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Amendment
Island County Washington

4249605



AMENDED AND RESTATED DECLARATION
AND
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS
FOR
KRUEGER COMMONS CONDOMINIUMS

NOTICE TO RECORDER'S OFFICE

AS REQUIRED BY RCW CHAPTER 64.34, AT THE TIME OF RECORDING OF THIS DECLARATION INSERT IN SECTION 22.7, THE CROSS-REFERENCE RECORDING DATA OF THE SURVEY MAP AND PLANS RECORDED IN CONNECTION HEREWITH.



AMENDED AND RESTATED DECLARATION
A N D
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS
F O R
KRUEGER COMMONS CONDOMINIUMS

TABLE OF CONTENTS

	Page
Article 1	
INTERPRETATION	<u>1</u>
1.1 Liberal Construction	<u>1</u>
1.2 Consistent with Act	<u>1</u>
1.3 Covenant Running With Land	<u>1</u>
1.4 Percentage of Owners or Mortgagees	<u>2</u>
1.5 Declarant Is Original Owner	<u>2</u>
1.6 Captions and Exhibits	<u>2</u>
1.7 Inflationary Increase in Dollar Limits	<u>2</u>
1.8 Definitions	<u>2</u>
1.9 Construction and Validity	<u>7</u>
Article 2	
DESCRIPTION OF REAL PROPERTY	<u>7</u>
2.1 Legal Description	<u>7</u>
2.2 Legal Description of Phases	<u>7</u>
2.3 Description of Real Property (except Real Property subject to Development Rights) which may be allocated subsequently as Limited Common Elements (other than Limited Common Elements described in this Declaration)	<u>7</u>
2.4 Description of Real Property to which any Development Right or Special Declarant Right Applies	<u>8</u>
Article 3	
DESCRIPTION OF UNITS	<u>8</u>
3.1 Number of Units	<u>8</u>
3.2 Unit Number	<u>8</u>
3.3 Unit Description	<u>8</u>
3.4 Access to Common Ways and Public Streets	<u>8</u>
Article 4	
BOUNDARIES	<u>8</u>
4.1 Unit Boundaries	<u>8</u>
4.2 Monuments as Boundaries	<u>9</u>
4.3 Relocation of Boundaries; Adjoining Units	<u>9</u>
Article 5	
DESCRIPTION OF OTHER IMPROVEMENTS	<u>9</u>
5.1 Recreational Facilities	<u>9</u>
5.2 Parking	<u>9</u>
5.3 Moorage Slips	<u>9</u>
Article 6	
DESCRIPTION OF COMMON ELEMENTS	<u>10</u>
Article 7	
DESCRIPTION OF LIMITED COMMON ELEMENTS	<u>10</u>
7.1 Limited Common Elements	<u>10</u>
7.2 Boundary	<u>11</u>
7.3 Transfer of Limited Common Elements	<u>11</u>
7.4 Fireplaces	<u>12</u>
Article 8	
ALLOCATED INTEREST	<u>12</u>
Article 9	
OWNER'S ASSOCIATION	<u>12</u>



9.1 Form of Association	12
9.2 Membership	13
9.3 Voting	13
9.4 Meetings, Notices and Quorums	14
9.5 Bylaws of Association	14
Article 10	
MANAGEMENT OF CONDOMINIUM	14
10.1 Administration of the Condominium	14
10.2 Election and Removal of Board and Officers	15
10.3 Management by Board	15
10.4 Authority of the Association	16
10.5 Borrowing by Association	18
10.6 Association Records and Funds	18
10.7 Association as Trustee	19
10.8 Common Elements, Conveyance, Encumbrance	19
10.9 Termination of Contracts and Leases	20
10.10 Governmentally Required Maintenance, Etc.	20
10.11 Maintenance, Repair, Inspection and Warranty Procedure	20
10.12 Association to Represent Owners	21
10.13 Right to Notice and Opportunity to be Heard	21
Article 11	
USE; REGULATION OF USES; ARCHITECTURAL UNIFORMITY	21
11.1 Residential Units	21
11.2 Vehicle Parking Restrictions	22
11.3 Common Drive and Walks	22
11.4 Interior Unit Maintenance	22
11.5 Alterations of Units	22
11.6 Common Element	23
11.7 Adjoining Unit	23
11.8 Board Decisions	23
11.9 Limited Common Element Maintenance	23
11.10 Exterior Appearance	24
11.11 Effect on Insurance	24
11.12 Signs	24
11.13 Permitted Pets	25
11.14 Offensive Activity	25
11.15 Common Element Alterations	25
11.16 House Rules	25
11.17 Leasing of Residential	26
11.18 Maintenance of View	26
11.19 Timesharing	26
11.20 Television, Cable, Etc.	26
Article 12	
COMMON EXPENSES AND ASSESSMENTS	27
12.1 Estimated Expenses	27
12.2 Payment by Owners	27
12.3 Commencement of Assessments	27
12.4 Allocated Liability	28
12.5 Limited Common Element	28
12.6 Only Some Units Benefitted	28
12.7 Insurance Costs	28
12.8 Utility Costs	28
12.9 Assessments for Judgment	28
12.10 Owner Misconduct	28
12.11 Reallocation	28
12.12 Lien For Assessments	28
12.13 Acceleration of Assessments	30
12.14 Delinquent Assessment Deposit; Working Capital	31
Article 13	
INSURANCE	31
13.1 In General	31
13.2 Coverage Not Available	32



13.3	<u>Required Provisions</u>	32
13.4	<u>Claims Adjustment</u>	33
13.5	<u>Owner's Additional Insurance</u>	33
13.6	<u>Certificate</u>	33
13.7	<u>Notification on Sale of Unit</u>	34
Article 14		
	<u>DAMAGE OR DESTRUCTION; RECONSTRUCTION</u>	34
14.1	<u>Definitions; Significant Damage; Repair; Emergency Work</u>	34
14.2	<u>Initial Board Determinations</u>	34
14.3	<u>Notice of Damage or Destruction</u>	35
14.4	<u>General Provisions</u>	35
14.5	<u>Restoration by Board</u>	35
14.6	<u>Decision to Terminate</u>	36
Article 15		
	<u>CONDEMNATION</u>	36
15.1	<u>In General</u>	36
15.2	<u>Partial Unit Condemnation</u>	36
15.3	<u>Common Element Condemnation</u>	36
15.4	<u>Recording of Judgment</u>	36
Article 16		
	<u>COMPLIANCE WITH DECLARATION</u>	37
16.1	<u>Enforcement</u>	37
16.2	<u>No Waiver of Strict Performance</u>	37
Article 17		
	<u>LIMITATION OF LIABILITY</u>	37
17.1	<u>Liability for Utility Failure, Etc.</u>	37
17.2	<u>No Personal Liability</u>	37
17.3	<u>Indemnification of Board Members</u>	38
17.4	<u>Legal Proceedings</u>	38
Article 18		
	<u>MORTGAGEE PROTECTION</u>	38
18.1	<u>Change in Manager</u>	38
18.2	<u>Abandonment of Condominium Status</u>	38
18.3	<u>Partitions and Subdivision</u>	38
18.4	<u>Change in Percentages</u>	39
18.5	<u>Copies of Notices</u>	39
18.6	<u>Effect of Declaration Amendments</u>	39
18.7	<u>Insurance</u>	39
18.8	<u>Inspection of Books</u>	40
Article 19		
	<u>EASEMENTS</u>	40
19.1	<u>General</u>	40
19.2	<u>Utility, Etc., Easements</u>	41
19.3	<u>Association Functions</u>	41
19.4	<u>Declarant Functions</u>	41
19.5	<u>Encroachments</u>	41
Article 20		
	<u>PROCEDURES FOR SUBDIVIDING OR COMBINING</u>	42
20.1	<u>Procedure</u>	42
Article 21		
	<u>AMENDMENT OF DECLARATION, SURVEY MAP, PLANS</u>	42
21.1	<u>In General</u>	42
21.2	<u>Challenge to Validity</u>	43
21.3	<u>Recording</u>	43
21.4	<u>General Limitations</u>	43
21.5	<u>Execution</u>	43



21.6 <u>Special Declarant/Development Rights</u>	43
21.7 <u>Material Amendments</u>	43
21.8 <u>Map and Plans Amendment</u>	44
Article 22	
MISCELLANEOUS	44
22.1 <u>Notices for All Purposes</u>	44
22.2 <u>Mortgagee's Acceptance</u>	44
22.3 <u>Severability</u>	45
22.4 <u>Conveyances; Notice Required</u>	45
22.5 <u>Transfer of Declarant's Powers</u>	45
22.6 <u>Effective Date</u>	45
22.7 <u>Reference to Survey Map and Plans</u>	45
22.8 <u>Structural Component/Mechanical System Completion</u>	45
ARTICLE 23	
SPECIAL DECLARANT RIGHTS	
DEVELOPMENT RIGHTS	45
23.1 <u>Special Declarant Rights</u>	45
23.2 <u>Development Rights</u>	47
23.3 <u>Liability for Damage</u>	51
23.4 <u>Declarant's Easements</u>	51
Article 24	
DISPUTE RESOLUTION	52
24.1 <u>Policy - Mediation</u>	52
24.2 <u>Arbitration</u>	52
24.3 <u>Warranty Dispute Resolution</u>	52
Article 25	
MANAGEMENT RIGHTS RETAINED BY DECLARANT	52
25.1 <u>Transition Date</u>	52
25.2 <u>Declarant's Powers Until Transition Date</u>	53
25.3 <u>Limitations of Power of Board Appointed by Declarant</u>	53
25.4 <u>Transfer of Control to Association</u>	53

EXHIBIT A - Description of Real Property

EXHIBIT B - Description of Units: Floor Location, Unit Type, Declared Value, Allocated Interest

EXHIBIT C - Parking Assignments



**AMENDED AND RESTATED DECLARATION
A N D
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS
F O R
KRUEGER COMMONS CONDOMINIUMS**

Pursuant to the Act defined in Section 1.8.1 and for the purpose of submitting the Property hereinafter described to the provisions of said Act, the undersigned, being sole owner(s), lessee(s) or possessor(s) of said Property, make the following Declaration. By acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the Property or any Unit in the Condominium created by this Declaration, it is agreed that this Declaration, together with the Survey Map and Plans referred to herein, states covenants, conditions, restrictions, and reservations effecting a common plan for the Condominium development mutually beneficial to all of the described Units, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire Condominium and upon each such Unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the Condominium or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments and regardless of any subsequent forfeitures, foreclosures, or sales of Units under security instruments.

