provision of the Declaration;

(ii) Regulate any behavior in or occupancy of a Unit that violates the Declaration or adversely affects the use and enjoyment of other Units or the Common Elements by other Occupants; and

(iii) Restrict the leasing of residential Units to the extent those Rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on Units in comparable condominium projects or that regularly purchase those mortgages.

8.3.7. Further Restrictions on Board's Authority. Pursuant to RCW 64.90.410(4), the Board may not, without the vote or agreement of the Unit Owners:

- (a) Amend the Declaration, except as provided in RCW 64.90.285;
- (b) Amend the Organizational Documents of the Association;
- (c) Terminate the Condominium;
- (d) Elect members of the Board, but the Board may fill vacancies in its membership not resulting from removal for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of Board members; or
- (e) Determine the qualifications, powers, duties, or terms of office of Board members.

#### 8.4. Right of Entry - Allocation of Responsibility for Damage to Unit upon Entry.

8.4.1. Right of Entry - Notice Generally Required. The Board and its agents or employees may enter any Unit or Limited Common Elements appurtenant thereto when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible, including without limitation Upkeep required to a Unit under Schedule 8.3.2(g) to Exhibit "D" to this Declaration, and also including any necessary inspections by the Association under Subsection 4.6.3 hereof or elsewhere in this Declaration, or in the event of a *bona fide* emergency. Except in the case of an emergency, reasonable advance Notice shall be given to the Unit Owner and, if applicable, to any lawful tenant in the Unit. Such entry shall be made with as little inconvenience to the Owner and/or Occupant as practicable.

8.4.2. Allocation of Responsibility for Damage to Unit upon Entry. Any damage caused by such entry shall be repaired by the Association out of the Common Expense fund if the entry was due to an emergency (unless the emergency was caused by the Owner or a lawful Occupant of the Unit entered, in which case the cost shall constitute a Specially Allocated Assessment against the Unit entered) or for the purpose of Upkeep to Common or Limited Common Elements where the repairs were undertaken by or under the direction or authority of the Board. If the Upkeep was necessitated by conditions within the Unit or performed at the request of its Owner or its lawful Occupants, the costs thereof shall constitute a Specially Allocated Assessment against such Unit.

8.4.3. Unit Owner to Afford Access to Association and Other Owner(s). Each Unit Owner and Occupant shall afford to the Association and, as needed, to other Unit Owner(s), and to their respective agents or employees, access through such Owner's Unit and any appurtenant

Limited Common Elements reasonably necessary for the purposes stated in Subsection 8.4.1 hereof, including necessary inspections by the Association, and for repairs to other Units.

8.5. Board as Attorney in Fact.

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

8.6. Board's Authority Exclusive - Owners May Not Direct Association Agents/Employees.

The Board's authority with respect to the Common Elements is exclusive. No Person shall attempt to engage or direct any employee, contractor or agent of the Association or its Manager on any private business of such Person, or to otherwise direct, supervise or in any manner attempt to assert control over such Person during the hours that such Person is working on behalf of the Association.

8.7. Board or Association as Trustee.

With respect to a third person dealing with the Board or the Association in the Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third person is not bound to inquire whether the Association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the Association in its capacity as trustee.

ARTICLE IX

PERMITTED USES; ARCHITECTURAL CONSISTENCY

9. PERMITTED USES – ARCHITECTURAL CONSISTENCY.

9.1. Permitted Uses.

9.1.1. Residential Use Prohibited. No residential uses of any sort are permitted on the Condominium Property.

9.1.2. Commercial Uses. This Condominium is designed to accommodate commercial uses. Approved Commercial Uses in this Condominium include retail sales, professional office

and general commercial office uses, and/or other lawful light commercial uses and purposes which have been previously approved by Declarant or the Board of Directors of this Condominium pursuant to Section 7.2.5 hereof, for which appropriate liability insurance protecting the Association may be obtained pursuant to Section 11.5.1 hereof, PROVIDED that any and all such uses must be and remain consistent with all applicable laws, ordinance and regulations of any governmental authority with jurisdiction and further provided that any such business be conducted wholly within the Unit and the business not generate appreciable levels of noise, odors, or visitor or vendor traffic that requires appreciable nearby vehicle parking. No such approved specific use, once approved by the Declarant or Board, may be disapproved while an Owner or tenant of an Owner is lawfully making such use of a Unit or portion thereof.

9.1.3. Vehicle Parking and Operation. Parking spaces are restricted to use for parking of operable, properly licensed automobiles, motorcycles, light trucks and family vans; other items and equipment may be parked or kept therein only if expressly permitted by Rules and only in such parking areas, if any, as may be designated for such purpose by the Board of Directors. No vehicle shall be parked in an area not specifically designated for parking in the Governing Documents, or in a space that is too small for the vehicle; see Subsection 5.9.2 hereof. Vehicles shall be operated in a safe and responsible manner while on Condominium Property. Vehicle repairs are not permitted on the Property. In no event shall any vehicle be parked in the parking spaces for a period of time greater than 24 consecutive hours, it being intended that such areas not serve as permanent "parking spaces" for any vehicle. The Board may require removal of any inoperative or unregistered vehicle, and any other equipment or item improperly stored in parking spaces. If the same is not removed, the Board may cause removal at the risk and expense of the owner thereof, under such reasonable procedures as may be provided by Rules adopted by the Board. Any designated visitors parking areas shall be left open for use by visitors, guests, invitees and licensees of Unit Owners and their tenants; visitors' spaces are intended to be used by visitors and shall not be used for parking or storage of vehicles owned by Owners and/or other Occupants of Units. Any unassigned handicapped spaces shall remain open for use by vehicles properly designated for handicapped use. The Board may adopt Rules governing other aspects of vehicle use within the Common Elements of the Condominium, including restrictions on vehicle speed and environmental impacts.

9.1.4. Signs. Reasonable signage for business purposes is permitted, pursuant to the terms of a Signage Plan to be adopted by the Board of Directors under Section 9.3 hereof. No sign of any kind shall be displayed to the public view on or from any Unit or Common Elements without the prior consent of the Board. PROVIDED, that this Subsection shall not apply to Declarant or Declarant's agents, nor shall it be deemed to prohibit the Owner of a Unit from displaying a sign, of such type and in such location as may have been approved in writing by the Board, for a period of time in which the Owner's Unit is for sale or rent.

9.1.5. Animals. The maintenance, keeping, boarding and/or raising of animals, other than medical service animals, is discouraged, but may be permitted, subject to Rules and Regulations adopted by the Board. An animal must be accompanied by its owner and must be kept on a leash or otherwise appropriately restrained at all times. The owner of any animal maintained on the Property shall exercise appropriate control over the animal and shall clean up after such animal

and shall not permit deposits of fecal matter, urinary residue or foodstuffs from or for such animal to remain anywhere on the Common Elements. Any person who keeps or maintains any animal upon any portion of the Condominium Property shall be deemed to have indemnified and agreed to hold the Association, each Unit Owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Condominium. All animals shall be registered and inoculated as required by law. The Board may establish reasonable fees not to exceed the additional costs incurred by the Association resulting from the presence of such animals. The Board may at any time require the removal of any animal that it finds is or has become an unreasonable source of annoyance, and may exercise this authority for specific animals even though other animals are permitted to remain.

9.1.6. Noise. No Person shall cause any unreasonably loud noise anywhere in the Condominium. The Board may by resolution establish "Quiet Hours," i.e., times of day or night during which only minimal noise shall be permitted to emanate from any Unit.

9.1.7. Offensive or Illegal Activity. No noxious, offensive, smelly or illegal activity shall be carried on in any Unit or the Common Elements, nor shall anything be done therein that is or may become an unreasonable source of annoyance [nuisance] to other Owners or other lawful Occupants of the Condominium Property, nor shall any person create a public health or safety hazard, or obstruct any common private air intake for any HVAC system, or otherwise interfere with or prevent the normal operation, maintenance, use, enjoyment, alteration or further development of the Property.

9.1.8. Compliance with Environmental Laws. Use of the Units and Common Elements of this Condominium is subject to various federal, state and local laws, regulations and guidelines now in effect and/or hereafter enacted, relating to or affecting the Property, concerning the impact on the environment of construction, land use, the maintenance and operation of structures and the conduct of business. No Unit Owner shall cause, or permit to be caused, any act or practice by negligence, or omission, or otherwise, that would adversely affect the environment or do anything or permit anything to be done that would violate any of the said laws, regulations or guidelines. The foregoing shall cover all requirements whether or not foreseeable at the present time and regardless of their expense.

9.1.9. Reportable Uses. A Reportable Use shall mean (i) the installation or use of any above or below ground storage tank, or (ii) the generation, possession, storage, use, transportation or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with any governmental authority. Reportable Use shall also include an Owner's being responsible for the presence in, on or about the Property of a Hazardous Substance with respect to which any applicable law, ordinance or regulation requires that a notice be given to persons entering or occupying the Property or any adjacent or neighboring property.

9.1.10. Hazardous Substances. A person shall maintain or store on or in the Property only such property and materials which may be legally possessed by such person. No person shall improperly store or release from a Unit or the Common Elements any Hazardous Substances, as



that term is defined in CERCLA, 42 USC 9301, et. seq. or the Washington Model Toxics Control Act, which without limitation include petroleum distillates, liquid or aromatic hydrocarbons, medical wastes or infectious biological agents, acids, caustics, carcinogens, mutagens, heavy metals, or any other inflammable, toxic, explosive, radioactive, or other type of substance which may be hazardous to either the public health or safety, to the Property or to the health or safety of any lawful occupants of the Property, any and all such substances also being known herein as Hazardous Substances.

9.1.11. Notice of Actions and Reportable Uses; Inspections. Any person lawfully occupying any portion of the Property shall promptly provide written notice to the Association of any Reportable Uses or of any receipt of notice of governmental action or third party claims alleging noncompliance or suspected noncompliance with environmental laws or laws relating to hazardous substances. The Association shall have the right but not an obligation to enter any Unit and its Limited Common Elements at any reasonable time in order to inspect for compliance with environmental laws or laws relating to Hazardous Substances.

9.1.12. Duty to Cleanup. In the event of a spill or release of any Hazardous Substances within or from the Property, the person(s) causing or otherwise responsible for such spill or release shall promptly undertake thorough cleanup measures and provide notice to the Association, and to any governmental entity with appropriate jurisdiction, of the occurrence of the spill or release, and of the measures taken for cleanup and remediation.

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

9.1.14. Antennas. Special restrictions on the installation of television, radio and other sorts of antennas and devices are found in Schedule 9.1.9 to Exhibit "D" to this Declaration.

9.1.15. Effect on Insurance. Nothing shall be done or maintained in any Unit or in the Common Elements that will increase the rate of insurance on the Common Elements or Units without the prior written consent of the Board. No Owner or Occupant shall permit anything to be done or maintained in his or her Unit or in the Common Elements that will result in the cancellation of any policy of insurance maintained by the Association.

9.1.16. Restrictions on the Leasing or Short-term Occupancy of Units. With the exception of 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, no Unit Owner shall be permitted to lease its 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 Governing Documents or Bylaws, 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 a copy of any lease agreement from the Unit Owner or the tenant, and the Association is entitled to receive contact information for every tenant. A lease, as defined herein, shall include month-to-month rentals. Any tenant or subtenant shall be deemed to have assumed all the responsibilities of an Owner under Article IX of this Declaration. All Tenants must obtain liability insurance which names the Association as an additional insured. See Section 11.5 hereof. The Board shall have the right to adopt Rules further restricting the leasing of Units, but only as provided in Subsection 8.3.6 hereof.

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

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

9.1.19. Adult-Entertainment Businesses Prohibited. To preserve the quality of the commercial uses permitted in this Condominium, no adult-entertainment business, or other uses which unreasonably interfere with the approved commercial uses are permitted in this Condominium.

9.2. Architectural Consistency.

In order to preserve a uniform exterior appearance to Common Elements visible to the public, the Board shall provide for the painting and other decorative finish of the Buildings or other Common Elements, and may prohibit or regulate any modification or decoration of any Common Elements proposed by any Owner. This power of the Board extends to screens, doors, awnings, rails or other visible portions of each Unit and any Limited Common Elements appurtenant thereto.

9.3 Signage Plan.

The Board of Directors shall develop a Signage Plan for the Condominium, to create a common theme for signs, devices and displays [collectively "signs"] advertising the business activities conducted within the project. The Signage Plan shall contain provisions regulating the placement of signs on or within the Common Elements, and may also regulate the placement of signs within Units which are visible from other Units and/or the Common Elements. Further provisions for signs appear in Section 9.1.4 hereof.

ARTICLE X  
COMMON EXPENSES AND ASSESSMENTS

10. COMMON EXPENSES AND ASSESSMENTS.

10.1. Annual Budget for the Association.

10.1.1. General Provisions for the Annual Budget. At such other time as may be deemed necessary or desirable by the Board of Directors or the Association's Manager or accountant, but more than 30 days prior to the Meeting described in Section 10.2 hereof, the Board shall prepare an Annual Budget that shall estimate the Common Expenses and those Specially Allocated Expenses that are subject to inclusion in the Budget, to be paid during such year. Specially Allocated Expenses assessable under Section 10.8 shall be budgeted in such fashion that they will be properly apportioned and assessed against only the affected Units. The Budget shall make provision for creating, funding and maintaining Reserves required by Section 10.3 hereof, and shall take into account any expected income and any surplus determined to be available under the Reconciliation required under RCW 64.90.475 from the prior year's operating fund. The Declarant or the initial Board may at any suitable time establish the first such estimate. If deemed necessary by the Board of Directors, any Annual Budget may be revised prior to the end of its budget year, subject to the provisions of Sections 10.7 and 10.2 hereof.

10.1.2. Specific Statutory Requirements for Annual Budget. The Board's proposed Budget must include:

- (a) The projected income to the Association by category;
- (b) The projected Common Expenses and those Specially Allocated Expenses that are subject to being budgeted, described below in Subsection 10.8.1, both by category;
- (c) The amount of the Assessments per Unit and the date the Assessments are due;
- (d) The current amount of regular Assessments budgeted for contribution to the reserve account;
- (e) A statement of whether the Association has a Reserve Study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the Budget meets or deviates from the recommendations of that Reserve Study; and
- (f) The current deficiency or surplus in reserve funding expressed on a per Unit basis.

10.2. Meeting of Association to Ratify Budget.

Within thirty days after adoption of any proposed Budget for the Condominium, the Board must provide a copy of the Budget to all the Unit Owners and set a date for a Meeting of the Unit Owners to consider ratification of the Budget not less than fourteen nor more than fifty days after providing the Budget. Unless at that Meeting the Unit Owners of Units to which a majority of the votes in the Association are allocated reject the Budget, the Budget and the Assessments against the Units included in the Budget are ratified, whether or not a quorum is present. In the event the proposed Budget is rejected or the required Notice is not given, the periodic Budget last ratified

by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent Budget proposed by the Board of Directors.

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

10.3.1. Establishment of Reserves – Status and Uses of Reserve Funds. The Board of Directors shall establish and maintain reasonable Reserves for major repairs and replacements, in accordance with Section 5.5 hereof. Reserves shall also be established for the deductible under insurance policies obtained pursuant to Article XI hereof, exclusive of earthquake, flood and/or similar coverages. The Annual Budget of the Association shall always contain provisions for such Reserves. 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 Association. 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, or if the procedure described in Subsection 10.3.3 below is followed. 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 Governing Law. Unless the cost of performing a Reserve Study or update thereto exceeds ten percent of the Association's Annual Budget, the Association must prepare and update a Reserve Study in accordance with RCW 64.90.550. An initial Reserve Study must be prepared by a Reserve Study Professional, based upon either a Reserve Study Professional's visual site inspection of completed improvements or a review of plans and specifications of or for unbuilt improvements, or both when construction of some but not all of the improvements is complete. An updated Reserve Study must be prepared annually. An updated Reserve Study must be prepared at least every third year by a Reserve Study Professional, based upon a visual site inspection conducted by the Reserve Study Professional. Unit Owners have specific rights to compel the Association to update the Association's Reserve Study under RCW 64.90.555.

10.3.3. Attributes and Contents of Reserve Study. Any Reserve Study is supplemental to the Association's operating and maintenance budget. A Reserve Study must include:

(a) A Reserve Component list, including any Reserve Component, the replacement cost of which exceeds one percent of the Annual Budget of the Association, excluding contributions to the Reserves for that Reserve Component. If one of these Reserve Components is not included in the Reserve Study, the study must explain the basis for its exclusion. The study must also include quantities and estimates for the useful life of each Reserve Component, the remaining useful life of each Reserve Component, and current major replacement costs for each Reserve Component;

(b) The date of the study and a disclosure as to whether the study meets the requirements of the Governing Law;

- (c) The following 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 to which the reserve account is funded;
- (f) Special Assessments already implemented or planned;
- (g) Interest and inflation assumptions;
- (h) Current reserve account contribution rates for a full funding plan and a baseline funding plan;
  - (i) A recommended reserve account contribution rate for a full funding plan to achieve one hundred percent fully funded Reserves by the end of the thirty-year study period, a recommended reserve account contribution rate for a baseline funding plan to maintain the reserve account balance above zero throughout the thirty-year study period without Special Assessments, and a reserve account contribution rate recommended by the Reserve Study Professional;
  - (j) A projected reserve account balance for thirty years based on each funding plan presented in the Reserve Study;
  - (k) A disclosure on whether the Reserve Study was prepared with the assistance of a Reserve Study Professional, and whether the Reserve Study Professional was independent;
  - (l) A statement of the amount of any current deficit or surplus in reserve funding expressed on a dollars per Unit basis. The amount is calculated by subtracting the Association's reserve account balance as of the date of the study from the fully funded balance, and then multiplying the result by the fraction or percentage of the Common Expenses of the Association allocable to each Unit; except that if the fraction or percentage of the Common Expenses of the Association allocable vary by Unit, the Association must calculate any current deficit or surplus in a manner that reflects the variation; AND THE FOLLOWING DISCLOSURE:
  - (m) **"This Reserve Study should be reviewed carefully. It may not include all Common and Limited Common Element components that will require major maintenance, repair, or replacement in future years, and may not include regular contributions to a Reserve Account for the cost of such maintenance, repair, or replacement. The failure to include a component in a Reserve Study, or to provide contributions to a Reserve Account for a component, may, under some circumstances, require the Association**

to (1) defer major maintenance, repair, or replacement, (2) increase future reserve contributions, (3) borrow funds to pay for major maintenance, repair, or replacement, or (4) impose Special Assessments for the cost of major maintenance, repair, or replacement."

10.3.4. Reserve Account - Reserve Study - Reserve Disclosure - Liability. Except for an award for attorneys' fees and costs under RCW 64.90.555(2), monetary damages or other liability may not be awarded against or imposed upon the Association or its Officers or Board members, or upon any Person who may have provided advice or assistance to the Association or its Officers or Board members, for failure to: Establish or replenish a Reserve Account, have a current Reserve Study prepared or updated in accordance with the requirements of the Governing Law, or make reserve disclosures in accordance with the Governing Law.

10.3.5. Reserve Accounts - Limitations on Withdrawals from Reserve Account. The Board must establish one or more accounts for the deposit of funds identified for the replacement costs of Reserve Components. Any Reserve Account must be an income-earning account maintained under the direct control of the Board, and the Board is responsible for administering the Reserve Account. The Board may withdraw funds from its Reserve Account to pay for unforeseen or unbudgeted costs that are unrelated to replacement costs of the Reserve Components. Any such withdrawal must be recorded in the Minute Books of the Association. The Board must give Notice of any such withdrawal to each Unit Owner and adopt a repayment schedule not to exceed twenty-four months unless the Board determines that repayment within twenty-four months would impose an unreasonable burden on the Unit Owners. The Board must provide to Unit Owners along with the Annual Budget adopted in accordance with RCW 64.90.525: (a) Notice of any such withdrawal, (b) a statement of the current deficiency in reserve funding expressed on a per Unit basis, and (c) the repayment plan. The Board may withdraw funds from the Reserve Account without satisfying the notification of repayment requirements under this Subsection to pay for replacement costs of Reserve Components not included in the Reserve Study.

10.3.6. Working Capital Fund. To facilitate project approval by institutional lenders, upon closing of the first conveyance of each Unit to a purchaser or first occupancy of such Unit, whichever occurs first, the Association may assess and collect a working capital contribution for such Unit, in such amount or amounts as may be determined by the Declarant. Working capital contributions may be collected from purchasers prior to the commencement of Common Expense assessments under Subsection 10.4.3 hereof. Such payments do not constitute advance payments of regular Assessments, and working capital contributions may not be used to defray expenses that are the obligation of the Declarant. When unsold Units are sold, the Declarant may use funds collected at closing to reimburse itself for funds it may have paid the Association for such unsold Units' shares of the Working Capital Fund.

#### 10.4. Assessments against Units.

10.4.1. Liability of Units. Assessments for General Common Expenses and those Specially Allocated Expenses that are subject to inclusion in a Budget must be made at least annually based on a Budget adopted in the manner described in Sections 10.1 and 10.2 hereof.

10.4.2. Assessments in Proportion to Common Expense Liability. All General Common Expenses must be assessed against all the Units in accordance with their allocated Common Expense liabilities, subject to the right of the Declarant to delay commencement of certain Common Expenses under Subsection 10.4.4 below.

10.4.3. Commencement of Assessments. Assessments for Common Expenses and Specially Allocated Expenses included within the Budget must commence on all Units that have been created upon the conveyance of the first Unit in the Condominium.

10.4.4. Right of Declarant to Delay Commencement of Assessments. Notwithstanding the foregoing, the Declarant may cause the Association to delay commencement of Assessments, as provided in greater detail in Section 10.5 hereof below.

10.4.5. Payable in Installments. Unless otherwise determined by the Board of Directors, following approval by Eligible Mortgagees as required in Schedule 15 to Exhibit "D" hereto, the annual Assessment against each Unit for its proportionate share of the Common Expenses shall be payable in 12 equal, monthly installments, and each installment shall be payable in advance by the first day of the month.

10.5. Option of Declarant to Pay Some or All Expenses of Association.

Pursuant to RCW 64.90.480(1)(b), the Declarant may cause the Association to delay commencement of Assessments for some or all Common Expenses or Specially Allocated Expenses, in which event the Declarant must pay to the Association all of the Common Expenses or Specially Allocated Expenses that have been delayed. If the Declarant intends to exercise its statutory option to cause the Association to delay the payment of Assessments, the Declarant shall so state in the Public Offering Statement for the Condominium, and therein shall specify the timing and other conditions associated with the Declarant's obligation to fulfill its obligation to the Association to pay the Assessments so deferred. If the Declarant has reserved Development Rights to add additional Units to the Condominium, the Declarant may delay commencement of Assessments for such Units in the same manner. The right of the Declarant to cause the Association to delay Assessments for Common Expenses, and/or for how long such delay should persist, are legally unrelated to the Declarant's rights to control the Association in the manner described in Section 8.1 hereof.

10.6. Allocated Interests for Common Expense Liability; Procedure on Reallocation.

10.6.1. Initial Allocation of Liability for Common Expense Assessments. Pursuant to RCW 64.90.235(1)(a), the Declarant has allocated to each Unit in the Condominium a liability for payment of the Common Expenses of the Association that is known as the Unit's Allocated Interest for Common Expense Liability. This liability has been allocated among the Units generally in proportion to the size of each Unit relative to all other Units in the Condominium. Each Unit's Allocated Interest for Common Expense Liability is expressed as a percentage and is stated with particularity on the attached Exhibit "B." A Unit's liability for Common Expense Assessments

under such Allocated Interests may be subject to adjustment under the provisions of Subsections 3.3.2 and 10.8 hereof.

10.6.2. Reallocation. In the event that the Declarant exercises a Development Right to create additional Units in the Condominium, these initial Allocated Interests shall be reallocated pursuant to Subsection 3.3.2 hereof. If Common Expense liabilities are reallocated, through an exercise of Development Rights or otherwise, Common Expense Assessments or any installment thereof not yet due under the prevailing Budget shall be recalculated by the Board in accordance with the reallocated Common Expense liabilities, and each Unit shall thereafter be liable for the revised Assessments due upon such recalculation.

10.7. Special Assessments.

The Board at any time may propose a Special Assessment. The Assessment is effective only if the Board follows the procedures for ratification of a Budget described in Sections 10.1 and 10.2 hereof and the Unit Owners do not reject the proposed Assessment. The Board may provide that the Special Assessment may be due and payable in installments over any period it determines and may provide a discount for early payment. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if the Special Assessment is not payable in installments, the full amount of such Special Assessment, in proportion to their Allocated Interests for Common Expense Liability. See also Section 11.9 governing Special Assessments that may be required in conjunction with major damage repairs.

10.8. Specially Allocated Assessments.

10.8.1. Expenses Subject to Inclusion in Budget. The items included below in this Subsection constitute Specially Allocated Expenses that are subject to inclusion in the Association's Annual Budget:

(a) Any expense associated with the operation, maintenance, repair, or replacement of a Special Limited Common Element shall constitute a Specially Allocated Assessment against the Unit to which such facility is allocated; if applicable, such expenses shall be shared equally among any Units sharing such facilities.

(b) Charges collectible by the Association for the use of Reserved Common Elements or other facilities, such as storage areas, recreation facilities or the like, or services provided to Unit Owners on a regular basis.

(c) If one or more Units or the Common Elements are not separately metered, the utility service shall be paid as a Common Expense, and the Board may either allocate, by reasonable formula, a portion of such expense to each such Unit as a Limited Common Expense, or reimburse any Unit Owner who pays, in whole or in part for utilities serving the Common Elements or other Units, as appropriate.