The name of this Condominium is Krueger Commons Condominiums.

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR KRUGER COMMONS CONDOMINIUMS shall replace and supersede the Declaration of Condominium for Kruger Commons recorded under Island County Auditor's File Number 4225453 as amended by document recorded under Snohomish County Auditor's File Number 4228392. The original Declaration of Condominium (and documents filed under that recording number) as amended shall be of no further force and effect and is replaced in its entirety by this Declaration of Condominium.

**S E C T I O N 1
INTERPRETATION**

1.1 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of this Condominium under the provisions of Washington law. It is intended and covenanted also that, insofar as it affects this Declaration and Condominium, the provisions of the Act under which this Declaration is operative, shall be liberally construed to effectuate the intent of this Declaration insofar as reasonably possible.

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

1.3 Covenant Running With Land. It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, binding on Declarant, its



successors and assigns, all subsequent Owners of the Property, together with their grantees, successors, heirs, executors, administrators, devisees or assigns, supplementing and interpreting the Act, and operating independently of the Act should the Act be, in any respect, inapplicable.

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

1.5 Declarant Is Original Owner. Declarant is the original Owner of all Units and Property and will continue to be deemed the Owner thereof except as conveyances or documents changing such ownership regarding specifically described Units are recorded.

1.6 Captions and Exhibits. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

1.7 Inflationary Increase in Dollar Limits. Any dollar amounts specified in this Declaration in connection with any proposed action or decision of the Board or Association may, in the discretion of the Board, be increased proportionately by the increase in the consumer price index for the city of Seattle, Washington for All Urban Consumers, prepared by the United States Department of Labor for the base period, January 1 of the calendar year following the year in which the Declaration was recorded, to adjust for any deflation in the value of the dollar.

1.8 Definitions

1.8.1 "The Act" means the Washington Condominium Act, Laws of 1989, Chapter 43 (RCW Chapter 64.34) as amended.

1.8.2 "Allocated Interests" means those undivided interests in the Common Elements, the Common Expense Liability, and votes in the Association allocated to each Unit more particularly provided for in Section 8 and as shown in Exhibit B.

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

1.8.4 "Association" means all of the Owners acting as a group in accordance with the Bylaws and with this Declaration as it is duly recorded and as they may be lawfully amended, which Association is more particularly provided for in Section 9.

1.8.5 "Board" means the board of directors of the Association provided for in Section



10.2.

1.8.6 "Books and Records of the Association" shall be given the broadest possible meaning and shall include, without limitation, exception or qualification, the following:

Declaration, Survey Map and Plans, Articles of Incorporation, Bylaws and other rules and regulations governing the Condominium (or any part thereof), and all amendments thereto;

(a) minute books, including all minutes, of all Owner, Board, Officer, Committee or other meetings relating to the Condominium (or any part thereof), including all reports, documents, communications or written instruments attached thereto or referenced therein);

(b) all financial records, including without limitation canceled checks, bank statements, and financial statements of the Association and source documents from the time of incorporation of the Association through the current date;

(c) all reports, documents, communications or written instruments pertaining to the personal property of the Association or the Condominium (or any part thereof);

(d) if in the possession of the Association (and its Board, Officers or agents), all reports, documents, communications, written instruments, plans, and specifications pertaining to the construction, remodeling, maintenance, repair, replacement or condition of the Condominium (or any part thereof);

(e) all Insurance policies or copies thereof for the Condominium (or any part thereof) and Association;

(f) copies of any certificates of occupancy that may have been issued for the Condominium (or any part thereof);

(g) any other permits or notices issued by governmental bodies applicable to the Condominium (or any part thereof) in force or issued;

(h) all written warranties that are still in effect for the Condominium (or any part thereof), or any other areas or facilities which the Association has the responsibility to maintain and repair, from the Declarant, contractor, subcontractors, suppliers, and manufacturers, together with all owners' manuals or instructions furnished with respect to installed equipment or building systems;

(i) a roster of Owners, Officers and Board members and eligible mortgagees and their addresses and telephone numbers, if known;

(j) any leases of the Common Elements or areas and other leases to which the Association is a party; any employment, service, consultation, professional or other contracts in which the Association, Board or Officer is one of the contracting parties, or in which the Association or the Owners have an obligation or a responsibility, directly or indirectly, to pay some or all of the fee or charge, or which in any way relate to the Condominium (or any part thereof);

(k) all reports, documents, communications or written instruments pertaining to



any litigation or other legal or mediation/arbitration proceeding (whether pending, threatened, or under consideration) to which the Association (or Board, Officer or Owner) is or may be a party, or which may relate to or affect the Condominium (or any part thereof); and

(l) all other reports, documents, communications or written instruments in any way relating to or affecting the Association, Board, Officers, Owners or the Condominium (or any part thereof).

1.8.7 "Building" means the building or buildings containing the Units and comprising a part of the Property.

1.8.8 "Bylaws" shall mean the bylaws of the Association provided for in Section 9.

1.8.9 "Common Elements" means all portions of the Condominium other than the Units.

1.8.10 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.8.11 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit pursuant to Section 8.

1.8.12 "Condominium" means the condominium created by this Declaration and related Survey Map and Plans pursuant to the Act.

1.8.13 "Conveyance" means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract and with respect to a Unit in a leasehold condominium, a transfer by lease or assignment thereof, but shall not include a transfer solely for security.

1.8.14 "Declarant" means any person or group of persons acting in concert who (a) executed as Declarant this Declaration, or (b) reserves or succeeds to any Special Declarant Right under the Declaration.

1.8.15 "Declarant Control" means the right, if expressly reserved by this Declaration, of the Declarant or persons designated by the Declarant to appoint and remove Association officers and Board members, or to veto or approve a proposed action of the Board or Association; provided, in no event shall exercising the voting rights allocated to a unit or units owned by the Declarant or Declarant's affiliates be deemed "Declarant Control".

1.8.16 "Declaration" means this Declaration and any amendments thereto.

1.8.17 "Development Rights" means any right, if expressly reserved by the Declarant in this Declaration to: (a) add real property or improvements to the Condominium; (b) create Units, Common Elements, or Limited Common Elements within real property included or added to the Condominium; (c) subdivide Units or convert Units into Common Elements; (d) withdraw real property from the Condominium; or (e) reallocate limited common elements with respect to units that have not been conveyed by the Declarant.

1.8.18 "Dispose" or "Disposition" means a voluntary transfer or conveyance to a purchaser or lessee of any legal or equitable interest in a Unit, but does not include the transfer or release of a security interest.



1.8.19 "Eligible Mortgagee" means a Mortgagee of a Unit or the Mortgagee of the Condominium 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.

1.8.20 "Foreclosure" means a forfeiture or judicial or non judicial foreclosure of a Mortgage or a deed in lieu thereof.

1.8.21 "Identifying Number" means the designation of each Unit in a Condominium.

1.8.22 "Interior Surfaces" (where that phrase is used in defining the boundaries of Units or Limited Common Elements) shall not include paint, wallpaper, paneling, carpeting, tiles, finished flooring, and other such decorative or finished surface coverings. Said decorative and finished coverings, along with fixtures and other tangible personal property (including furniture, planters, mirrors, and the like) located in and used in connection with said Unit or Limited Common Element, shall be deemed a part of said Unit or Limited Common Element.

1.8.23 "Limited Common Element" means a portion of the Common Elements allocated by this Declaration (or by subsequent amendments thereto) or by operation of law for the exclusive use of one or more but fewer than all of the Units as provided in Section 7.

1.8.24 "Manager" means the person retained by the Board to perform such management and administrative functions and duties with respect to the Condominium as are delegated to such person and as are provided in a written agreement between such person and the Association.

1.8.25 "Mortgage" means a mortgage or deed of trust that creates a lien against a Unit and also means a real estate contract for the sale of a Unit.

1.8.26 "Mortgagee" means the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Unit created by mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Unit. A Mortgagee of the Condominium and a Mortgagee of a Unit are included within the definition of Mortgagee.

1.8.27 "Mortgagee of a Unit" means the holder of a Mortgage on a Unit, which mortgage was recorded simultaneous with or after the recordation of this Declaration. Unless the context requires otherwise, the term "Mortgagee of a Unit" shall also be deemed to include the Mortgagee of the Condominium.

1.8.28 "Mortgagee of the Condominium" means the holder of a Mortgage on the Property which this Declaration affects, which Mortgage was either: recorded prior to the recordation of this Declaration; or was recorded against all Units after the recordation of this Declaration but prior to the recorded conveyance of any Unit. The term "Mortgagee of the Condominium" does not include Mortgagees of the individual Units.

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



1.8.30 "Property" or "Real Property" means any fee, leasehold or other estate or interest in, over, or under the land described in Exhibit A, including Buildings, structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Property" included parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water, and all personality intended for use in connection therewith.

1.8.31 "Purchaser" means any person, other than Declarant, who by means of a Disposition acquires a legal or equitable interest in a Unit other than (a) a leasehold interest, including renewal options, of less than twenty years at the time of creation of the Unit, or (b) as security for an obligation.

1.8.32 "Renting or Leasing" a Unit means the granting of a right to use or occupy a Unit, for a specified term or indefinite term (with rent reserved on a periodic basis), in exchange for the payment of rent (that is, money, property or other goods or services of value); but shall not mean and include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership.

1.8.33 "Residential Purposes" means use for dwelling or recreational purposes, or both.