10.8.2. Expenses Not Subject to Inclusion in Budget. The items included below in this Subsection constitute Specially Allocated Expenses that are not subject to inclusion in the Association's Annual Budget:

(a) Costs of services provided to or expenses incurred on behalf of one or more Unit Owners on a one-time or irregular basis, reasonable charges for the preparation and recordation of amendments to the Declaration benefitting particular Unit Owners, resale certificates, lender questionnaires, or statements of unpaid Assessments, "move-in" and/or "move-out" charges established by the Board, fines imposed by the Board, the costs and attorney's fees described in RCW 64.90.485(19), or that may be imposed pursuant to the Bylaws, and interest on any delinquent account.

(b) To the extent that any expense of the Association is caused by the negligence of any Unit Owner or that Unit Owner's tenant, guest, invitee, or Occupant, the Association may assess that expense against the Unit Owner's Unit after Notice and an opportunity to be heard as provided in the Bylaws, to the extent of the Association's deductible and any expenses not covered under an insurance policy issued to the Association. See Section 13.2 hereof.

(c) To the extent that any expense of the Association is caused by willful misconduct or gross negligence of any Unit Owner or that Unit Owner's tenant, guest, invitee, or Occupant, the Association may assess that expense against the Unit Owner's Unit after Notice and an opportunity to be heard as provided in the Bylaws, even if the Association maintains insurance with respect to that damage or Common Expense. See Section 13.2 hereof.

(d) The costs of the insurance deductible shall be apportioned as provided in Subsection 11.3.2.

10.9. Accounts; Commingling Prohibited - Funds generally maintained in Washington.

10.9.1. General Principles Associated with Association Accounts. The Association must keep all funds of the Association in the name of the Association with a Qualified Financial Institution. The funds must not be commingled with the funds of any other association or with the funds of any Managing Agent of the Association or any other Person, or be kept in any trust account or custodial account in the name of any trustee or custodian.

10.9.2. Obligations of Managing Agents. A Managing Agent who accepts or receives funds belonging to the association must promptly deposit all such funds into an account maintained by the association in compliance with Subsections 10.9.1 or 10.3.3 hereof, as appropriate. Accounts in the name of the Association over which a Managing Agent has any control must be maintained in a financial institution located in the State of Washington.

10.10. Surplus Funds.

Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of Reserves must either be paid annually to the Unit Owners in

proportion to their Common Expense liabilities or credited to them to reduce their future Common Expense Assessments, at the Board's discretion.

10.11. Liability of Unit Owners for Association Obligations.

10.11.1. General Liability Principles. A Unit Owner is not liable, solely by reason of being a Unit Owner, for an injury or damage arising out of the condition or use of the Common Elements. Neither the association nor any Unit Owner except the Declarant is liable for that Declarant's torts in connection with any part of the Condominium which that Declarant must maintain. An action alleging a wrong done by the association, including an action arising out of the condition or use of the Common Elements, may be maintained only against the association and not against any Unit Owner.

10.11.2. Proportionate Liability for Liens. A judgment for money against the association perfected under RCW 4.64.020 is not a lien on the Common Elements, but is a lien in favor of the judgment lienholder against all of the other real estate of the Association and all of the Units in the Condominium at the time the judgment was entered. Other property of a Unit Owner is not subject to the claims of creditors of the Association. Whether perfected before or after the creation of the Condominium, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the Condominium, becomes effective against two or more Units, the Unit Owner of an affected Unit may pay to the lienholder the amount of the lien attributable to the Unit, and the lienholder, upon receipt of payment, must promptly deliver a release of the lien covering that Unit. The amount of the payment must be proportionate to the ratio that the Unit Owner's Common Expense liability bears to the Common Expense liabilities of all Unit Owners that are subject to the lien. After payment, the Association may not assess or have a lien against that Unit Owner's Unit for any portion of the Common Expenses incurred in connection with that lien.

10.12. Assessments to Pay Judgment against Association.

Assessments to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their Allocated Interests for Common Expense liability at the time the judgment was entered.

10.13. Owners Personally Liable for Common Expenses.

10.13.1. Owners Jointly & Severally Liable for Assessments. 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. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

10.13.2. Suit against Unit Owner Authorized. Suit to recover a personal judgment for any delinquent Assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

10.13.3. Association's Failure to Adopt Budget Does not Release Owners. The failure or delay of the Board of Directors to adopt the Annual Budget for any year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided, and in the absence of an Annual Budget or adjusted Annual Budget, each Unit Owner shall continue to pay (with or without Notice) a monthly Assessment at the rate established for the preceding fiscal year until an Assessment is made under a current Annual Budget or adjusted Annual Budget and Notice thereof has been sent to the Unit Owner.

10.13.4. Late Fees Authorized. The Association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent Assessments or installments of Assessments. If the Association does not establish such a rate, delinquent Assessments bear interest from the date of delinquency at the maximum rate calculated under RCW 19.52.020 on the date on which the Assessments became delinquent.

10.13.5. No Waiver or Exemption of Liability for Assessments. No Unit Owner may exempt himself or herself from liability with respect to any portion of the Common Expenses for any reason, including without limitation a waiver of the enjoyment of the right to use any of the Common Elements or by leasing, rental or abandonment of his or her Unit or otherwise.

10.14. Liability Following Conveyance of Unit.

10.14.1. Liability of Unit Owner following Sale of Unit. In a voluntary conveyance other than by foreclosure, the grantee of a Unit is 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.

10.14.2. Liability of Mortgagee or other Purchaser following Foreclosure or Sale. Except as provided in Subsection 10.18.2 hereof, the holder of a mortgage or other purchaser of a Unit who obtains the right of possession of the Unit through foreclosure is not liable for Assessments or installments of Assessments that became due prior to such right of possession. Such unpaid Assessments are deemed to be Common Expenses collectible from all the Unit Owners, including such mortgagee or other purchaser of the Unit. Foreclosure of a mortgage does not relieve the prior Unit Owner of personal liability for Assessments accruing against the Unit prior to the date of such sale as provided in this Subsection.as provided above.

10.15. Statement of Unpaid Assessments.

10.15.1. Board Required to Deliver Statement of Unpaid Assessments. The Board, upon written request, shall furnish to a Unit Owner or a mortgagee a statement signed by an Officer or authorized agent of the Association setting forth the amount of unpaid Assessments against that Unit. The statement shall be furnished within fifteen days after receipt of the request and is binding

on the Association, the Board of Directors, and every Unit Owner, unless and to the extent known by the recipient to be false.

**10.15.2. Unit Owners Deemed to Consent to Notice to Lender. Every Unit Owner, by virtue of taking title to a Unit in this Condominium, shall be deemed for all purposes to have consented in advance to the Association furnishing a statement of unpaid Assessments to a mortgagee holding a security interest in the Unit Owner's Unit – no additional consent or authorization from any Unit Owner shall be required in advance of the Association providing such a statement under circumstances that require such a delivery.**

10.16. Lien for Assessments and Power of Sale.

10.16.1. The Association has a statutory lien on each Unit for any unpaid Assessment against the Unit from the time such Assessment is due.

10.16.2. Each and every Unit Owner of any Unit in the Condominium, by virtue of his or her acquisition by any means of title to such Unit, shall take such title subject to the Association's lien for Assessments. Pursuant to RCW 64.90.485(13)(b), the Declarant as "Grantor" does hereby grant, bargain, sell and convey to LAND TITLE & ESCROW, as "Trustee" in trust WITH POWER OF SALE, the Units and all other real property in the Condominium described in Exhibit "A" to this Declaration, which property is not used principally for agricultural purposes, together with all tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any manner appertaining, and the rents, issues and profits thereof, to secure the obligations of the Unit Owners to the Association, as "Beneficiary," for the payment of any Assessments lawfully levied under this Declaration. Each and every Unit Owner shall be deemed for all purposes, as of the time of his or her acquisition of title to any Unit in the Condominium, to have joined as an additional "Grantor" in the conveyance in trust above described, and to have at that time granted, bargained, sold and conveyed his or her Unit, along with its undivided Allocated Interest in the Common Elements and any Limited Common Elements assigned thereto, to such Trustee, to secure all obligations imposed by this Declaration on such Unit Owner to pay Assessments to the Association. The Power of Sale provided and granted herein shall be operative in the case of a default in the obligation to pay Assessments; upon default by such Unit Owner in the payment of any indebtedness secured hereby, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, the Trustee shall sell the Unit as trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any Person except Trustee may bid at Trustee's sale. The Trustee shall apply the proceeds of the sale as follows: (1) to the expenses of sale, including a reasonable trustee's fee and attorney's fee; (2) to the obligations secured by this Declaration; (3) the surplus, if any, shall be distributed to the Persons entitled thereto.

10.17. Automatic Perfection of Lien.

Recording of this Declaration constitutes record notice and perfection of the Association's statutory lien. Further notice or recordation of any claim of lien for Assessments is not required,

but is not prohibited. The Board may thus record a Notice of Claim of Lien for delinquent Assessments in the real property records of any county in which the Condominium is located.

10.18. Priority of Lien.

10.18.1. General Lien Priority. The Association's statutory lien shall be prior to all other liens and encumbrances on a Unit except: (a) Liens and encumbrances recorded before the recordation of this Declaration; (b) Except as otherwise provided in Subsection 10.18.2 below, a security interest on the Unit recorded before the date on which the unpaid Assessment became due; and (c) liens for real property taxes and other governmental assessments or charges against the Unit.

10.18.2. Association's Super-priority Lien for Assessments. Except as provided in Subsection 10.19.2 hereof, The Association's statutory lien also has priority over the security interests described in Subsection 10.18.1(b) above, to the extent of an amount equal to the following:

(a) The Common Expense Assessments, excluding any amounts for capital improvements, based on the periodic Budget adopted by the Association pursuant to Sections 10.1 and 10.2 hereof, along with any Specially Allocated Assessments that are properly assessable against the Unit under such periodic Budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the Association's lien or a security interest described in Subsection 10.18.1(b) hereof;

(b) The Association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the Notice described in Subsection 10.18.2(c) hereof; provided, however, that the costs and reasonable attorneys' fees that will have priority under this Subsection 10.18.2 shall not exceed two thousand dollars or an amount equal to the amounts described in Subsection 10.18.2(a), whichever is less;

(c) The priority amounts described in Subsection 10.18.2 shall be prior only to the security interest of the holder of a security interest on the Unit recorded before the date on which the unpaid Assessment became due **and only if the Association has given that holder not less than sixty days' prior written Notice that the Owner of the Unit is in default in payment of an Assessment. The Notice shall contain:**

(A) Name of the borrower;

(B) Recording date of the trust deed or mortgage;

(C) Recording information;

(D) Name of condominium, Unit Owner, and Unit designation stated in the Declaration or amendment thereto;

(E) Amount of unpaid Assessment; and

(F) A statement that failure to, within sixty days of the written Notice, submit to the Association payment of six months of Assessments as described in Subsection 10.18.2(a) hereof will result in the priority of the amounts described in Subsection 10.18.2(b); and

(d) Upon payment of the amounts described in Subsection 10.18.2(a) by the holder of a security interest, the Association's lien described in Subsection 10.18.2 shall be thereafter fully subordinated to the lien of such holder's security interest on the Unit.

(e) The Notice described in Subsection 10.18.2(c) hereof shall be mailed by ordinary mail to the holder of the security interest on the Unit at an address for Notice provided to the Association by the holder, or if the Association mails the Notice to the holder by certified mail, return receipt requested, at that address. If the holder has not provided an address for Notice to the Association, either for the purpose of becoming an Eligible Mortgagee, or for the purposes of receiving the Notice required under Subsection 10.18.2(c) above or otherwise, then consistent with the provisions of RCW 64.90.285(9), the Association must provide Notice to the address appearing in the security interest of record which Notice shall be deemed for all purposes to satisfy the Notice requirements of RCW 64.90.485(3)(a)(iii).

(f) **Every Unit Owner, by virtue of taking title to a Unit in this Condominium, shall be deemed for all purpose to have consented in advance to the Association giving the Notice described in Subsection 10.18.2(c) hereof to a mortgagee under the circumstances that require such a delivery. No additional consent or authorization from any Unit Owner shall be required in advance of the Association providing such a Notice.**

10.18.3. Special Definitions Relating to Association's Lien Rights. For the purposes of this Section 10.18:

(a) "Institution of proceedings" means either:

(i) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;

(ii) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the Association or by the holder of a recorded security interest; or

(iii) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

(b) "Capital improvements" does not include making, in the ordinary course of management, repairs to Common Elements or replacements of the Common Elements with

substantially similar items, subject to: (i) Availability of materials and products, (ii) prevailing law, or (iii) sound engineering and construction standards then prevailing.

10.18.4. Amendments to Budgets to include Improper Amounts are prohibited. The adoption of a periodic Budget that purports to allocate to a Unit any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the Association's lien, other collection charges, or Specially Allocated Assessments assessed under Subsection 10.8.2 hereof does not cause any such items to be included in the priority amount affecting such Unit.

10.18.5. Mechanic's Liens – Homesteads. This Section 10.18 does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other Assessments made by the Association. The Association's lien is not subject to the provisions of chapter 6.13 RCW relating to Homesteads.

10.19. Enforcement of Association's Lien.

10.19.1. Judicial Foreclosure Proceedings Authorized. The Association's lien may be enforced judicially by the Association or its authorized representative in the manner set forth in Chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

10.19.2. Nonjudicial Foreclosure Proceedings Authorized. The Association's lien also may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust. The Association or its authorized representative shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. The Association may elect to take a deed in lieu of foreclosure in any such proceeding.

10.19.3. Limitations Associated with Nonjudicial Foreclosures. If the Association forecloses its lien nonjudicially pursuant to Chapter 61.24 RCW, the Association shall not be entitled to the lien priority provided for under Subsection 10.18.2 hereof, and is subject to the limitations on deficiency judgments provided in chapter 61.24 RCW.

10.19.4. Additional Remedies for Nonpayment of Assessments. This Section 10.18 does not prohibit actions against Unit Owners to recover sums for which Section 10.16 hereof creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

10.19.5. Restrictions on Commencement of Foreclosure Proceedings. The Association may not commence an action to foreclose a lien on a Unit unless:

(a) The Unit Owner, at the time the action is commenced, owes a sum equal to at least three months of Common Expense Assessments; and

(b) The Board approves commencement of a foreclosure action specifically against that Unit.

10.19.6. Six Year Statute of Limitation on All Enforcement Proceedings. The Association's lien for unpaid Assessments and the personal liability a Unit Owner for payment of those Assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the Assessments sought to be recovered becomes due

10.20. Reasonableness Required in Enforcement Actions.

Every aspect of a collection, foreclosure, sale, or other conveyance under Section 10.19 hereof, must be commercially reasonable.

10.21. Rent Subject to Lien for Assessments - Other Remedies for Nonpayment.

10.21.1. Rent Payable to Association Upon Default of Owner. (a) If a Unit is rented or leased by its Owner, and if the Owner becomes delinquent in the payment of Assessments for more than 90 days, the Association may collect the delinquent amount from the tenant, who shall pay over to the Association so much of the rent for such Unit as is required to pay such delinquency, plus interest, attorneys' fees and other costs of collection. In order to avail itself of the remedy contained in this Subsection, the Association shall first send a Notice jointly to the Owner and the Tenant by First Class U.S. Mail, advising both parties [i] of the Owner's delinquency in Assessments, [ii] of the tenant's obligations under this Subsection of the Declaration, and [iii] notifying both parties that if such delinquency is not cured within ten (10) days of mailing, the tenant must commence paying rent to the Association until the delinquency has been cured. The tenant shall not have the right to question payment to the Association, and such payment shall discharge both the tenant's duty to pay rent to the Unit Owner and the Unit Owner's obligation to pay Assessments, *pro tanto*. The Association shall not resort to this remedy where a receiver has been appointed and is collecting such rents, as provided immediately below in Subsection 10.21.2. (b) **Every Unit Owner, by virtue of taking title to a Unit in this Community and subsequently renting the Unit, shall be deemed for all purpose to have consented in advance to the Association giving the Notice described in this Subsection 10.21.1 to a tenant of the Owner under circumstances that authorize such a delivery. No additional consent or authorization from any Unit Owner shall be required in advance of the Association providing such a Notice.**

10.21.2. Association Entitled to Appointment of Receiver During Foreclosure. In an action by the Association to collect Assessments or to foreclose a lien on a Unit that is not occupied by the Owner thereof, the Court may appoint a receiver to collect all sums alleged to be due and owing to the Unit Owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the Court may order the receiver to pay sums held by the receiver to the Association for any Assessments against the Unit. The exercise of rights under this Subsection by the Association does not affect the priority of preexisting liens on the Unit.

10.22. Remedies Cumulative.



The remedies provided herein are cumulative and the Board may pursue them concurrently, along with any other remedies that may be available under the law although not expressed herein. Suit to recover a personal judgment for any delinquent Assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

ARTICLE XI  
INSURANCE, DESTRUCTION, RESTORATION AND DISTRIBUTION

11. INSURANCE, DESTRUCTION, RESTORATION & DISTRIBUTION.

11.1. Authority, General Provisions, Name of Insured.

11.1.1. General Provisions. Commencing not later than the time of the first conveyance of a Unit to a Person other than the Declarant, the Board of Directors shall obtain and maintain for the Association: property insurance, commercial general liability insurance, fidelity insurance and other insurance as shall be deemed necessary by the Board of Directors, but unless not reasonably available, for not less than the terms, conditions and amounts described in greater detail below in this Section 11. Levels of coverage and deductibles from coverage shall be determined annually by the Board with assistance from the agent of the insurance company or companies affording such coverage. Unless not reasonably available, such coverage shall follow the terms, conditions and amounts required by Section 11.2 hereof.

11.1.2. Name of Insured - Certain Insuring Arrangements Prohibited. The name of the insured under each required policy shall be stated as follows: "1600 Continental Place Condominium Owners Association." The Association must be the First Named Insured under each policy. Having the Association named as an "additional insured" or "additional named insured" in a pooled insurance program or agreement maintained by a Managing Agent or other third party, which provides coverage to unrelated projects, does NOT satisfy this requirement.

11.1.3. General Insuring Scheme - Association Coverage. The Association will acquire a "Master Policy" of property insurance that covers the Units and the Common Elements of the Condominium to standards specified with greater particularity in Section 11.2. The Association will also acquire commercial general liability insurance, including medical payments insurance, in amounts determined by the Board, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements.

11.1.4. General Insuring Scheme - Limited Coverage for Owners and Tenants. The Association is not a guarantor of the health, safety or property of the Unit Owners, tenants or other Occupants of the Condominium. See Section 14.1 hereof for further details. The Association's Master Policy does not and cannot provide coverage for personal property belonging to any Unit Owner, tenant or other Occupant of a Unit, nor does the Master Policy provide coverage for liability for harm arising within a Unit. While the property coverage provided under the Master

Policy will generally provide coverage for loss or damage to the Units, the Master Policy will always include a “deductible,” with the result that no loss to a Unit will be completely covered under the Master Policy.

11.1.5. Owners and Tenants Responsible for Acquiring their Own Insurance. Because of the limitations in coverage afforded under the Association’s Master Policy, Unit Owners and tenants must acquire their own insurance coverage in order to be fully protected. In acquiring such insurance, Owners and tenants should pay particular attention to the general provisions of Sections 11.5 hereof, and the specific provisions of Subsection 11.3.2, under which the Unit Owner may be held liable on a “no fault” basis for portions of the deductible under the Master Policy when loss or damage to the Owner’s Unit is suffered.

11.2. Coverage under Master Policy of Insurance.

11.2.1. General Provisions – Authority for Coverage. The Governing Law contains provisions mandating insurance coverage for condominium projects in Washington, but permits the declarations for condominiums in which the units are restricted to nonresidential uses to avoid following such statutory provisions. Secondary mortgage market entities such as FHLMC, operating in residential markets, maintain more specific insurance requirements. This Declaration contains provisions borrowed from both the Governing Law and Fannie Mae requirements, irrespective of the fact that the Units in the Condominium are restricted to nonresidential uses in this Declaration.

11.2.2. Property Coverage. The insurable improvements within the Condominium shall be insured under one or more policies of commercial project insurance against casualty loss or physical damage in an amount equal to at least the cost of replacing the structural portions of the Buildings to a “vanilla shell” level to be defined by the Association with its insurance carrier, and the project’s basic mechanical equipment, subject to reasonable “deductible” limits. The master insurance policy obtained by the Association thus need not insure the Unit’s interior “tenant improvements” above and beyond the “vanilla shell” of the Unit created in the course of initial construction, nor any personal property belonging to a Unit Owner nor any improvements or betterments to a Unit made by the Unit Owner, nor any interior furnishings or trade fixtures used in the Owner’s business. The coverage will also typically be exclusive of land, excavations and foundations, utilizing contemporary building materials and technology. Level(s) of coverage shall be determined annually by the Board of Directors with assistance of the agent of the insurance company affording such coverage. Such coverage shall include the additional features described in Schedule 11.2 to Exhibit “D” to this Declaration.

11.2.3. Liability Coverage & Miscellaneous. The master insurance policy shall provide liability coverage for bodily injury and property damage arising from the Association’s management, operation and use of the Common Elements, along with fidelity coverage and other forms of coverage typically afforded under such policies. The Association should also acquire Directors and Officers liability insurance coverage and, if required, reasonably necessary and/or desirable, coverage for earthquake and/or flood damage, and other forms of coverage reasonably available in the insurance marketplace that may appear necessary or desirable from time to time.

11.2.4. Specific Details of Coverage under Master Policy. Schedule 11 to Exhibit "D" to this Declaration contains descriptions of the types of insurance coverage that should be obtained, along with requirements for the insurance carriers providing such coverage.

11.3. Deductible.

11.3.1. General Provisions. Except as provided herein, the amount of the deductible under the Association's master property policy shall be paid by the Association as a Common Expense. Funds to cover the amount of the deductible (excluding policies for earthquake, flood or similar losses that have higher than standard deductibles) shall be included in the Association's Reserve Accounts. The deductible should be established at a level that is sufficiently high to eliminate minor "nuisance" claims that could cause cancellation or non-renewal 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 Subsection 11.3.2 hereof - the maximum deductible amount must be no greater than 5% of the face amount of the policy.

11.3.2. Owner Responsible for Underinsured Amounts. In the event of loss or damage to a Unit that would be covered by the Association's property insurance policy (excluding policies for earthquake, flood or similar losses that have higher than standard deductibles) but that is within the deductible under that policy, the Owner of the Unit shall be held responsible on a no-fault basis for the amount of the loss up to the amount of the Association's deductible; this provision is designed to capture proceeds of insurance acquired by Unit Owners described in Section 11.5 hereof. In cases where loss or 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, in proportion to the relative costs of repairing the quantum of damage suffered by each party. See Subsections 10.8.4 and 11.5 for further details. Nothing in this Subsection shall be deemed to prevent a Unit Owner from asserting a claim against another Person for the amount recoverable by the Association under this Subsection if that other Person would be liable for such damages under general principles of law. Notwithstanding the above, if the Association is required to pay any other uninsured or under-insured amount because of the gross negligence or willful misconduct of an Owner or that Owner's tenant, or the family, servants, employees, agents, visitors, or licensees of that Owner, then as provided in Sections 13.2 and 10.8.2 hereof and RCW 64.90.480(6), the amount paid by the Association shall constitute a Specially Allocated Assessment against the Unit responsible for the damage, following notice and opportunity to be heard as provided in the Bylaws.

11.4. Certificates of Insurance Coverage.

An insurer that has issued an insurance policy to the Association must issue certificates or memoranda of insurance to the Association and, upon a request made in a Record, to any Unit Owner or holder of a security interest. 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 may not modify the amount or the extent of

the coverage of the policy or cancel or refuse to renew the policy without complying with this Section 11.4.

11.5. Owners' and Tenants' Policies.

11.5.1. Owner Insurance Policy. Each Unit Owner shall obtain, at such Owner's expense, and keep in force a commercial general liability policy providing Bodily Injury and Property Damage insurance, insuring the Owner and the Association against any liability arising out of the Owner's use, occupancy or maintenance of the Unit and the Common Elements. Until changed by resolution of the Board following advice of counsel, such insurance shall be in an amount of not less than One Million and no/100 Dollars (\$1,000,000.00) per occurrence, and may not contain exclusions from coverage for any readily foreseeable hazards posing an unreasonable risk of harm to persons or property in or around the Condominium and associated with the business use to which the Unit will be put by its Owner or other lawful occupant.

11.5.2. Special Use. If the Owner of any Unit which is used for any purpose for which special insurance is required by any statute or regulation shall obtain and keep in force such special insurance, which in each case shall name the Association as an additional insured, and shall provide that the insurance provided thereunder may not be canceled, substantially modified or reduced without at least thirty (30) days' prior written notice to the Association.

11.5.3. Owner Condominium Policy. Each Unit Owner should also obtain a "Condominium Unit Owner's Policy" or its equivalent, to insure against loss or damage to any HVAC equipment serving the Unit, and to tenant improvements, upgrades, or betterments to the Unit not covered by any "master" policy obtained by the Association, and to any trade fixtures, boats, motor vehicles, aircraft and/or other personal property stored within the Unit, including coverage for vandalism or malicious mischief, theft, 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.

11.5.4. Reducing Association Policy. 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 shall file with the Secretary or the Manager a copy of each individual policy of insurance purchase by the Unit Owner within thirty (30) days after its purchase.