1.8.34 "Special Declarant Rights" means rights, if expressly reserved in this Declaration for the benefit of Declarant to:

(a) complete improvements indicated on Survey Maps and Plans filed with the Declaration under RCW 64.34.232;

(b) exercise any Development Right under Section 23.2;

(c) maintain sales offices, management offices, signs advertising the Condominium, and models under Section 23.1.2;

(d) use easements through the Common Elements for the purpose of making improvements within the Condominium or within real property which may be added to the Condominium or which may be adjacent to the Condominium;

(e) make the Condominium part of a larger Condominium or a development under RCW 64.34.280;

(f) make the Condominium subject to a master association under RCW 64.34.276.

(g) appoint or remove any officer of the Association or any master association or any member of the Board, or to veto or approve a proposed action of the Board or Association, during any period of Declarant Control.

1.8.35 "Survey Map and Plans" means the survey map and the plans recorded simultaneously with this Declaration and any amendments, corrections, and addenda thereto subsequently recorded.



1.8.36 "Unit" means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described pursuant to Section 4. "Separate ownership" includes leasing a Unit in a leasehold condominium under a lease that expires contemporaneously with any lease, the expiration or termination of which will remove the Unit from the Condominium.

1.8.37 "Unit Owner" means, subject to Section 1.9.5, a Declarant or 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; or is merely "renting" or "leasing" a Unit as defined in Section 1.8.31. "Unit Owner" means the vendee, not the vendor, of a Unit under a real estate contract.

1.9 Construction and Validity

1.9.1 All provisions of the Declaration and Bylaws are severable.

1.9.2 The rule against perpetuities may not be applied to defeat any provision of the Declaration, Bylaws, rules, or regulations adopted pursuant to RCW 64.34.304(1)(a).

1.9.3 In the event of a conflict between the provisions of the Declaration and the Bylaws, the Declaration prevails except to the extent the Declaration is inconsistent with the Act.

1.9.4 The creation of this Condominium shall not be impaired and title to the Unit and Common Elements shall not be rendered unmarketable or otherwise affected by reason of an insignificant failure of the Declaration or Survey Map and Plans or any amendment thereto to comply with the Act.

1.9.5 If the Declaration or Bylaws now or hereafter provide that any officers or directors of the Association must be Unit Owners, then notwithstanding the definition contained in Section 1.8.36, the term "Unit Owner" in such context shall, unless the Declaration or Bylaws otherwise provide, be deemed to include any director, officer, partner in, or trustee of any Person, who is, either alone or in conjunction with another Person or Persons, a Unit Owner. Any officer or director of the Association who would not be eligible to serve as such if he or she were not a director, officer, partner in, or trustee of such a person shall be disqualified from continuing in office if he or she ceases to have any such affiliation with that Person, or if that Person would have been disqualified from continuing in such office as a natural person.

S E C T I O N 2 DESCRIPTION OF REAL PROPERTY

2.1 Legal Description. The Real Property included in the Condominium is described on Exhibit A hereto which by this reference is incorporated herein.

2.2. Legal Description of Phases. There are presently three phases in the Condominium. Phase 1 is hereby established. The description of each phase is set forth on Exhibit A hereto.

2.3. Description of Real Property (except Real Property subject to Development



Rights) which may be allocated subsequently as Limited Common Elements (other than Limited Common Elements described in this Declaration). The land described in Section 2.1 and 2.2 above.

2.4. Description of Real Property to which any Development Right or Special Declarant Right applies: The land described in Section 2.1 and 2.2 above. Tract A shown on the Survey Map and Plans is subject to the Right of Withdrawal and other Development Rights and Special Declarant Rights set forth herein.

S E C T I O N 3 DESCRIPTION OF UNITS

Either Exhibits A, B or C, or all, attached hereto set forth the following:

3.1 Number of Units. The number of Units which Declarant has created and reserves the right to create. There are 12 Units in Phase 1. An addition 8 units will be added in subsequent phases.

3.2 Unit Number. The Identifying Number of Each Unit created by the Declaration.

3.3 Unit Description. With respect to each existing Unit:

- 3.3.1 The approximate square footage.
- 3.3.2 The number of bathrooms, whole or partial.
- 3.3.3 The number of rooms designated primarily as bedrooms.
- 3.3.4 The number of built-in fireplaces.
- 3.3.5 The level or levels on which each Unit is located.
- 3.3.6 Parking Spaces assigned to a Unit, if any.
- 3.3.7 A description of recreational facilities, if any.

3.4 Access to Common Ways and Public Streets. Each Unit has direct access to Common Area walls, parking areas and/or driveways, and all such Common Areas have direct access to public streets.

S E C T I O N 4 BOUNDARIES

4.1 Unit Boundaries

4.1.1 Interior Surfaces. The Interior Surfaces of perimeter walls, floors, and ceilings are the boundaries of a Unit. Decorative and finished surface coverings (including paint, wallpaper, paneling, carpeting, tiles, and finish flooring) are a part of the Unit, and all other portions of the walls, floors, or ceilings are a part of the Common Elements.

4.1.2 Ducts, Wires, Etc. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element Declaration



allocated solely to the Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

4.1.3 Partitions, Etc. Subject to the provisions of Section 4.1.2, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

4.1.4 Doors, Windows, Etc. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, railings and all doors and windows located along the Unit perimeter boundary or other fixtures designed to serve a single Unit, but which are located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

4.2 Monuments as Boundaries. The physical boundaries of a Unit constructed in substantial accordance with the original Survey Map and Plans thereof become its boundaries rather than the metes and bounds expressed in the Survey Map and Plans, regardless of settling or lateral movements of the Building or minor variances between boundaries shown on the Survey Map and Plans and those of the Building. This Section does not relieve a Declarant or any other person of liability for failure to adhere to the Survey Map and Plans.

4.3 Relocation of Boundaries; Adjoining Units

4.3.1 In General. Subject to the provisions of the Declaration and other provisions of law, the boundaries between adjoining Units may only be relocated by an amendment to the Declaration upon application to the Association by the Owners of those Units. If the Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application must state the proposed reallocations. Unless the Board determines within thirty days that the reallocations are unreasonable, the Association shall prepare at Unit Owner's expense an amendment that identifies the Units involved, states the reallocations, is executed by those Unit owners, contains words or conveyance between them, and is recorded in the name of the grantor and the grantee. Unit Owners relocating boundaries must comply with all City of Coupeville laws, rules and regulations.

4.3.2 Survey Map and Plans. The Association shall obtain and record Survey Maps or Plans complying with the requirements of RCW 64.34.232(4) necessary to show the altered boundaries between adjoining Units and their dimensions and Identifying Numbers.

S E C T I O N 5
DESCRIPTION OF OTHER IMPROVEMENTS

Either Exhibits B or C, or both, attached hereto sets forth the following:

5.1 Recreational Facilities. A description of the recreational facilities, if any, included within the Condominiums.

5.2 Parking. The number of covered, uncovered or enclosed parking spaces, if any, including those described in Section 7.1.2.

5.3 Moorage Slips. There are no moorage slips.



S E C T I O N 6
DESCRIPTION OF COMMON ELEMENTS

Except as otherwise specifically allocated as a Limited Common Element by the provisions of Section 4.1, Section 7 or other provisions of this Declaration or amendments hereto, the Common Elements consist of all portions of the Condominium except Units and include the following:

6.1 The Real Property described in Exhibit A.

6.2 The windows and doors (which are on the perimeter boundary of the Unit), roofs, foundations, columns, girders, studding, joists, beams, supports, walls (excluding non-bearing interior partitions of Units), chimneys, and all other structural parts of the Buildings, to the boundaries of the Units as the boundaries are defined in the Section 4.1, and any replacements thereto.

6.3 Installations of central services such as: power, light, gas, hot and cold water, heating, refrigeration, air conditioning, garbage chutes and incinerating; pipes, conduits, and wires; elevator shafts, tanks, pumps, motors, fans, compressors, ducts; and in general all apparatus and installations existing for common use; but excluding plumbing, electrical and similar fixtures, which fixtures are located within a Unit for the exclusive use of that Unit.

6.4 The driving areas (not allocated as Limited Common Elements by this Declaration or amendments thereto) which provide access to the Limited Common Elements for parking; and any guest parking or other parking areas (not allocated to Units as Limited Common Elements by this Declaration or amendments thereto.)

6.5 The yards, gardens, landscaped areas and walkways (not assigned as Limited Common Elements by this Declaration or amendments thereto) which surround and provide access to the Buildings or are used for recreational purposes.

6.6 The lobbies, halls and corridors not within individual Units, storage areas not allocated to Units, stairways and stairs, entrances and exits of the Building or Buildings, and (unless otherwise expressly provided in Exhibit A) the recreational facilities described in said Exhibit A.

6.7 Premises for the lodging or use of persons in charge of, or maintaining, the Property, if any.

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

S E C T I O N 7
DESCRIPTION OF LIMITED COMMON ELEMENTS

7.1 Limited Common Elements. The Limited Common Elements are allocated for the exclusive use of the Owner or Owners of the Unit or Units to which they are allocated and, in addition to any Limited Common Elements provided by law or other provisions of the



Declaration or amendments thereto, consist of:

7.1.1 Propane Tanks. Propane tanks for the use of a particular Unit are Limited Common Elements assigned to that Unit. The installation of propane tanks and equipment necessary for utilization of gas-fired appliances is permitted in the Common Elements only if underground propane tanks are utilized and installed according to code and Town of Coupeville regulations, to include any permitting processes. Exception to the requirements for under ground tanks are made for the following units: 100, 106, 108, 114, 200, 206, 208, 214, 216, 222, whereby above ground tanks may be utilized, when installed by code and Town of Coupeville regulations. Where this exception is employed, tanks shall be screened utilizing materials and trim similar to the building exterior architectural style and color and approved by the Board. Where landscape materials and installation are disturbed, area shall be returned to the original condition, or as close as possible, with approval of the Board. The expense to install, maintain, alter or remove any tank, equipment, or screen shall be that of the Unit Owner whose Units the installation servers. **INSTALLATION SHALL IN NO CASE INTERFERE WITH UNDERGROUND UTILITIES.**

7.1.2 Miscellaneous. Such other Limited Common Elements, if any, as may be described in Exhibit A attached hereto or depicted and labeled on the Survey Map and Plans.