11.5.5. Tenants must acquire their own Insurance. Tenants may be held liable to the Association under circumstances described in detail in Section 13.4 hereof, and to other third parties under general principles of law. As a result, any and all tenants must obtain an insurance policy equivalent to that required of Owners herein, to protect the tenant from liability for death, personal injury and property damage arising from the use, occupancy or maintenance of the Unit, along with loss to personal property, additional living expense, vandalism or malicious mischief, theft and the like.

11.5.6. Owner May Be Required to Separately Insure Permitted Improvements. In the event that any Unit Owner obtains permission from the Board of Directors to construct or maintain any Special Limited Common Element or other improvements within the Common Elements for the exclusive use of such Owner, the Board may require that such Owner 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, that shall name the Association as an additional insured, and such Owner shall then be solely responsible for all costs of insurance, maintenance, replacement and repair of such improvements.

11.5.7. Board has no Obligation to Monitor Unit Owners' Insurance. The Association has no insurable interest in personal property owned by Unit Owners, tenants or other Occupants and cannot obtain insurance covering liability for conduct occurring within a Unit. The Board of Directors is not obligated to monitor the existence or nonexistence of any insurance required under this Section 11.5; such responsibility, and the risks to the Owner or tenant arising from a failure to have proper insurance are to be borne solely by the Unit Owner or tenant. An Owner or tenant who fails to maintain such insurance shall be deemed to have made an election to self-insure for the risks described in Section 11. A failure by the Owner or tenant to maintain such insurance or to make a claim under an existing policy, which failure results in an inability of the Owner or tenant to pay sums that may be owing to the Association under Subsections 11.3.2 or 13.4.2 hereof, or that results in any other form of economic loss or harm or damage to the Association shall constitute willful misconduct or gross negligence on the Owner's part. See also Section 14.4 hereof.

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 Board 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, and not to any holder of a security interest. The Board shall hold such proceeds in trust for the Unit Owners and lienholders as their interests may appear.

(a) Proceeds are to be paid first for the repair or replacement of the damaged property, and neither the Association, the Unit Owners, nor lienholders are 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 replaced, or the Condominium is terminated.

(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.

See Schedule 11.8 to Exhibit "D" to this Declaration.

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 performance bonds or other type of security that the Board desires or as may be required. The cost of repair or replacement not paid from insurance proceeds is a Common Expense. If the proceeds of insurance, coupled with any available Reserve Funds [including funds consisting of payments from Owners or their insurance carriers under Subsection 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 hereof, in sufficient amounts to provide funds to pay the shortfall; such Budget shall be ratified in the manner described in Section 10.2 hereof, but pursuant to RCW 64.90.470(8)(c), the vote necessary to reject the Budget shall be that of 80% of the Unit Owners. 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 to the Owners containing a Special Assessment, in sufficient amounts to provide funds for the payment of such costs.

11.10. Notice to Eligible 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 \$50,000.

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.

ARTICLE XII  
CONDEMNATION

12. CONDEMNATION.

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

ARTICLE XIII  
COMPLIANCE WITH LAW AND COVENANTS

13. COMPLIANCE WITH LAW AND COVENANTS.

13.1. Compliance by Owners and Occupants.

Each Owner, tenant or other Occupant of a Unit shall comply strictly with the provisions of the Governing Law and the Governing Documents or Bylaws. All remedies provided to the Association in this Article may be enforced against any tenant or other Occupant of a Unit.

13.2. Liability for Conduct Causing Common Expense.

13.2.1. Liability for Negligence. Any expense of the Association caused by the negligence of any Unit Owner or that Unit Owner's tenant, guest, invitee or Occupant may be assessed against the Unit Owner's Unit after notice and an opportunity to be heard, to the extent of the Association's deductible and any expenses not covered under an insurance policy issued to the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. See Section 10.8 hereof.

13.2.2. Liability for Gross Negligence or Willful Misconduct. To the extent that any expense of the Association is caused by willful misconduct or gross negligence of any Unit Owner or that Unit Owner's tenant, guest, invitee or Occupant may be assessed against the Unit Owner's Unit after notice and an opportunity to be heard, even if the Association maintains insurance with respect to that damage or Common Expense. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. See Section 10.8 hereof.

13.2.3. Hearing to Determine Owner's Liability. An Owner whose conduct appears to justify imposition of a Specially Allocated Assessment pursuant to Subsections 13.2.1 through 13.2.2 above shall be first provided with Notice of the Board's intentions and an opportunity to be heard, in the manner provided in the Bylaws for hearings regarding the imposition of sanctions against an Owner.

13.3. Enforcement by Association.

13.3.1. General Enforcement Rights. The Board of Directors shall have primary responsibility for maintaining and enforcing compliance with the covenants, conditions and

restrictions contained in the Governing Documents or Bylaws. Without limiting the authority and powers conferred upon the Board by the Governing Law, the Board shall have the rights, powers and duties described in Section 7 of the Initial Bylaws.

13.3.2. Certain Claims against Declarant. Pursuant to RCW 64.90.685(2), the initial Bylaws for the Association contain provisions requiring a process of binding arbitration to resolve disputes between the Association, its members, and the Declarant. Unless the Declarant agrees in writing to modify such provisions, any disputes shall be resolved in the manner described in the Initial Bylaws.

13.4. Tenants and other Occupants Subject to Rights and Responsibilities of Owners.

13.4.1. General Principles. Any Tenant or other Occupant of a Unit shall be deemed to be bound by all portions of the Governing Documents or Bylaws that are binding upon the Owner thereof, other than the direct obligation to pay Common Expense Assessments to the Association. All rights, remedies and procedures available to the Association when dealing with Owners under the Governing Documents or Bylaws shall be available to the Association when dealing with any tenant or other Occupant of an Owner.

13.4.2. Remedies against Tenants. If a tenant of a Unit Owner violates the Governing Documents, in addition to exercising any of its powers against the Unit Owner, the Association may:

(a) Exercise directly against the tenant the powers described in RCW 64.90.480(2)(l);

(b) After giving Notice to the tenant and the Unit Owner and an opportunity to be heard, levy reasonable fines against the tenant and the Unit Owner for the violation; and

(c) Enforce any other rights against the tenant for the violation that the Unit Owner as the landlord could lawfully have exercised under the lease or that the Association could lawfully have exercised directly against the Unit Owner, or both. The rights referred to in this Subsection may be exercised only if the tenant or Unit Owner fails to cure the violation within ten days after the Association notifies the tenant and Unit Owner of that violation.

13.4.3. Association's Rights under Leases. The Association shall have the right (but not the obligation) to terminate the lease of a tenant who, following a hearing held under provisions of the Bylaws regarding the imposition of sanctions, has been found to have violated the Governing Documents; the Association shall be deemed a "real party in interest" in any legal proceeding brought to enforce this right. Unless a lease otherwise provides, the provisions of Subsection 13.4.2 above do not: (a) Affect rights that the Unit Owner has to enforce the lease or that the Association has under other law; or (b) Permit the Association to enforce a lease to which it is not a party in the absence of a violation of the Governing Documents.

13.5. Board's Discretion regarding Enforcement.



13.5.1. General Discretion. The Board may determine whether to take enforcement action by exercising the Association's power to impose sanctions or commencing an action for a violation of the Governing Documents, including whether to compromise any claim for unpaid Assessments or other claim made by or against it.

13.5.2. No absolute Duty to Enforce. The Board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented: (a) The Association's legal position does not justify taking any or further enforcement action; (b) The covenant, restriction, or Rule being enforced is, or is likely to be construed as, inconsistent with law; (c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or (d) It is not in the Association's best interests to pursue an enforcement action.

13.5.3. Exercise of Discretion Establishes no Precedent. The Board's decision under Subsections 13.5.1 and 13.5.2 above to not pursue enforcement under one set of circumstances does not prevent the Board from taking enforcement action under another set of circumstances, but the Board may not be arbitrary or capricious in taking enforcement action.

13.6. Remedies for Association, Owners and Occupants.

While the Board has enforcement authority as provided above in this Article XIII, Unit Owners and other Occupants who are or may be harmed or aggrieved in some fashion also retain legal rights of enforcement on their own behalf and retain such remedies as are available under the law, and may bring an action to enforce a right granted or obligation imposed under the Governing Law or the Governing Documents. The court may award reasonable attorneys' fees and costs to the prevailing party in any such proceeding.

ARTICLE XIV  
LIMITATION OF LIABILITY

14. LIMITATION OF LIABILITY.

14.1. Association Not a Guarantor - No Liability for Utility Failure, Etc.

The Association is not a guarantor of the health, safety or property of the Unit Owners and other Occupants of the Condominium. Except to the extent covered by insurance obtained by the Board pursuant to Article XI, neither the Association nor the Board or the Declarant shall be liable for any failure of any utility or other service obtained by the Board, or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust or sand that may leak or flow from outside or from any parts of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, or damage from mold or rot, or for inconvenience or discomfort resulting from any action taken to make repairs to the Property, or to comply with any law, ordinance or order of a governmental authority. No diminution or

abatement of liability for Common Expense Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

14.2. No Bailment.

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

14.3. Liability of Officers and Directors - Indemnification.

14.3.1. Liability of Officers and Directors. In the performance of their duties, Officers and Board members must exercise the degree of care and loyalty to the Association required of an officer or director of a corporation organized, and are subject to the conflict of interest rules governing directors and officers, under chapter 24.06 RCW.

14.3.2. Indemnification of Officers and Directors. The Association shall indemnify and hold harmless each of the Directors and Officers from and against all contractual liability to others arising out of contracts made by the Board of Directors or Officers on behalf of the Association or the Unit Owners unless such contract was made in bad faith or contrary to the provisions of the Governing Documents or Bylaws. The Directors and Officers shall not be personally liable for contracts made by them on behalf of the Association. The Association shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that (s)he is or was a Director or Officer of the Association, against amounts paid in settlement incurred by him in connection with such action, suit or proceeding if (s)he acted in good faith and in a manner (s)he reasonably believed to be in, or not opposed to, the best interests of the Condominium or the Association, to the fullest extent authorized by RCW 23B.08.510, 520, 530, and 570, and any amendments thereto.

14.4. Justification for Limitations on Liability.

The Association is required to maintain property and liability insurance more particularly described in Article 11 of this Declaration. Such coverage exists for the benefit of the Association and its Unit Owner members. The limitations of liability contained above in this Article 14 are designed to insulate the Association from liability for types of harm not covered by such insurance, and/or to encourage people to run for and hold positions as Directors and Officers in the Association generally without fear of personal liability arising from such service. These provisions are intended to represent an equitable sharing of risks, losses and liabilities between the Association and its members. Unit Owners and tenants are expected to acquire their own insurance, described with greater particularity in Section 11.5 hereof, to protect themselves from

the sorts of harm, damage, loss, inconvenience or discomfort that may be suffered as a result of the application of this Article 14.

ARTICLE XV  
MORTGAGEE PROTECTION

15. MORTGAGEE PROTECTION.

15.1. Rights of Secured Lenders.

15.1.1. General Authority Consistent with Governing Law. Pursuant to RCW 64.90.295, this Declaration provides that specified percentages of lenders who hold security interests encumbering Units in the Condominium, or lenders who have extended credit to the Association, have rights to approve specified actions of the Unit Owners or the Association as a condition to the effectiveness of those actions, but no requirement for such approval may operate to:

(a) Deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board;

(b) Prevent the Association or the Board from commencing, intervening in, or settling any litigation or proceeding; or

(c) Prevent the Association's Board or any other insurance trustee from receiving and distributing any insurance proceeds except pursuant to RCW 64.90.470.

15.1.2. Rights Available only to Eligible Mortgagees. With respect to any action requiring the consent of a specified number or percentage of mortgagees, the consent of only Eligible Mortgagees holding a first lien security interest need be obtained and the percentage must be based upon the votes attributable to Units with respect to which Eligible Mortgagees have an interest.

15.2. Rights of Secured Lenders – Specific Provisions.

Specific provisions dealing with rights of secured lenders appear in Schedule 15 to Exhibit "D" to this Declaration.

ARTICLE XVI  
EASEMENTS AND SPECIAL DECLARANT RIGHTS

16. EASEMENTS AND SPECIAL DECLARANT RIGHTS.

16.1. Easements for Units, Unit Owners and Association Functions

16.1.1. Easements for Units. Each Unit has an unrestricted, perpetual easement in and through each other Unit and the Common and Limited Common Elements for support and for utilities and, subject to the provisions of RCW 64.90.405(2)(f) and 64.90.465, each Unit Owner has an unrestricted perpetual right of ingress to and egress from his or her Unit over the Common Elements.

16.1.2. Units Subject to Easement Rights. The Units in the Condominium are subject to rights of access in favor of the Association and other Unit Owners. See Subsections 5.6.3 and 8.4.3 hereof for further details.

16.1.3. Easements for Association Functions. There is hereby reserved to the Association, or its duly authorized agents, contractors and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Governing Documents and Bylaws.

16.2. Easement for Emergency Access.

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

16.3. Easements for Declarant.

The Declarant, pursuant to the Governing Law, hereby reserves easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or for exercising Special Declarant Rights, whether arising under the Governing Law or reserved in this Declaration.

16.4. Easements Shown on Survey Map.

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

16.4.2. Specific Provisions.

(a) Utilities. Easements for storm-water conveyance, water, sanitary sewer, telecommunications wiring and equipment and electrical power exist within portions of the Property as depicted on the Survey Map.

(b) Access/Parking. An easement for ingress, egress, utilities and parking pursuant to that document filed under Skagit County Auditor's File No. 200007030065.

16.5. Special Declarant Rights.

Pursuant to RCW 64.90.225(1)(g), the Declarant has reserved the following Special Declarant Rights for the purpose of furthering and completing the development of the Condominium: To complete any improvements indicated on the Survey Map filed with the Declaration or the public offering statement pursuant to RCW 64.90.610(1)(h); to exercise any Development Right under Subsection 3.3.1 hereof; to maintain sales offices, management offices, signs advertising the Condominium, and models within the Common Elements and unsold Units, to use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate that may be added to the Condominium; to control any construction, design review, or aesthetic standards committee or process; attend Meetings of the Unit Owners and, except during an executive session, of the Board; have access to the records of the Association to the same extent as a Unit Owner; and to veto or approve a proposed action of the Board or Association or any master association during the Declarant Control Period described in Section 5.1 of the Initial Bylaws. A failure by the Declarant to veto or approve any such proposed action within thirty (30) days after receipt of written Notice of the proposed action shall be deemed to constitute approval thereof by the Declarant. Except with respect to the right to exercise Development Rights, which is governed by Subsection 3.3.3 hereof, or as limited in Section 8.1 hereof and Section 5.1 of the Initial Bylaws with respect to Declarant Control, Special Declarant Rights shall terminate upon the sale of the last Unit that may be created in the Condominium, or seven (7) years from the date of the conveyance of the first Unit in the Condominium to a purchaser other than the Declarant, whichever is earlier.

ARTICLE XVII

AMENDMENT OF DECLARATION, SURVEY MAP & PLANS

17. AMENDMENT OF DECLARATION, SURVEY MAP & PLANS.

17.1. Procedure for Amendment of Declaration.

17.1.1. General Provisions for Amendments. Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" that sets forth the entire amendment. For purposes hereof, "amendment" means any change to the Declaration, including adding, removing, or modifying restrictions contained in a Declaration. Except as otherwise specifically provided for in this Declaration or in the Governing Law, any proposed amendment must be approved by the Board of Directors prior to its adoption by the Owners. Except in cases of amendments that may be adopted by the Declarant unilaterally pursuant to Section 17.6 hereof, by the Association under Sections 6.4 or 17.7 hereof or under statutory authority in the case of condemnation or a termination of the condominium, or by certain Unit Owners under Sections 4.8 [4.9 if subdivision is permitted] or 6.3 hereof, the Declaration may be amended only by vote or

agreement of Unit Owners of Units to which at least sixty-seven percent of the votes in the Association are allocated.

17.1.2. Additional Provisions – Advance Notice to Owners. Amendments to the Declaration required to be executed by the Association must be executed by any authorized Officer of the Association who must certify in the amendment that it was properly adopted. Owners shall be entitled to Notice of a proposed amendment not less than thirty (30) days prior to the Meeting of the Association at which the amendment is to be considered. In the absence of fraud, an action to challenge the validity of an amendment adopted by the Association may not be brought more than one year after the amendment is recorded.

17.2. Recordation Required.

Every amendment to the Declaration must be recorded with the County Auditor and is effective only upon recording. An amendment shall be indexed in the name of the Condominium and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto. An amendment other than an amendment pursuant to RCW 64.90.260(1) must be indexed in the grantee's index in the name of the Condominium and the Association and in the grantor's index in the name of the parties executing the amendment.

17.3. Special Restrictions.

17.3.1. General Restrictions. Except to the extent expressly permitted or required by other provisions of this Declaration, or of the Governing Law, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, or change the Allocated Interests of a Unit, without the consent of Unit Owners to which at least ninety percent of the votes in the Association are allocated, including the consent of any Unit Owner of a Unit, the boundaries of which or Allocated Interest of which is changed by the amendment, and that percentage of Eligible Mortgagees specified in Article XV hereof.

17.3.2. Restrictions affecting Special Declarant Rights. A provision in the Declaration creating Special Declarant Rights that have not expired may not be amended 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. The time limits specified on the exercise of Special Declarant Rights may be extended, and additional development rights may be created, if Persons entitled to cast at least eighty percent of the votes in the Association, including eighty percent of the votes allocated to Units not owned by the Declarant, agree to that action. The agreement is effective thirty days after an amendment to the Declaration reflecting the terms of the agreement is recorded unless all the Persons holding the affected Special Declarant Rights, or security interests in those rights, record a written objection within the thirty-day period, in which case the amendment is void, or consent in writing at the time the amendment is recorded, in which case the amendment is effective when recorded.

17.3.3. Restrictions protecting certain Persons. To the extent that Declaration may require the affirmative vote or approval of any particular Unit Owner or class of Unit Owners as a

condition of its effectiveness, the amendment is not valid without that vote or approval. See also RCW 64.90.285(1)(b).

17.4. Amendment of Survey Map.

The Survey Map may be amended by revised versions referred to and described as to effect in an amendment to the Declaration adopted as required above, subject to the provisions of RCW 64.90.245(4). Copies of any such proposed amendment to the Survey Map shall be made available for examination by every Owner. Such amendment to the Survey Map shall also be effective, once properly adopted, upon recordation in the appropriate County offices, along with the amendment to the Declaration that accompanies it.

17.5. Consent of Mortgagees May be required – Limitations on Such Rights.

The consent of specified percentages of Eligible Mortgagees may be required, pursuant to Article XV of this Declaration, prior to recordation of certain amendments to the Governing Documents. Such consent is deemed granted if a refusal to consent in a Record is not received by the Association within sixty days after the Association delivers Notice of the proposed amendment to the holder at an address for Notice provided to the Association by the holder, or if the Association mails the Notice to the holder by certified mail, return receipt requested, at that address. If the holder has not provided an address for Notice to the Association, the Association must provide Notice to the address appearing in the security interest of record.

17.6. Amendments by Declarant.

17.6.1. Unilateral Amendments. Subject to the provisions of Section 17.8 hereof, if applicable, the Declarant may unilaterally adopt and file amendments to the Governing Documents for so long as the Declarant is the Owner of any Unit in the Condominium, in order to: (a) conform them to the actual location of any constructed improvements and to establish, vacate and relocate utility easements, access road easements and parking areas; or (b) exercise any Development Right reserved by the Declarant under Subsection 3.3.1 of this Declaration.

17.6.2. Amendments requiring Notice to Unit Owners. Upon thirty-day advance Notice to Unit Owners, the Declarant may, without a vote of the Unit Owners or approval by the Board, unilaterally adopt, execute, and record a corrective amendment or supplement to the Governing Documents to correct a mathematical mistake, an inconsistency, or a scrivener's error, or clarify an ambiguity in the Governing Documents with respect to an objectively verifiable fact including, without limitation, recalculating the undivided interest in the Common Elements, the liability for Common Expenses, or the number of votes in the Unit Owners' Association appertaining to a Unit, within five years after the recordation or adoption of the Governing Document containing or creating the mistake, inconsistency, error, or ambiguity. No such amendment or supplement may materially reduce what the obligations of the Declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred.

17.7. Amendments by Board of Directors Requiring Notice to Lot Owners.

Upon thirty-day advance Notice to the Unit Owners, the Association may, upon a vote of two-thirds of the members of the Board, without a vote of the Unit Owners, adopt, execute, and record:

17.7.1. Statutory Rights. An amendment to the Declaration designed to correct or supplement the Governing Documents in cases described in Subsection 17.6.2 above, or as authorized by RCW 64.90.285(11)(c) or (d).

17.7.2. Amendment to Adopt Amendments to Governing Law. An amendment to the Declaration designed to conform the Declaration to provisions of a corrective amendment to the Governing Law adopted by the Washington State Legislature.

#### ARTICLE XVIII TERMINATION OF CONDOMINIUM

##### 18. TERMINATION OF CONDOMINIUM.

The Unit Owners may elect to terminate the Condominium status of the property only in accordance with the provisions of RCW 64.90.290 and / or RCW 64.90.226, with the requisite approval of such Mortgagees and other lienholders as may be required by law, or by Article XV hereof. .

#### ARTICLE XIX NOTICE

##### 19. NOTICE.

19.1. Notice to be provided in Form of a Record. Notice to the Association, Board, or any Owner or Occupant of a Unit under the Governing Law must be provided in the form of a Record.

19.2. Notice in a Tangible Medium. Notice provided in a tangible medium may be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire, or wireless equipment that transmits a facsimile of the Notice.

19.2.1. Notice to Association. Notice in a tangible medium to the Association may be addressed to the Association's Registered Agent at its Registered Office, to the Association at its principal office shown in its most recent Corporate Annual Report or provided by Notice to the Unit Owners, or to the President or Secretary of the Association at the address shown in the Association's most recent Corporate Annual Report or provided by Notice to the Unit Owners.

19.2.2. Notice to Unit Owner or Occupant. Notice in a tangible medium to a Unit Owner or Occupant must be addressed to the Unit address unless the Unit Owner or Occupant, in



a Record delivered to the Association, has requested that Notices be sent to an alternate address or by other method allowed by this Section 19 and the Governing Documents. New Unit Owners must supply their names, addresses, telephone numbers and, if desirable to receive official Notice from the Association by electronic transmission, an e-mail address or other information consistent with Subsection 19.3.1 below.

19.3. Notice by Electronic Transmission. Notice may be provided in an electronic transmission as follows:

19.3.1. Notice to Unit Owners or Board Members by Consent. Notice to Unit Owners or Board members by electronic transmission is effective only upon Unit Owners and Board members who have consented, in the form of a Record, to receive electronically transmitted Notices under the Governing Law and have designated in the consent the address, location, or system to which such Notices may be electronically transmitted, provided that such Notice otherwise complies with any other requirements of the Governing Law and other applicable law.

19.3.2. Notice Deemed to Include associated Materials. Notice to Unit Owners or Board members under this Subsection includes material that the Governing Law or the Governing Documents require or permit to accompany the Notice.

19.3.3. Consent to Notice by Electronic Transmission may be revoked. A Unit Owner or Board member who has consented to receipt of electronically transmitted Notices may revoke this consent by delivering a revocation to the Association in the form of a Record.

19.3.4. Consent may be automatically revoked. The consent of any Unit Owner or Board member is revoked if: The Association is unable to electronically transmit two consecutive Notices given by the Association in accordance with the consent, and this inability becomes known to the Secretary of the Association or any other Person responsible for giving the Notice. The inadvertent failure by the Association to treat this inability as a revocation does not invalidate any Meeting or other action.

19.3.5. Alternative Methods of Notice by Electronic Transmission. Notice to Unit Owners or Board members who have consented to receipt of electronically transmitted Notices may be provided by posting the Notice on an electronic network and delivering to the Unit Owner or Board member a separate Record of the posting, together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.

19.3.6. When Electronic Notice to Association is Effective. Notice to the Association in an electronic transmission is effective only after the Association has designated in a Record an address, location, or system to which the Notices may be electronically transmitted.

19.4. Alternative Methods of Giving Notice not Prescribed by Statute. Notice may be given by any other method reasonably calculated to provide notice to the recipient.

19.5. When Notice is Effective. Notice is effective as follows:

19.5.1. Effectiveness of Notice Provided in Tangible Medium. Notice provided in a tangible medium is effective as of the date of hand delivery, deposit with the carrier, or when sent by fax.

19.5.2. Effectiveness of Notice Provided in Electronic Transmission. Notice provided in an electronic transmission is effective as of the date it:

(a) Is electronically transmitted to an address, location, or system designated by the recipient for that purpose; or

(b) Has been posted on an electronic network and a separate record of the posting has been sent to the recipient containing instructions regarding how to obtain access to the posting on the electronic network.

19.6. Ineffectiveness of Notice does not Invalidate Action by Association. The ineffectiveness of a good-faith effort to deliver Notice by an authorized means does not invalidate action taken at or without a Meeting.

19.7. When Governing Law Requires Alternative Methods of Notice. If the Governing Law prescribes different or additional notice requirements for particular circumstances, those requirements govern.

## ARTICLE XX MISCELLANEOUS

### 20. MISCELLANEOUS.

#### 20.1. Severability.

All provisions of the Governing Documents, and Organizational Documents are severable. If any provision of a governing document, or its application to any Person or circumstances, is held invalid, the remainder of the governing document, Organizational Document or application to other Persons or circumstances is not affected.