7.2 Boundary. The boundaries of Limited Common Elements (including without limitation, patio, yard, deck, balcony, lanai, parking and storage) shall be defined by the Interior Surfaces of the improvements enclosing the Element (including without limitation, walls, floor, ceiling, doors, windows, ground, railings, fence or striping; but if there are no such Interior Surfaces, then the boundaries as delineated on the Survey Map and Plans; but if no such boundaries are so delineated, then the perimeter edge of such Element as actually constructed or expanded by the Declarant or Association in accordance with this Declaration.

7.3 Transfer of Limited Common Elements

7.3.1 Renting. After Declarant's initial allocation, a Unit Owner may rent or lease the parking space and/or storage areas allocated to that Unit to any other Unit Owner; provided, that the rental or lease term shall automatically expire on the date the lessor/Unit Owner disposes of its interest in the Unit (whether such disposition is by deed, contract, foreclosure or otherwise); and provided further, that the Board shall be notified in writing of the existence of any such rental or lease arrangement.

7.3.2 Reallocation Between Units. Except in the case of a reallocation being made by the Declarant pursuant to a Development Right reserved in this Declaration, a Limited Common Element may only be reallocated between Units with the approval of the Board and by an amendment to the Declaration executed by the Owners of, and approved in writing by the Mortgagees holding Mortgages against, the Units to which the Limited Common Element was and will be allocated. The Board shall approve the request of the Owner or Owners under this section within thirty days unless the proposed reallocation does not comply with the Act or the Declaration. The failure of the Board to act upon a request within such period shall be deemed approval thereof.

7.3.3 Common to Limited Common, Etc. Owners of Units to which at least sixty-seven percent of the votes are allocated, including the Owner of the Unit to which the Limited



Common Element will be assigned or incorporated, must agree to reallocate a Common Element as a Limited Common Element or to incorporate a Common Element or a Limited Common Element into an existing Unit.

7.4 Fireplaces. If fireplaces are now or hereafter installed in individual Units, then the following provisions shall apply:

Notwithstanding anything provided in the Declaration to the contrary, the following shall govern fireplaces located within Units:

(a) If a fireplace to be used by a particular Unit is shown on the Survey Map and Plans as being inside the perimeter wall constituting boundaries of the Unit, then the fireplace shall be a part of the Unit and not Limited Common Elements. If such fireplace is shown on the Survey Map and Plans as being outside of such boundaries, then the fireplace shall be a Limited Common Element of such Unit.

(b) Flues, pipes, chimneys and other equipment and apparatus associated with the use of a fireplace are also a Limited Common Element for the Unit in which the fireplace is located; provided, if the flues, pipes, chimneys and other equipment and apparatus are utilized in common by two or more Units, then those flues, pipes, chimneys and other equipment and apparatus are Limited Common Elements for the Units for which they are being utilized.

(c) Maintenance, repair and replacement of fireplaces, flues, pipes, chimneys and other equipment and apparatus associated with the use of a fireplace shall be governed by the provisions of Section 11.9 of the Declaration.

(d) All use of the fireplaces will be in accordance with the rules which the Board may from time to time adopt.

S E C T I O N 8 A L L O C A T E D I N T E R E S T

The Allocated Interests of each Unit (that is, the undivided interest in the Common Elements, the Common Expense Liability and the votes in the Association allocated to each Unit) are set forth in Exhibit B attached hereto. Any values used to establish the percentages required by the Act do not reflect, necessarily, the amount for which a Unit will be sold, from time to time, by Declarant or others. The Allocated Interest appertaining to each Unit cannot be changed except as provided in this Declaration. The Allocated Interest and the title to the respective Units shall not be separated or separately conveyed and each undivided interest shall be deemed to be conveyed with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the title to the Unit. Except where permitted by the Act, the Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an Allocated Interest made without the Unit to which that Interest is allocated is void.

S E C T I O N 9 O W N E R ' S A S S O C I A T I O N

9.1 Form of Association. The Association shall be organized as a non-profit corporation



under the laws of the State of Washington and shall be known as Krueger Commons Homeowner's Association.

9.2 Membership

9.2.1 Qualification. Each Owner (including Declarant) shall be a member of the Association and shall be entitled to one membership for each Unit so owned; provided, that if a Unit has been sold on contract, the contract purchaser shall exercise the rights of the Unit Owner for purposes of the Association, this Declaration, and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Unit shall be the sole qualification for membership in the Association.

9.2.2 Transfer of Membership. The Association membership of each Owner (including Declarant) shall be appurtenant to the Unit giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Unit and then only to the transferee of title to such Unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

9.3 Voting

9.3.1 Number of Votes. The total voting power of all Owners shall equal one (1) vote and the fraction voting power allocated to each Unit is set forth in Exhibit B hereof.

9.3.2 Multiple Owners. If only one of the multiple Owners of a Unit is present at a meeting of the Association, the owner is entitled to cast all the votes allocated to that Unit. If more than one of the multiple Owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit.

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

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

9.3.5 Pledged Votes. If an Owner is in default under a first Mortgage on the Unit for ninety (90) consecutive days or more, the Mortgagee shall automatically be authorized to declare at any time thereafter that the Unit Owner has pledged his or her vote on all issues to the



Mortgagee during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, or in the event the record Owner or Owners have otherwise pledged their vote regarding special matters to a Mortgagee under a duly recorded Mortgage, only the vote of such Mortgagee or vendor, will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with this pledge has been filed with the Board. Amendments to this subsection shall only be effective upon the written consent of all the voting Owners and their respective Mortgagees, if any.

9.4 Meetings, Notices and Quorums

9.4.1 Meetings. A meeting of the Association must be held at least once each year. Special meetings of the Association may be called by the president, a majority of the Board, or by Unit owners having twenty percent of the votes in the Association. Not less than ten nor more than sixty days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by first class United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Unit Owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda to be voted on by the members, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in the previously approved budget that result in a change in Assessment obligations, and any proposal to remove a director or officer.

9.4.2 Quorums.

(a) A quorum is present throughout any meeting of the Association if the owners of Units to which twenty-five percent of the votes of the Association are allocated are present in person or by proxy at the beginning of the meeting.

(b) A quorum is deemed present throughout any meeting of the Board if persons entitled to cast fifty percent of the votes on the Board are present at the beginning of the meeting.

9.5 Bylaws of Association

9.5.1 Adoption of Bylaws. Bylaws (and amendments thereto) for the administration of the Association and the Property, and for other purposes not inconsistent with the Act or with the intent of this Declaration shall be adopted by the Association upon concurrence of those voting Owners holding a majority of the total voting power. Amendments to the Bylaws may be adopted at any regular or special meeting. Declarant may adopt initial Bylaws.

9.5.2 Bylaws Provisions. The Bylaws may contain supplementary, not inconsistent, provisions regarding the operation and administration of the Condominium.

S E C T I O N 1 0 MANAGEMENT OF CONDOMINIUM

10.1 Administration of the Condominium. The Unit Owners covenant and agree that the administration of the Condominium shall be in accordance with the provisions of this



Declaration and the Articles of Incorporation and Bylaws of the Association which are incorporated herein by reference and made a part hereof.

10.2 Election and Removal of Board and Officers.

10.2.1 Election By Owners, In General. The Unit Owners (including Declarant and any Affiliate of Declarant to the extent Units are owned by Declarant or any such Affiliate) shall elect a Board of at least three members, at least a majority of whom must be Unit Owners. The Board shall elect the officers. Such members of the Board and officers shall take office upon election.

10.2.2 Election By Owners, Other Than Declarant.

(a) The affairs of the Association shall initially be governed by a Board composed of at least one (1) but not more than three (3) members as determined by Declarant.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board may be elected by Unit Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units which may be created to Unit Owners other than a Declarant, not less than thirty-three and one-third percent of the members of the Board may be elected by Unit Owners other than the Declarant.

(c) Commencing with the first Association meeting at which the Unit Owners are to elect the entire Board (other than a meeting held when Declarant still owned all of the units), and unless the Bylaws are amended at that meeting, the Board shall be composed of three (3) Members (not including a Board member designated by Declarant), a majority of whom must be Owners of Units in the Condominium; provided, the Declarant (or a representative of Declarant) shall have the right (which may not be terminated by amendment to the Declaration or Bylaws, and which shall continue so long as any Special Declarant Rights or Developments remain in effect or Declarant has any obligation or liability of any express or implied warranty) to serve as a full non-voting member of the Association Board (with all of the rights and powers of a Board member except for the right to vote).

10.2.3 Taking Office; Officers. The Board shall elect the officers of the Association. Such members of the Board and officers shall take office upon election.

10.2.4 Removal. The Unit Owners, by a two-thirds vote of the voting power in the Association present and entitled to vote at any meeting of the Unit Owners at which a quorum is present, may remove any member of the Board with or without cause.

10.3 Management by Board.

10.3.1 On Behalf of Association. Except as otherwise provided in the Declaration, the Bylaws, Section 10.3.2 hereof or the Act, the Board shall act in all instances on behalf of the Association. In the performance of their duties, the officers and members of the Board are required to exercise ordinary and reasonable care.

10.3.2 Not on Behalf of Association. The Board shall not act on behalf of the



Association to amend the Declaration in any manner that requires the vote or approval of the Unit Owners pursuant to Section 21.1, to terminate the Condominium pursuant to RCW 64.34.268, or to elect members of the Board or determine the qualifications, powers, and duties, or terms of office of members of the Board pursuant to section 10.3.2; but the Board may fill vacancies in its membership for the unexpired portion of any term.

10.3.3 Budget Approval. Within thirty days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the Owners of Units to which a majority of the votes in the Association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.