#### 20.2. No Right of First Refusal.

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

#### 20.3. No Discrimination.

The Association shall not discriminate on the basis of race, color, religion, national origin, familial status, handicap or other protected class. The Association shall make reasonable

accommodations in its policies and procedures, and permit reasonable modifications of premises where necessary or appropriate to comply with law.

20.4. Obligation of Good Faith.

Every duty governed under this Declaration or the Governing Law imposes an obligation of good faith in its performance or enforcement.

20.5. Effective Date.

This Declaration shall take effect upon recording.

*[signature on following page]*

DATED this 28<sup>th</sup> day of OCTOBER, 2021.

Declarant: AMJEFF PROPERTIES, LLC

By   
Jeff Dawson, Its Managing Member

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF SKAGIT        )

I hereby certify that I know or have satisfactory evidence that Jeff Dawson is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Managing Member of the Declarant, AmJeff Properties, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: OCTOBER 28<sup>th</sup>, 2021.




  
NOTARY PUBLIC for the State of  
Washington, residing in BELLINGHAM  
My Commission expires 3-22-23

EXHIBIT "B"  
TO DECLARATION FOR 1600 CONTINENTAL PLACE CONDOMINIUM

Unit No.	Address	Square Footage†	Level(s) in Building	Limited Common Elements	Allocated Interests - Comm. El. & Assessments*	Allocated Interests - Votes
101	1600 Continental Place	4,501	1	n/a	38.845%	1 vote
103	1600 Continental Place	4,122	1	n/a	35.574%	1 vote
104	1600 Continental Place	868	1	n/a	7.491%	1 vote
105	1600 Continental Place	2,096	1	n/a	18.089%	1 vote
Totals		11,587			100%	4

\* Allocated interests are the percentages of undivided interests in the Common Elements, fractional liability for the Common Expenses of the Association, and portions of the votes in the Association, allocated by the Declarant to each Unit, described in Sections 5.3, 7.4.2 and 10.6 of this Declaration. ALL ALLOCATED INTERESTS ARE SUBJECT TO CHANGE UPON AN EXERCISE OF DEVELOPMENT RIGHTS - See Section 3.3.2 hereof.

† Square footages are derived from surveyor's measurements of the Units, with reference to the statutory boundaries of such Units described in Section 4.2 of this Declaration, and will be different from and generally smaller than measurements made according to BOMA standards or architects' conventions.

EXHIBIT "A"  
TO DECLARATION FOR  
1600 CONTINENTAL PLACE CONDOMINIUM

LEGAL DESCRIPTION OF LAND WITHIN THE CONDOMINIUM

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

PARCEL "A":

Lots 3 and 4, Mount Vernon Binding Site Plan No. BSP MV-1-98, approved April 14, 1999, and recorded April 20, 1999, in Volume 14 of short Plats, pages 22, 23 and 24, under Skagit County Auditor's File No. 9904200113, being a portion of the East  $\frac{1}{2}$  of the North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 17, Township 34 North, Range 4 East W.M.;

EXCEPT the South 44.96 feet of said Lot 4.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

A non-exclusive easement for ingress, egress and utilities, over, across and under the North 6 feet of the South 44.96 feet of Lot 4, Mount Vernon Binding Site Plan No. BSP MV-1-98, approved April 14, 1999, and recorded April 20, 1999, in Volume 14 of short Plats, pages 22, 23 and 24, under Skagit County Auditor's File No. 9904200113, being a portion of the East  $\frac{1}{2}$  of the North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 17, Township 34 North, Range 4 East W.M.

Situate in the County of Skagit, State of Washington.

EXHIBIT "C"  
TO DECLARATION FOR 1600 CONTINENTAL PLACE CONDOMINIUM

ASSIGNMENT, IDENTIFICATION AND DESCRIPTION OF PARKING SPACES

<u>Parking Space No.</u>	<u>Description*</u>	<u>Unit Assignment</u>
P1	U	SA
P2	U	SA
P3	U	SA
P4	U	SA
P5	U	SA
P6	U	SA
P7	U	SA
P8	U	SA
P9	U	SA
P10	U	SA
P11	U	SA
P12	U	HC
P13	U	SA
P14	U	SA
P15	U	SA
P16	U	SA
P17	U	SA
P18	U	SA
P19	U	SA
P20	U	SA
P21	U	SA
P22	U	SA
P23	U	SA
P24	U	SA
P25	U	SA
P26	U	SA
P27	U	SA
P28	U	SA
P29	U	HC
P30	U	HC
P31	U	SA
P32	U	SA
P33	U	SA
P34	U	SA
P35	U	SA
P36	U	SA
P37	U	HC

\* U = uncovered (open); UA = unassigned; HC = handicapped space; SA = “subject to assignment” [subject to development rights – may be assigned by the Declarant to a Unit]

\*\* Parking spaces depicted on the Survey Map and Plans and numbered as indicated above, with the exception of any spaces marked “UA” or “SA”, are allocated as Limited Common Elements to Units as indicated above on this Exhibit.



**EXHIBIT "D"**  
**TO DECLARATION FOR 1600 CONTINENTAL PLACE CONDOMINIUM**

**SCHEDULE OF MISCELLANEOUS PROVISIONS AFFECTING THE CONDOMINIUM**

**SCHEDULE 8 – MANAGEMENT OF CONDOMINIUM ASSOCIATION**

**8.3.2 Common Expenses.**

Common Expenses of the Association include, but are not limited to the following, as and when applicable to the Condominium or its Association:

(a) Common water and sewer, common electrical, common garbage and/or trash collection, common storm drainage, and any other necessary utility service as required for the Common Elements. See Section 10.8 of the Declaration for Specially Allocated Assessment items.

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

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

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

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

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

(g) Maintenance and repair of any Unit, its Limited Common Elements, other appurtenances and appliances, if such maintenance or repair is reasonably necessary, in the opinion of the Board, to protect the Common Elements or to preserve the appearance and value of the Condominium development, and the Owner of said Unit has failed or refused to perform said maintenance or repair as required by Sections 4.6 and 6.2 of the Declaration, within a reasonable time after written Notice of the necessity of said maintenance or repair has been delivered by the Board to the Owner. The cost of such maintenance or repair shall constitute a Specially Allocated Assessment against the Unit of such Owner, pursuant to Section 10.8 of the Declaration.

**SCHEDULE 9 – PERMITTED USES; ARCHITECTURAL UNIFORMITY**

**9.1.9 Antennas.**

(a) **Definitions.** The word "antenna," as used herein, shall be deemed to include (i) an antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services; (ii) an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel

multipoint distribution services, instructional television fixed services, and local multipoint distribution service, (iii) an antenna that is designed to receive television broadcast signals, (iv) a mast supporting any of the foregoing, or (v) any similar or related device.

(b) General Restriction. Except as otherwise provided herein, no antenna greater than one meter in height or diameter shall be installed anywhere within the Condominium Property, unless contained entirely within a Unit, or unless installed by the Association. Any approved antenna shall be located out of the general sight looking from ground level.

(c) Qualified Reception Devices Permitted in Restricted Locations. An antenna that is within the types described in Subparts (a)(i) or (ii) hereof and that is less than one meter in height or diameter, or that is within the types described in Subparts (a)(iii) or (iv) hereof shall constitute a "Qualified Reception Device." A Qualified Reception Device may be installed by or at the request of a Unit Owner or by or at the request of such person's lawful tenant, but then only upon or within that person's Unit, or upon or within Limited Common Element decks, balconies, patios, porches, private garden areas or similar areas, if any, assigned or allocated to such Unit.

(d) Installation Procedures for Limited Common Elements. In the event that an Owner or tenant desires to install a Qualified Reception Device upon or within a Limited Common Element appurtenant to the person's Unit, such person shall notify the Board or its Manager in writing in advance of such installation, and in such Notice shall provide in reasonable detail the following information: (i) a description of the device, (ii) the location of its proposed installation, and (iii) the name, address and State contractor's license number of the contractor or other person proposing to install same. Any contractor must be properly licensed, bonded and insured. The Board shall have a period of seven full calendar (7) days from receipt of the application within which to respond. During such period, the Board may either prohibit such installation entirely, modify the proposed location thereof, or otherwise reasonably condition such installation under the terms and conditions specified in Subsection (e) hereof. In the event that the Board shall permit the installation of the Device, the Owner or Occupant may be required to pay a reasonable damage deposit (which shall be refundable upon satisfactory removal of the Device), and the Board or its designee shall be permitted to oversee the installation of the Device. The Board may adopt and publish further reasonable Rules for approval of such installations that shall not unreasonably prevent or delay the installation, maintenance, or use of a Qualified Reception Device, nor unreasonably increase the cost of installing, maintaining or using same.

(e) Board's Authority to Deny, Modify or Condition Approval. The Association may, subject to the provisions of Section (i) hereof, either prohibit the installation of a Qualified Reception Device on or within any portion of the Limited Common Elements, modify the proposed location thereof, or otherwise reasonably condition such installation under the following circumstances: (i) where the installation of any type of device, fixture or appurtenance that is comparable in size, weight or other hazardous properties to the Qualified Reception Device, or the maintenance or use of thereof, could pose an unreasonable risk of harm to persons or property, (ii) where the contractor is not properly licensed, bonded or insured, or (iii) where such installation would interfere with any applicable historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, 16 U.S.C. §470.

(f) Qualified Reception Devices Located in General Common Elements. No reception devices of any sort, including Qualified Reception Devices, may be placed within any of the General Common Elements without the advance written consent of the Board of Directors, which consent may be withheld for any reason. In the event that the Board shall permit the installation of the Device, the Owner or Occupant may be required to pay a reasonable damage deposit (which shall be refundable upon satisfactory removal of the Device), and the Board or its designee shall be permitted to oversee the installation of the Device. The Board may adopt and publish further reasonable Rules or regulations relating to the approval and/or installation of such Devices.

(g) Costs of Installation & Removal; Indemnification. Any person who installs or causes to be installed any Device on or in any portion of the Common Element, including the Limited Common Elements, shall do so at his, her or its sole cost and expense and shall be responsible for all costs associated with the upkeep, repair, maintenance, replacement and removal of said device, and shall indemnify the Association against and hold the Association harmless from any and all such costs and expenses, and from any damage caused to any Unit in the

Condominium or to any Common Elements as a result of such installation, upkeep, repair, maintenance, replacement or removal. A damage deposit paid to the Association as a condition for permission to install a Device will not limit the liability of the person responsible for such costs and expenses.

(h) Offensive Broadcasts. No Occupant shall cause or permit radio or television signals, or any other form of electromagnetic radiation that unreasonably interferes with reception of television, telephone or radio signals elsewhere within the Condominium Property, to emanate from his or her Unit, such being expressly declared a nuisance.

(i) Master Antennas. The Association may entirely prohibit Unit Owners or tenants from installing or maintaining any and all antennas upon or within any and all Limited Common Elements in the event that the Association shall install a central or "master" antenna, reception device or service, and where the following additional elements are present: (i) any viewer in the Condominium can receive the particular video programming service the viewer desires and could receive with an individual antenna; (ii) the video reception in the viewer's Unit using the master antenna is of an acceptable quality as good as, or better than the quality the viewer could receive with an individual antenna; (iii) the costs associated with the use of the master antenna are not greater than the cost of installation, maintenance and use of an individual antenna; and (iv) the requirement to use the master antenna in lieu of an individual antenna does not unreasonably delay the viewer's ability to receive video programming. (Original Source: *Order on Reconsideration*, FCC 98-214, Docket 96-83, September 25, 1998, ¶86-89)

(j) Intent to Comply with Federal OTARD Regulations. This Section of the Declaration has been designed to comply with applicable regulations and decisions of the Federal Communications Commission ("FCC") regarding Over-the-Air Reception Devices ("OTARD"), 47 C.F.R. § 1.4000, and shall be construed in accordance with applicable OTARD regulations as they may be amended from time to time or interpreted by the FCC or courts of appropriate jurisdiction. The restrictions contained in this Section shall be construed to be limited such that they (i) shall not unreasonably delay or prevent the installation of a Qualified Reception Device, (ii) shall not unreasonably increase the cost of installation, maintenance or use thereof, or (iii) preclude the reception of an acceptable quality signal thereby; further, such restrictions (iv) shall be applied to the extent practicable in a nondiscriminatory manner to devices, appurtenances or fixtures other than antennas that are comparable in size and weight and pose a similar or greater safety risk and (v) shall be no more burdensome to affected antenna users than is necessary to achieve the objectives of this Section. In the event that applicable OTARD regulations change to the extent that the provisions of this Section would become unlawful, this Section of this Declaration shall then be deemed to be automatically amended so as to conform to such changes.