10.4 Authority of the Association

10.4.1 The Association acting by and through the Board, or a Manager appointed by the Board, for the benefit of the Condominium and the Owners, shall enforce the provisions of this Declaration and of the Bylaws and shall have all powers and authority permitted to the Association under the Act and this Declaration, including without limitation:

- (a) Adopt and amend Bylaws, rules, and regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect Assessments for Common Expenses from Unit Owners;
- (c) Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;
- (d) Subject to the provisions of the Declaration, institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Condominium; provided, that on matters affecting a Unit the Association must obtain the prior written consent of the Owner of the Unit affected;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of Common Elements;
- (g) Cause additional improvements to be made as a part of the Common Elements;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to Section 10.8;
- (i) Grant easements, leases, licenses, and concessions through or over the Common Elements and petition for or consent to the vacation of streets and alleys;
- (j) Impose and collect any payments, fees, or charges for the use, rental, or



operation of the Common Elements, other than Limited Common Elements described in Sections 4.1.2 and 4.1.4, and for services provided to Unit Owners;

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

(l) Impose and collect reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates required by RCW 64.34.425 and statements of unpaid Assessments;

(m) Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;

(n) Assign its right to future income, including the right to receive Common Expense assessments, but only to the extent the Declaration provides;

(o) Exercise any other powers conferred by the Declaration or Bylaws;

(p) Exercise all other powers that may be exercised in this state by the same type of corporation as the Association;

(q) Exercise any other powers necessary and proper for the governance and operation of the Association;

(r) Maintain and repair any Unit, its appurtenances and appliances, and any Limited Common Elements, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Element or preserve the appearance and value of the Condominium, and the Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to the Owner; provided that the Board shall levy a special charge against the Unit of such Owner for the cost of such maintenance or repair; and

(s) Pay any amount necessary to discharge any lien or encumbrance levied against the entire Property or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against the Property or against the Common Elements, rather than merely against the interest therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses (including court costs and attorney fees) incurred by the Board by reason of such lien or liens shall be specially charged against the Owners and the Units responsible to the extent of their responsibility.

10.4.2 The Board's power hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the Association funds a capital addition or improvement (other than for purposes of restoring, repairing or replacing portions of the Common Elements) having a total cost in excess of Five Thousand Dollars (\$5,000), without first obtaining the affirmative vote of a majority of Owners at a meeting called for such pur-



pose, or if no such meeting is held, then the written consent of a majority of Owners; provided that any expenditure or contract for each capital addition or improvement in excess of Twenty-Five Thousand Dollars (\$25,000) must be approved by Owners having not less than sixty-seven percent (67%) of the voting power.

10.4.3 Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all of the Owners or any of them.

10.4.4 The Board and its agents or employees, may enter any Unit or Limited Common Element when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible or in the event of emergencies. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board paid for as a Common Expense if the entry was due to an emergency, or for the purpose of maintenance or repairs to Common or Limited Common Elements where the repairs were undertaken by or under the direction or authority of the Board; provided, if the repairs or maintenance were necessitated by or for the Unit entered or its Owners, or requested by its Owners, the costs thereof shall be specially charged to such Unit. In furtherance of the foregoing, the Board (or its designated agent) shall have the right at all times to possess such keys and/or lock combinations as are necessary to gain immediate access to Units and Limited Common Elements.

10.5 Borrowing by Association. In the discharge of its duties and the exercise of its powers as set forth in Section 10.3.1, but subject to the limitations set forth in this Declaration, the Board may borrow funds on behalf of the Association and to secure the repayment of such funds, assess each Unit (and the Owner thereof) for said Unit's pro rata share of said borrowed funds and the obligation to pay said pro rata share shall be a lien against said Unit and the undivided interest in the Common Elements appurtenant to said Unit. Provided, that the Owner of a Unit may remove said Unit and the Allocated Interest in the Common Elements appurtenant to such Unit from the lien of such assessment by payment of the Allocated Interest in Common Expense Liability attributable to such Unit. Subsequent to any such payment, discharge, or satisfaction, the Unit and the Allocated Interest in the Common Elements appurtenant thereto shall thereafter be free and clear of the liens so paid, satisfied, or discharged. Such partial payment, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce his rights against any Unit and the Allocated Interest in the Common Elements appurtenant thereto not so paid, satisfied, or discharged.

10.6 Association Records and Funds

10.6.1 Records and Audits. The Association shall keep financial records sufficiently detailed to enable the Association to comply with RCW 64.34.425 in providing resale certificates. All Books and Records of the Association (as defined in Section 1.8) shall be made reasonably available (at all reasonable hours of weekdays or under other reasonable circumstances)) for examination and copying by Declarant, and any Owner, Mortgagee, insurer and guarantor of any Mortgage on any Unit, or their agents. At least annually, the Association shall prepare, or cause to be prepared, a financial statement of the Association in accordance with generally accepted accounting principles. If this Condominium consists of fifty or more Units, the financial statements of the Condominium shall be audited at least



annually by a certified public accountant. If this Condominium consists of fewer than fifty Units, an annual audit is also required but may be waived annually by Owners (other than the Declarant) of Units to which sixty percent of the votes are allocated, excluding the votes allocated to Units owned by the Declarant.

10.6.2 Fund Commingling. The funds of the Association shall be kept in accounts in the name of the Association and shall not be commingled with the funds of any other Association, nor with the funds of any Manager of the Association or any other person responsible for the custody of such funds. Any reserve funds of the Association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two persons who are officers or directors of the Association.

10.7 Association as Trustee. With respect to a third person dealing with 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.

10.8 Common Elements, Conveyance, Encumbrance.

10.8.1 In General. Portions of the Common Elements which are not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association if the Owners of Units to which at least eighty percent (80%) of the votes in the Association are allocated, including eighty percent (80%) of the votes allocated to Units not owned by Declarant or an Affiliate of Declarant, agree to that action; but all the Owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest. Proceeds of the sale or financing are an asset of the Association.

10.8.2 Agreement. An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording.

10.8.3 Conditions Precedent. The Association, on behalf of the Unit Owners, may contract to convey Common Elements or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to Sections 10.8.1 and 10.8.2. Thereafter, the Association has all powers necessary and appropriate to affect the conveyance or encumbrance, including the power to execute deeds or other instruments.

10.8.4 Void Transactions. Any purported conveyance, encumbrance, or other voluntary transfer of Common Elements, unless made pursuant to this Section, is void.



10.8.5 Support Right. A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Unit of its rights of access and support.

10.8.6 Prior Encumbrances. A conveyance or encumbrance of Common Elements pursuant to this section shall not affect the priority or validity of preexisting encumbrances either on Units (and their Allocated Interest in Common Elements) or on Common Elements.

10.9 Termination of Contracts and Leases. If entered into before the Board elected by the Unit Owners pursuant to Section 10.2.1 takes office, (1) any management contract, employment contract, or lease of recreational or parking areas or facilities, (2) any other contract or lease between the Association and a Declarant or an Affiliate of a Declarant, or (3) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing may be terminated without penalty by the Association at any time after the Board elected by the Unit Owners pursuant to Section 10.2.1 takes office upon not less than ninety days' notice to the other party or within such lesser notice period provided for without penalty in the contract or lease. This Section does not apply to any lease, the termination of which would terminate the Condominium or reduce its size, unless the real property subject to that lease was included in the Condominium for the purpose of avoiding the right of the Association to terminate a lease under this Section.

10.10 Governmentally Required Maintenance, Etc. Any insurance, maintenance, repair, replacement, alteration or other work, or the monitoring of such work, which is required by any governmental entity (including without limitation, federal, state or local government, public or private utility provider, local improvement district, or other governmental or quasi-governmental entity or agency), and regardless of whether such requirement is now or hereafter established, and whether imposed in connection with a building permit or other governmental approval or requirement, and whether involving land within public rights of way or subject to ownership or exclusive use of one owner, shall be the sole and exclusive responsibility of the Association (not the Declarant) and any cost incurred in connection therewith shall be a Common Expense. In furtherance of the generality of the foregoing, and not by way of limitation, such work shall include: maintenance of any grass-lined swales and proper disposal of clippings; maintenance of wetland plantings; replacement of wetland and landscape plantings that die during any required maintenance period; maintenance of public and private storm sewer and retention systems. Declarant shall have the right, but not the obligation, to perform any such work if the Association fails to do so. The Association shall: defend, indemnify and hold Declarant harmless from any expense or claim arising from or relating to any Association's breach of this provision; and promptly upon demand reimburse Declarant for any costs directly or indirectly incurred by declarant as a result of the Declarant performing, or the Association's failure to perform, such work (including any work necessary to obtain a release, or avoid a forfeiture, of any cash deposit or other bond made by Declarant).

10.11 Maintenance, Repair, Inspection and Warranty Procedure. The Association shall defend, indemnify and hold Declarant harmless from any expense or claim arising from or relating to any Association's failure to promptly and properly maintain, repair or inspect the Condominium (or any part thereof), or the Association's failure to promptly and properly make a claim (or comply with dispute resolution procedures) under any warranty obtained or issued by Declarant. Declarant shall not be liable under any express or implied warranty (including without limitation the Washington Condominium Act implied warranties) for loss or damage



which the Association or Owners have not taken timely action to minimize, or which is caused or made worse by a failure to properly and promptly maintain, repair, or inspect (including without limitation failure to fully comply with any inspection, monitoring, maintenance or repair checklist, manual or recommendation provided by Declarant (or a contractor, subcontractor or manufacturer) to the Association or Owners.

10.12 Association to Represent Owners. The Association shall represent the Unit Owners in any proceedings, negotiations, settlements or agreements regarding a condemnation of any part of the Condominium, and any condemnation proceeds shall be payable to the Association for the benefit of the Owners of affected Units and their Mortgagees. Should the Association not act on the Owners' behalf in a condemnation process, the affected Owners may individually or jointly act on their own behalf.