(k) Special Procedures for Enforcement. In the event of a violation of these restrictions by a Unit Owner or tenant, the Association shall be entitled to initiate legal action in the Superior Court to obtain relief including damages and injunctions, as appropriate, and the Association shall be entitled to assess fines against the Owner or tenant of the affected Unit in accordance with the procedures prescribed in RCW 64.90.405(5) and (6) [See Section 13.4.2 of the Declaration] No attorney's fees shall be collected or assessed and no fine shall accrue against an antenna user while such a proceeding is pending, if the validity of any restriction is legitimately challenged in such proceeding. If a ruling is issued adverse to the viewer, the viewer shall be granted at least a 21 day grace period in which to comply with the adverse ruling, and no fine may be collected from the viewer if the viewer complies with the adverse ruling during this grace period, unless the Association demonstrates, in the same proceeding that resulted in the adverse ruling, that the viewer's claim in the proceeding was frivolous.

#### SCHEDULE 11 – INSURANCE

##### 11.2 Insurance Policies and Coverage.

###### 11.2.1 Master Policy.

If reasonably available, the "master" insurance policy obtained by the Association 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 commercial coverage. Subject to the definition of "vanilla shell" determined between the parties under Section 11.2.1 hereof, the policy may also need not insure the Commercial Unit's interior "tenant improvements" above and beyond the "vanilla shell" created by the Declarant, nor any personal property belonging to a Commercial Unit Owner nor any "tenant improvements" to Commercial Units installed by or on behalf of their Owners, nor any interior furnishings or trade fixtures used in the Owner's business. 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. Currently, an insurance policy that includes any one 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); 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 Value Option endorsement which waives the requirement for coinsurance, or

(iii) an Extended Replacement Cost Endorsement (under which the insurer agrees to pay more than the property's insurable replacement cost).

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

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

(ii) Building Ordinance 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.); and

(iii) Steam Boiler and Machinery Coverage Endorsement, if the Condominium has central heating or cooling. (This endorsement should provide for the insurer's minimum liability per accident to at least equal the lesser of \$2 million or the insurable value of the buildings housing the boiler or machinery.) In lieu of obtaining this as an endorsement to the commercial package for the Condominium, the Association may purchase separate stand-alone boiler and machinery coverage.

(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 (SFHA), that has federally mandated flood insurance purchase requirements, or is located in an "Otherwise Protected Area," the Association must maintain a "master" or "blanket" policy of flood insurance that should cover buildings and any other improvements constituting Common Elements. The amount of flood insurance should be at least equal to the

maximum coverage available under the appropriate National Flood Insurance Administration program. The form of such policy should be that of the standard policy issued under the NFIP or by a private insurer. The terms and conditions of the flood insurance coverage must be at least equivalent to the terms and conditions of coverage provided under the standard policy of the NFIP for the appropriate property type. Coverage under the master flood insurance policy must be at least equal to the lower of

- \* 80% of the replacement cost, or
- \* the maximum insurance available from NFIP per unit (currently \$250,000).

#### 11.2.3 Earthquake Insurance.

If desirable and reasonably available, earthquake insurance may be obtained. Funds to cover defined portions of any deductible applying to such coverage may be included in the Association's operating reserve account, as provided in Section 10.3.

#### 11.2.4 Directors' and Officers' Insurance.

Unless not readily 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 - Manager Coverage.

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 thirty 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 shall be named either as an employee or as a designated agent under the Association's fidelity policy, or an endorsement thereto, as appropriate.

#### 11.2.6 Additional Insurance.

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 the SBA or other governmental or quasi-governmental agencies involved in the secondary mortgage market for commercial mortgage lending, so long as any such agency is a Mortgagee, guarantor 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. The Board may also acquire such additional insurance coverage as it may deem advisable and appropriate or as may be requested from time to time by a vote of the Unit Owners.

#### 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 that are licensed to do business in the State of Washington and that hold a B general policyholder's rating or a financial performance index of 6 or better in the latest editions 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 the SBA or other governmental or quasi-governmental agencies involved in the secondary mortgage market for commercial mortgage lending, so long as such agency is a Mortgagee or Owner of a Unit within the Condominium.

(b) The master policy will be primary, even if a Unit Owner has other insurance [excluding 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 non-renewal 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 64.90.470(7).

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

#### 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 repair that 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 a Unit or assigned Limited Common Element that will not be rebuilt, along with that percentage of Eligible Mortgagees whose approval must be sought under Schedule 15 hereof, 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.

In most instances, the Association will not hesitate to repair or replace damaged portions of the Condominium following casualty. In the event that the Owners at a Special Meeting of the Association convened to

address such issues decide otherwise and adopt a resolution in accordance with the provisions of Section 11.8.1 hereof that some or all of the damaged or destroyed portions of the Condominium will not be 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 that 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 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 64.90.030, and the Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Notwithstanding the provisions of this Subsection, RCW 64.90.290 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 done with contemporary building materials, and achieved by utilizing updated construction systems and technology.

#### 11.8.4 Payment of and Procedure for Reconstruction.

The proceeds of insurance collected on account of casualty, any payments from or on behalf of Unit Owners pursuant to Section 11.3.2 of this Declaration on account of such casualty, and funds in the Association's Reserve Account, shall constitute a construction fund that 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 a Unit for which the responsibility of maintenance and repair is borne by the Unit Owner, then the Board of Directors and the Owner may agree in advance in writing that the Owner shall be solely 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; the deductible under the Master Policy shall be apportioned under Section 11.3.2 of the Declaration. 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 \$500,000 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 that 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 Subpart (c) hereof;

(c) If the estimated costs of reconstruction and repair of the buildings or other improvement is more than \$50,000, 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.

**SCHEDULE 12 – CONDEMNATION.****12.1. Condemnation Affecting Whole Unit.**

If a Unit is acquired by condemnation, or if part of a Unit is acquired by condemnation leaving the Unit Owner with a remnant of a Unit that may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for the Owner's Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, all that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, and the Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this Subsection is thereafter a Common Element.

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

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

**12.3. Condemnation of Common Elements.**

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

**12.4. Condemnation of Limited Common Elements.**

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

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

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

**12.6. Complete Taking.**

In the event of a complete taking of the Condominium, or in the event that the taking by the condemning authority is so substantial as to render the remainder of the Condominium unsuitable or undesirable for use by the remaining Unit Owners, then the Condominium shall (in the case of complete taking) or may (as to a partial taking) be terminated in accordance with the terms and conditions of RCW 64.90.030(1), and Article XV hereof.

**12.7. Reconstruction and Repair.**

Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XI hereof, provided that the Board may retain and apply such portion of each Owner's share of the



Condemnation Award as is necessary to discharge said Owner's liability for any Special Assessment arising from the operation of said Article XI.

12.8. Notice to Eligible Mortgagees.

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

12.9. Payment of Award.

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

**SCHEDULE 15 – PROTECTION OF MORTGAGEES**

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

15.1. Consent of Eligible Mortgagees – Implied Approval in Absence of Response.

15.1.1. Consent of Eligible Mortgagees.

Wherever in this Declaration the approval or consent of a specified percentage of Mortgagees is required, it shall mean, pursuant to RCW 64.90.295(2), the consent of only Eligible Mortgagees holding a first lien security interest need be obtained and the percentage must be based upon the votes attributable to Units with respect to which Eligible Mortgagees have an interest.

15.1.2. Implied Approval by Mortgagee.

The failure of an Eligible Mortgagee to respond within sixty (60) days to a written request from the Association delivered by certified or registered mail to such Eligible Mortgagee, "return receipt requested," seeking approval of [i] an amendment to the Condominium Declaration or the Articles of Incorporation or Bylaws of the Association, or [ii] any other proposed action of the Association as to which the approval of Eligible Mortgagees is required, shall constitute an implied approval by such Eligible Mortgagee of such amendment or other action.

15.2. Notice of Actions.

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

(a) Any condemnation loss or any casualty loss that affects a material portion of the Condominium or any Unit in which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgagee;

(b) Any delinquency in the payment of Common Expense Assessments owed by a Unit Owner whose Unit is subject to a first mortgage held, insured, or guaranteed, by such Eligible Mortgagee that remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action that would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 15.3 of this Schedule (in which case, Notice shall be provided by certified or registered mail, "return receipt requested"); and

(e) Any judgment rendered against the Association in excess of \$5,000.00 that is not covered by insurance.

15.3. Consent and Notice Required.

15.3.1. Document Changes.

Notwithstanding any lower requirement permitted by this Declaration or the Governing Law, no amendment of any material provision of the Governing Documents by the Association or Unit Owners described in this Subsection, the effect of which would have a material adverse effect on lenders, may be effective without Notice to all Eligible Mortgagees, as required by Section 15.2(d) above, and the approval by Owners of Units to which at least 67% (or any greater Unit Owner vote required in Section 17.3 of this Declaration or the Governing Law) of the votes in the Association are allocated, and approval in writing by Eligible Mortgagees who represent at least 67% (or any greater Eligible Mortgagee approval required by this Declaration) of the votes attributable to Units with respect to which Eligible Mortgagees have an interest; the following (other than those taken pursuant to rights reserved by the Declarant as Development Rights) are examples of actions that Fannie Mae historically viewed as holding the potential for a material adverse effect on lenders:

- (a) Voting rights;
- (b) Assessment liens or priority of Assessment liens;
- (c) Reductions in requirements for Reserves for maintenance, repair and replacement of Common Elements,
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in the General Common Elements or Limited Common Elements, or rights to their use, except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only the Eligible Mortgagees holding mortgages in such Units need approve such action;
- (f) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, or when a Unit is being lawfully subdivided by its Owner pursuant to Section 4.8 or 4.9 hereof, then only those Unit Owners and the Eligible Mortgagees holding mortgages in such Unit or Units need must approve such action;
- (g) Convertibility of Units into Common Elements or Common Elements into Units;
- (h) Expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (i) Hazard or fidelity insurance requirements;
- (j) Imposition of any restrictions on the leasing of Units;
- (k) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (l) Restoration or repair of the Condominium after damage or partial condemnation in a manner other than that specified in the Governing Documents;

(m) Any provision that expressly benefits mortgage holders, insurers, or guarantors, where the amendment would have a material adverse effect on any such party.

#### 15.3.2. Actions.

Notwithstanding any lower requirement permitted by this Declaration or the Governing Law, the Association may not take any action that would have a material adverse effect on lenders, without Notice to all Eligible Mortgagees as required by Section 15.2(d) above, approval by Owners of Units to which at least 67% (or the indicated percentage, if different) of the votes in the Association are allocated, and approval in writing by Eligible Mortgagees who represent at least 67% (or the percentage indicated below, if different,) of the votes attributable to Units with respect to which Eligible Mortgagees have an interest; the following (other than those taken pursuant to rights reserved by the Declarant as Development Rights) are examples of actions that Fannie Mae historically viewed as holding the potential for a material adverse effect on lenders:

(a) Any action to abandon or terminate the legal status of the Condominium after condemnation or substantial destruction.

(b) Any action to abandon or terminate the legal status of the Condominium for reasons other than substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required.

(c) Abandon, partition, subdivide, encumber, sell, transfer or convey the Common Elements or any portion thereof, as to which the approval of Owners to which at least eighty percent (80%) of the votes in the Association are allocated is required, and the procedures specified in Subpart 15.2 hereof must be followed. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Association will not be deemed a transfer within the meaning of this clause;

(d) Change any of the Allocated Interests allocated to any Unit other than as permitted in Section 4.8 or 4.9 hereof; in any other case the vote or agreement of the Owner of each Unit particularly affected and his or her Mortgagee and the Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated other than the Declarant must be obtained, pursuant to Section 17.3 hereof and to RCW 64.90.285(4).

(e) Increase the number of Units, change the boundaries of any Unit (other than as provided in Section 4.8 or 4.9 hereof) or change the uses to which any Unit is restricted, as to which the approval of Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated must be obtained, pursuant to Section 17.3 hereof and to RCW 64.90.285(4).

(f) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.

(g) The restoration or repair of the Property after hazard damage, as to which the approval of Owners to which at least eighty percent (80%) of the votes in the Association are allocated is required, or after a partial condemnation, in a manner other than specified in the Governing Documents.

(h) The merger of the Condominium with any other common interest community.

#### 15.3.3. Timing of Payment of Assessments.

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

#### 15.4. Development Rights.

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

15.5. Inspection of Books.

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

15.6. Financial Statements.

The Association shall provide any Mortgagee who submits a written request, a copy of an annual financial statement within one hundred twenty (120) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if any Eligible Mortgagee requests it, in which case, the Eligible Mortgagee shall bear the cost of the audit.

15.7. Enforcement.

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

15.8. Attendance at Meetings.

Any representative of an Eligible Mortgagee may attend and address any Meeting that a Unit Owner may attend.

15.9. Appointment of Trustee.

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

15.10. Limitations on Mortgagees' Rights.

No requirement for approval contained in this Article may operate to (1) deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board of Directors, or (2) prevent the Association or the Board of Directors from commencing, intervening in, or settling any litigation or proceeding, or (3) prevent any insurance trustee or the association from receiving and distributing any insurance proceeds except pursuant to RCW 64.90.470.