10.13 Right to Notice and Opportunity to Be Heard. Whenever this Declaration requires that an action of the Board be taken after "Notice and Opportunity to be Heard," the following procedure shall be observed: The Board shall give written notice of the proposed action to all Owners, tenants or occupants of Units whose interest would be materially affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing, which shall be not less than five (5) days from the date notice is delivered by the Board. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the Board to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the Board. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

SECTION 11 USE; REGULATION OF USES; ARCHITECTURAL UNIFORMITY

11.1 Residential Units. The Units shall be used:

11.1.1 For Residential Purposes only, including sleeping, eating, food preparation for on-site consumption by occupants and guests, entertaining by occupants of personal guests and similar activities commonly conducted within a residential dwelling, without regard to whether the Unit Owner or occupant resides in the Unit as a primary or secondary personal residence, on an ownership, rental, lease or invitee basis;

11.1.2 For such other reasonable ancillary purposes commonly associated with residential dwellings and otherwise in compliance with the Declaration and applicable law in residential dwellings (including without limitation a home/professional business office). The owners shall use their respective properties in such a manner so as not to offend or detract from other owner's enjoyment of their own respective properties. All owners shall use their property solely and exclusively for private single family residences. Conduct of a private business shall be permitted on the condition that: (1) the equivalent of not more than one full-time nonresident is employed at the business location; (2) business visits to the home do not average more than four per day; and (3) the owner complies with all applicable governmental regulations and codes applicable to such use.



11.1.3 For the common social, recreational or other reasonable uses normally incident to such purposes; and

11.1.4 For purposes of operating the Association and managing the Condominium.

Bed and Breakfast businesses are not allowed.

11.2 Vehicle Parking Restrictions. Unit Owners shall park within their Unit in the garage. The parking spaces in the Common Elements are reserved for guest parking under such rules and regulations adopted by the Association.

Except as hereinafter expressly provided, the Units and Common Elements located on the Properties shall not be used for the storage and/or overnight parking of any vehicle other than private family automobiles, trucks, motorcycles. Boats, boat trailers, house trailers, campers, trucks, trucks with a camper, or other recreational vehicles or similar object may not be stored and/or parked overnight on any part of the Properties, except as specified herein. No inoperable vehicles of any kind shall be parked, stored, maintained, or constructed on any Unit or street unless stored in a garage.

The Board may require removal of any vehicle (and any other personal property) improperly stored in parking spaces; if the same is not removed, the Board shall cause removal at the risk and expense of the Owner thereof.

11.3 Common Drive and Walks. Common drives, walks, corridors, stairways and other general Common Elements shall be used exclusively for normal transit and no obstructions and/or decorations or other items shall be placed thereon or therein except by express written consent of the Board.

11.4 Interior Unit Maintenance

11.4.1 Owner Responsibility. Neither this Section nor Section 11.5 shall be construed as permitting any violation of any other provision of this Declaration or 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 Association or Board hereunder. Furthermore, a Unit Owner shall not permit nor commit waste of his Unit or the Common Elements.

11.4.2 Standard of Condition. Each Unit Owner shall, at his sole expense, have the right and the duty to keep the interior of his Unit and its equipment, appliances, and appurtenances in good order, condition and repair. Each Owner shall be responsible for the construction, alteration, maintenance, repair or replacement of any plumbing fixtures, water heaters, fans, heating or other equipment, electrical fixtures or appliances which are used solely in connection with his Unit.

11.5 Alterations of Units. Without limiting the generality of Section 11.4, each Owner shall have the right, at his sole cost and expense, to:



11.5.1 Non-Structural. Subject to the provisions of Section 11.5.2, make any improvements or alterations to the Owner's Unit that do not affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium, including the right to construct, alter, maintain, repair, paint, paper, panel, plaster, tile, and finish: the windows; window frames; doors; door frames and trim; interior non-load bearing partitions; and the interior surfaces of the ceilings, floors, and the perimeter walls of the Unit and the surfaces of the bearing and nonbearing walls located within his Unit; provided that the Owner or his assigns, contractors, or other agents or representatives shall not paint or in any manner cover the original sprinkler heads installed anywhere in a Unit.

11.6 Common Element. Unit Owners may not change the appearance of the Common Elements or the exterior appearance of a Unit without permission of the Association. No swing sets, play equipment, hot tubs or any other structures or equipment may be placed in the Common Elements by a Unit Owner. All personal property of Unit Owners shall be stored out of sight with the exception of patio furnishings. The Board may adopt rules and regulations concerning the placement of personal property adjacent to the Units.

11.7 Adjoining Unit. After acquiring an adjoining Unit or an adjoining part of an adjoining Unit may, with approval of the Board, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not adversely affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium. Removal of partitions or creation of apertures under this section is not a relocation of boundaries.

11.8 Board Decisions. With respect to any alteration or other action requiring the Board's approval, the Board shall be allowed 30 days (after receiving all information reasonably requested by the Board) for decisions. The failure of the Board to act upon a request within such period shall be deemed approval thereof. Unless the proposed alteration does not comply with the Act or the Declaration or impairs the structural integrity or mechanical or electrical systems in the Condominium, the Board shall approve a Unit Owner's request. All requests for additions and alterations shall be made in writing and the Board shall respond in written form; provided that the Board may require Owner to submit plans and specifications as needed to facilitate its decision. Except as otherwise provided herein, no work of any kind shall be conducted without the express written approval of the Board. This subsection 11.8 shall also apply to section 11.9.

11.9 Limited Common Element Maintenance.

11.9.1 Decisions by Board. Decisions with respect to the standard of appearance and condition of Limited Common Elements, and with respect to the necessity for, and manner of, caring for, maintaining, repairing, repainting, redecorating or replacing Limited Common Elements ("Maintenance Work" herein), shall be made by the Board.

11.9.2 Performance of Work. Performance of such Maintenance Work shall be carried out by the Board on behalf of the Owner or Owners of Units to which the Limited Common Element in question is assigned or reserved; provided, that by written notice, the Board may require such Owner or Owners to perform such Maintenance Work themselves;



11.9.3 Board Approval. Owners may not, however, modify, paint, or otherwise decorate, or in any way alter their respective Limited Common Elements without prior written approval of the Board;

11.9.4 Owner Pays Cost. Unit Owners will be responsible for the cost of such Maintenance Work for the Limited Common Elements reserved for or assigned to a Unit; provided, that the Unit Owner shall be solely responsible for such cost to the extent resulting from the Owner's violation of the Declaration or Association Rules and Regulations or such Owner's gross negligence or willful misconduct.

11.9.5 Multiple Owners. With respect to a Limited Common Element reserved for or assigned to more than one Unit for the mutual and joint use thereof, the cost of such Maintenance Work for such Limited Common Element shall be divided among the Units which would be liable under Section 11.9.4 and for which such Limited Common Element is reserved;

11.9.6 Cost as Special Charge. With respect to any such Maintenance Work performed by the Board, the cost thereof (or the appropriate share thereof if the Limited Common Element in question has been assigned or reserved jointly to more than one Unit) shall be levied as a special charge against the Unit or Units (and the Owner or Owners thereof) as provided in sections 11.9.4 and 11.9.5.

11.10 Exterior Appearance. In order to preserve a uniform exterior appearance to the Building, and the Common and Limited Common Elements visible to the public, the Board shall require and provide for the painting and other decorative finish of the Building, lanais or patio/yard areas, or other Common or Limited Common Elements, and prescribe the type and color of such decorative finishes, and may prohibit, require or regulate any modification or decoration of the Building, lanais, patio/yard areas or other Common or Limited Common Elements undertaken or proposed by any Owner. This power of the Board extends to screens, doors, awnings, rails or other visible portions of each Unit and Building. The Board may also require use of a uniform color and kind of Unit window covering (including draperies, blinds, shades, etc.) visible from the exterior or from Common Elements.

11.11 Effect on Insurance. Nothing shall be done or kept in any Unit or in the Common or Limited Common Element which will increase the rate of insurance on the Common Elements or Units without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit or in the Common or Limited Common Elements which will result in the cancellation of insurance on any Unit or any part of the Common or Limited Common Elements, or which would be in violation of any laws.

11.12 Signs. Subject to the provisions of any Master Declaration, no sign of any kind shall be displayed to the public view on or from any Unit or Common or Limited Common Element without the prior consent of the Board; provided, that the Board shall, by and subject to appropriate rule, permit temporary placement of a sign, at a space designated by the Board, indicating that a Unit is for sale or lease; and provided, that this section shall not apply to Declarant or Declarant's agents in exercising any Special Declarant Right reserved by Declarant under this Declaration. Political signs shall be allowed up to 24" by 30" during the campaign period.



11.13 Permitted Pets. Dogs (other than pit bull terriers, wolves, Dobermans or mixes of these), cats and other household pets (other than snakes, ferrets or other exotic household pets) not exceeding two (2) per Unit in the aggregate (herein referred to as “pets”) may be kept in any Residential Unit subject to rules and regulations adopted by the Board, Registration of all pets with the Board shall be required prior to occupancy. Pets that are permitted in Units shall not be kept, bred or used for any commercial purpose, nor allowed on any Common Elements unless they are on transit on a leash. The Board may at any time require the removal of any pet, which it finds unreasonably disturbing other Owners or guests of Owners or is creating a health risk. The Board may exercise this authority for specific pets even though other pets are permitted to remain. The Owner of any pet shall be fully responsible to clean up after the pet at all times. No person who owns a pit bull shall reside or trespass on said property.

11.14 Offensive Activity. Subject to the provisions of any Master Declaration, no noxious or offensive activity shall be carried on in any Unit or Common or Limited Common Element, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners.

No owner shall decorate or landscape any entrance, hallways, elevator, planting area or lanai appurtenant to his Unit except in accordance with standards therefor established by the Board of directors or specific plans approved in writing by the Board of directors.

Although sound transmission reduction methods may have been employed in construction of the condominium, all Owners must understand: that sound transmission is inherently greater in wood frame buildings than in concrete buildings; and that some sound transmission will occur between Units and from exterior sources, including open windows and doors.

All occupants shall avoid making noises, and using musical instruments, radios, and amplifiers in such manner as may disturb other occupants. Owner shall also control their pets so that they do not disturb other occupants.

No garments, rugs or other objects shall be hung from the windows or facades, lanais of the project or otherwise displayed in public view. No rugs or other objects shall be dusted or shaken from the windows, lanais or doors of any Unit or cleaned by beating or sweeping on any walkways, patios, entries or other exterior part of the project.

No refuse, garbage or trash of any kind shall be thrown, placed or kept on any Common Element of the project outside of the disposal facilities provided for such purposes.

Every Unit Owner and occupant shall at all times keep his Unit in a strictly clean and sanitary condition, free of rodents and pests, and observe and perform all laws, ordinances, rules and regulations, including kennel laws and animal control laws.

11.15 Common Element Alterations. Nothing shall be altered or constructed in, or (except for an Owner's personal property) removed from, the Common Elements except upon the written consent of the Board and after procedures required herein or by law. Penetrations are allowed in the horizontal or vertical surfaces, by exception, for the installation of propane utility service and appliances as required by code and Town of Coupeville regulations.

11.16 House Rules. The Board or the Association membership is empowered to pass,



amend and revoke detailed, reasonable administrative rules and regulations, or "House Rules," necessary or convenient from time to time to insure compliance with the general guidelines of this Section. Such House Rules shall be binding on all Unit Owners, lessees, guests and invitees upon adoption by the Board or Association.

11.17 Leasing of Residential Units. Leases within Residential Units shall have a minimum initial term of one month. Any lease or rental agreement under this section must provide that its terms shall be subject in all respects to the provisions of the Declaration and the Bylaws and rules and regulations of the Association and that any failure by the tenant to comply with the terms of such documents, rules and regulations shall be a default under the lease or rental agreement. If any lease under this section does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be part of the lease and binding upon the Owner and the tenant by reason of their being stated in this Declaration. The Board may adopt a rule that requires any Owner desiring to rent a Residential Unit to have any prospective tenant (other than a relative of the owner), screened, at the Owner's cost, by a tenant screening service designated or approved by the Board and to furnish the report of the tenant screening service to the Board or its designee prior to Owner's entering into a lease with the prospective tenants. All leases and rental agreements shall be in writing, and shall comply with state and local rental laws and ordinances. Copies of all leases of Residential Units and rental agreements shall be delivered to the Board or its designee before the tenancy commences. The owner is required to furnish the tenant with a copy of the current rules and regulations and furnish the Board with the tenant's signed acknowledgement of receipt of such materials. If any Residential Unit lessee or occupant of a Unit violates or permits the violation by his guests and invitees of any provisions hereof or of the Bylaws or of the rules and regulations of the Association, and the Board determines that such violations have been repeated and that a prior notice to cease has been given, the Board may give notice to the lessee or occupant of the Residential Unit and the Owner thereof to; forthwith cease such violations; and if the violation is thereafter repeated, the Board shall have the authority, on behalf and at the expense of the Owner, to evict the tenant or occupant if the Owner fails to do so after Notice from the Board and an opportunity to be heard. The board shall have no liability to an Owner or tenant for any eviction made in good faith. The Association shall have a lien against the Owner's Residential Unit for any costs incurred by it in connection with such eviction, including reasonable attorney's fees, which may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed under Section 16. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise rent his/her Residential Unit.

11.18 Maintenance of View. Trees and vegetation planted in the Common Elements shall be pruned by the Association in a manner to preserve as much view as possible from each of the Units.

11.19 Timesharing. Timesharing, as defined in the Washington Timeshare Act, is prohibited.

11.20 Television, Cable, Etc. Subject to applicable law and the enforceable provisions of contracts, no television cables, no aerial, satellite dish or antennae shall be place or erected up any Unit, Common or Limited Common Element or affixed in any manner to the exterior of any



building or structure on the property unless expressly authorized by the Board. Satellite dishes may be installed subject to the approval of the Association concerning location and appearance.

SECTION 12 COMMON EXPENSES AND ASSESSMENTS

12.1 Estimated Expenses. Within sixty (60) days prior to the beginning of each calendar year, or such other fiscal year as the Board may adopt, the Board: shall estimate the charges including Common Expenses, and any special charges for particular Units to be paid during such year; shall make provision for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for maintenance, repair, replacement and acquisition of Common Elements; and shall take into account any expected income and any surplus available from the prior year's operating fund. Without limiting the generality of the foregoing but in furtherance thereof, the Board shall create and maintain from regular monthly Assessments a reserve fund for replacement of those Common Elements which can reasonably be expected to require replacement or a major repair prior to the end of the useful life of the Buildings. The Board shall calculate the contributions to said reserve fund so that there are sufficient funds therein to replace, or perform such major repair, to each Common Element covered by the fund at the end of the estimated useful life of each such Common Element. The initial Board, whether elected by Declarant or elected by Unit Owners, may at any suitable time establish the first such estimate. If the sum estimated and budgeted at any time proves inadequate for any reason (including non-payment for any reason of any Owner's Assessment), the Board may at any time levy a further Assessment, which shall be assessed to the Owners according to Section 12.4. Similarly, if the sum estimated and budgeted, and being collected and/or already collected, at any time proves excessive, the Board may reduce the amount being assessed and/or apply existing funds (in excess of current needs and required reserves) against future Assessments and/or refund such excess funds.

12.2 Payment by Owners. Each Owner shall be obligated to pay its share of Common Expenses and special charges made pursuant to this Section to the treasurer for the Association in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board shall designate. No Owner may exempt himself from liability for payment of assessments for any reason, including waiver of use or enjoyment of any of the Common Elements or abandonment of the Owner's Unit.

12.3 Commencement of Assessments. The Declarant in the exercise of its reasonable discretion shall determine when the Association shall commence making Assessments; provided, that in all events Assessments shall commence on a date within 60 days of the date on which seventy-five percent (75%) of the Units which may be created have been conveyed to Owners (other than Declarant or an Affiliate of Declarant). Until the Association makes an Assessment, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments must be made against all Units, based on a budget adopted by the Association; provided, until a date within 60 days after the date on which seventy-five percent (75%) of the Units which may be created have been conveyed to Owners (other than Declarant or an Affiliate of Declarant):

- (a) the Board (whether elected by Declarant or elected by Unit Owners) may elect not to



collect monthly assessments calculated as provided in Section 12.1 and instead elect to collect and expend monthly assessments based on the actual costs of maintaining, repairing, operating and insuring the Common Areas; or

(b) the Declarant may elect to pay all of certain of such actual costs and have Unit Owners pay a pro-rata share (based on each Unit's Allocated Interest) of the remainder of such costs.

12.4 Allocated Liability. Except for Assessments under Sections 12.5, 12.6, 12.7 and 12.8, all Common Expenses must be assessed against all the Units in accordance with the Allocated Interests set forth in Exhibit B. Any past due Common Expense Assessment or installment thereof bears interest at the rate established by the Association pursuant to Section 12.12.12.

12.5 Limited Common Element. Any Common Expense associated with the operation, maintenance, repair, or replacement of a Limited Common Element shall be paid by the Owner of or assessed against the Units to which that Limited Common Element is assigned, equally.

12.6 Only Some Units Benefited. The Board may elect that any Common Expense or portion thereof benefiting fewer than all of the Units must be assessed exclusively against the Units benefited.

12.7 Insurance Costs. The Board may elect that the costs of insurance must be assessed in proportion to risk.

12.8 Utility Costs. The Board may elect that the costs of utilities must be assessed in proportion to usage.

12.9 Assessments for Judgment. Assessments to pay a judgment against the Association pursuant to RCW 64.34.368(1) may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their Allocated Common Expense Liabilities at the time the judgment was entered.

12.10 Owner Misconduct. To the extent that any Common Expense is caused by the misconduct of any Unit Owner, the Association shall assess that expense against the Owner's Unit.

12.11 Reallocation. If Common Expense Liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liabilities.

12.12 Lien For Assessments

12.12.1 Lien. The Association has a lien on a Unit for any unpaid Assessments levied against a Unit from the time the Assessment is due.

12.12.2 Priority. A lien under Section 12.12 shall be prior to all other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded before the recording of the Declaration; (b) a Mortgage on the Unit recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other



governmental assessments or charges against the Unit.

12.12.3 Mortgage Priority. Except as provided in Sections 12.12.4 and 12.12.5, the lien shall also be prior to the Mortgages described in Section 12.12.2(b) to the extent of Assessments for Common Expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the Association pursuant to Section 12.1, which would have become due during the six months immediately preceding the date of the sheriff's sale in an action for judicial foreclosure by either the Association or a Mortgagee, the date of a trustee's sale in a non-judicial foreclosure by a Mortgagee, or the date of recording of the Declaration of forfeiture in a proceeding by the vendor under a real estate contract.

12.12.4 Mortgage Notice. The priority of the Association's lien against Units encumbered by a Mortgage held by an Eligible Mortgagee or by a Mortgagee which has given the Association a written request for a notice of delinquent Assessments shall be reduced by up to three months if and to the extent that the lien priority under Section 12.12.3 includes delinquencies which relate to a period after such holder becomes an Eligible Mortgagee or has given such request for notice and before the Association gives the holder a written notice of the delinquency. This Section does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other Assessments made by the Association.

12.12.5 Recording as Notice. Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for Assessment under this section shall be required to perfect the Association's lien, the Association may record a notice of claim of lien for Assessments under this Section in the real property records of any county in which the Condominium is located. Such recording shall not constitute the written notice of delinquency to a Mortgagee referred to in Section 12.12.3.

12.12.6 Limitation on Action. A lien for unpaid Assessments and the personal liability for payment of Assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the Assessments sought to be recovered becomes due.

12.12.7 Foreclosure. The lien arising under Section 12.12 may be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW. The Association or its authorized representative shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this Section shall prohibit an Association from taking a deed in lieu of foreclosure.

12.12.8 Receiver. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Unit that is not occupied by the Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Unit as and when due. If the rental is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Unit, then to applicable charges, then to costs, fees, and charges of



the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this section, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

12.12.9 Mortgagee Liability. Except as provided in Section 12.12.3, the holder of a Mortgage or other Purchaser of a Unit who obtains the right of possession of the Unit through foreclosure shall not be liable for Assessments or installments thereof that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the Unit Owners, including such Mortgagee or other purchaser of the Unit. Foreclosure of a Mortgage does not relieve the prior Owner of personal liability for Assessments accruing against the Unit prior to the date of such sale as provided in this Section.

12.12.10 Lien Survives Sale. The lien arising under Section 12.12 shall not be affected by the sale or transfer of the subject Unit except in the event of sale through foreclosure, as provided in Section 12.12.9.

12.12.11 Owner Liability. In addition to constituting a lien on the Unit, each Assessment shall be the joint and several obligation of the Owner or Owners of the Unit to which the same are assessed as of the time the Assessment is due. In a voluntary conveyance the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter 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 therefor. 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.

12.12.12 Late Charges. The Association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent Assessments or installments thereof. In the absence of another established nonusurious rate, delinquent Assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

12.12.13 Attorney's Fees. The prevailing party shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

12.12.14 Assessment Certificate. The Association, 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, and every Unit Owner, unless and to the extent known by the recipient to be false.

12.13 Acceleration of Assessments. In the event any monthly Assessment or special charge attributable to a particular Unit remains delinquent for more than sixty (60) days, the Board may, upon fifteen (15) days' written notice to the Owner of such Unit, accelerate and
Declaration



demand immediate payment of all, or such portion as the Board determines, of the monthly Assessments and special charges which the Board reasonably determines will become due during the next succeeding twelve (12) months with respect to such Unit.

12.14 Delinquent Assessment Deposit; Working Capital

12.14.1 Delinquent Assessment Deposit.

(a) A Unit Owner may be required by the Board or by the Manager, from time to time, to make, and maintain a deposit of not less than one (1) month's nor in excess of three (3) month's estimated monthly Assessment and charges, which may be collected as are other Assessments and charges. Such deposit shall be held in a separate fund, be credited to the Unit owned by such Owner, and be for the purpose of establishing a reserve for delinquent Assessments.

(b) Resort may be had thereto at any time when such Owner is ten (10) days or more delinquent in paying his monthly or other Assessments and charges. Said deposits shall not be considered as advance payments of regular Assessments. In the event the Board should draw upon said deposit as a result of a Unit Owner's delinquency in payment of any Assessments, said Owner shall continue to be responsible for the immediate and full payment of said delinquent Assessment (and all penalties and costs thereon) and thus the full restoration of said deposit, and the Board shall continue to have all of the rights and remedies for enforcing such Assessment payment and deposit restoration as provided by this Declaration and by law.

(c) Upon the sale of a Unit, the seller/Owner thereof shall not be entitled to a refund from the Association of any deposit or reserve account made or maintained with respect to such Unit pursuant to this or any other Section of this Declaration; rather, any such deposit or reserve account shall continue to be held by the Association for the credit of such Unit, and the Unit Purchaser shall succeed to the benefit thereof, and the Unit seller shall be responsible for obtaining from the Purchaser appropriate compensation therefor.

12.14.2 Working Capital Contribution. The first Purchaser of any Unit shall pay to the Association, in addition to other amounts due, an amount equal to three (3) months of monthly Assessments as a contribution to the Association's working capital. Such working capital contributions shall not be used to defray Declarant's expenses in completing the construction of the Condominium, to pay Declarant's contributions to Association reserves or to make up any deficits in the budget of the Association. Upon the election of the first Board by Unit Owners other than Declarant, Declarant shall pay to the Association as a working capital contribution an amount equal to three (3) months of monthly Assessments for each of the Units then owned by Declarant. When a Unit owned by Declarant is sold, Declarant may apply funds collected at closing from the Purchaser to reimburse itself for funds paid to the Association for such contribution with respect to that Unit.

**S E C T I O N 13
INSURANCE**

13.1 In General. Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:



13.1.1 Property insurance on the Condominium, which may, but need not, include equipment, improvements, and betterments in a Unit installed by the Declarant or the Unit Owners, insuring against all risks of direct physical loss commonly insured against. The total amount of insurance after application of any deductibles shall not be less than one hundred percent of the actual replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

13.1.2 Liability insurance, including medical payments insurance, in an amount determined by the Board but not less than One Million Dollars, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements.

13.1.3 Workmen's compensation insurance to the extent required by applicable laws.

13.1.4 Fidelity bonds naming the members of the Board, the Manager and its employees and such other persons as may be designated by the Board as principals and the Association as obligee, in at least an amount equal to three months aggregate Assessments for all Units plus reserves, in the custody of the Association or Manager at any given time during the term of each bond. Such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definitions of "employee" or similar expression.

13.1.5 Insurance against loss of personal property of the Association by fire, theft and other losses with deductible provisions as the Board deems advisable.

13.1.6 Such other insurance (including directors and officers liability) as the Board deems advisable; provided, that notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Veteran's Administration, or other governmental or quasi-governmental agencies involved in the secondary mortgage market, so long as any such agency is a Mortgagee or Owner of a Unit within the project, except to the extent such coverage is not available or has been waived in writing by such agency.

13.2 Coverage Not Available. If the insurance described in Section 13.1 is not reasonably available, or is modified, canceled, or not renewed, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by first class United States mail to all Unit Owners, to each Eligible Mortgagee, and to each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. The Association in any event may carry any other insurance it deems appropriate to protect the Association or the Unit Owners.

13.3 Required Provisions. Insurance policies carried pursuant to this Section shall:

13.3.1 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;



13.3.2 Provide that the insurer waives its right to subrogation under the policy as to any and all claims against the Association, the Owner of any Unit and/or their respective agents, employees or tenants, and members of their household, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured;

13.3.3 Provide that no act or omission by any Unit Owner, unless acting within the scope of the Owner's authority on behalf of the Association, nor any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no direct control, will void the policy or be a condition to recovery under the policy;

13.3.4 Provide that if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance, and that the liability of the insurer there under shall not be affected by, and the insurer shall not claim any right of set-off, counterclaims, apportionment, proration, contribution or assessment by reason of, any other insurance obtained by or for any Unit Owner or any Mortgagee;

13.3.5 Provide that, despite any provision giving the insurer the right to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association, or when in conflict with the provisions of any insurance trust agreement to which the Association is a party, or any requirement of law;

13.3.6 Contain no provision (other than insurance conditions) which will prevent Mortgagees from collecting insurance proceeds; and

13.3.7 Contain, if available, an agreed amount and Inflation Guard Endorsement.

13.4 Claims Adjustment. Any loss covered by the property insurance under this Section must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a Mortgage. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lien holders as their interests may appear. Subject to the provisions of Section 14, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Condominium is terminated.

13.5 Owner's Additional Insurance. An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for the Owner's own benefit.

13.6 Certificate. An insurer that has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner or holder of a Mortgage. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of Chapter 48.18 RCW pertaining to the cancellation or nonrenewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy, or cancel or refuse to renew the policy, without complying with the requirements of the Act.



13.7 Notification on Sale of Unit. Promptly upon the conveyance of a Unit, the new Unit Owner shall notify the Association of the date of the conveyance and the Unit Owner's name and address. The Association shall notify each insurance company that has issued an insurance policy to the Association for the benefit of the Owners under Section 13 of the name and address of the new Owner and request that the new Owner be made a named insured under such policy.

SECTION 14 DAMAGE OR DESTRUCTION; RECONSTRUCTION

14.1 Definitions; Significant Damage; Repair; Emergency Work.

14.1.1 As used in this Section, the term "Significant Damage" means damage or destruction, whether or not caused by casualty, to any part of the Property which the Board is responsible to maintain or repair: (a) for which funds are not available in the maintenance and repair or contingency budget of the Association to make timely repairs; and (b) which has a significant adverse impact on the habitability of any Unit or the ability of an Owner or Owners to use the Property or any significant portion of the Property for its intended purpose.

14.1.2 As used in this Section, the term "Repair" means to repair, reconstruct, rebuild or restore the Building or improvements which suffered Significant Damage to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and the Common and Limited Common Elements having substantially the same vertical and horizontal boundaries as before. Modifications to conform to then applicable governmental rules and regulations or available means of construction may be made.

14.1.3 As used in this Section, the term "Emergency Work" shall mean that work which the Board deems reasonably necessary to avoid further damage, destruction or substantial diminution in value to the improvements and to reasonably protect the Owners from liability arising out of the condition of the Property.

14.2 Initial Board Determinations. In the event of Significant Damage to any part of the Condominium, the Board shall promptly, and in all events within thirty (30) days after the date of Significant Damage, or, if the Significant Damage did not occur at a particular identifiable time, after the date of its discovery, make the following determinations with respect thereto employing such advice as the Board deems advisable:

14.2.1 The nature and extent of the Significant Damage, together with an inventory of the improvements and property directly affected thereby.

14.2.2 A reasonably reliable estimate of the cost to Repair the Significant Damage, which estimate shall, if reasonably practicable, be based upon a firm bid obtained from a responsible contractor.

14.2.3 The anticipated insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.

14.2.4 The amount, if any, that the estimated cost of Repair exceeds the anticipated insurance proceeds therefor and the amount of Assessment to each Unit if such excess was paid as



a Common Expense and specially assessed against all the Units in proportion to their Allocated Interest in the Common Elements.

14.2.5 The Board's recommendation as to whether such Significant Damage should be Repaired.

14.3 Notice of Damage or Destruction. The Board shall promptly, and in all events within thirty (30) days after the date of Significant Damage, provide each Owner, and each first Mortgagee with a written notice summarizing the initial Board determination made under Section 14.2. If the Board fails to do so within said thirty (30) days, then any Owner or Mortgagee may make the determination required under Section 14.2 and give the notice required under this Section.

14.4 General Provisions.

14.4.1 Duty to Restore. Any portion of the Condominium for which insurance is required under this Section which is Significantly Damaged shall be Repaired promptly by the Association unless: (a) the Condominium is terminated; (b) Repair would be illegal under any state or local health or safety statute or ordinance; or (c) eighty percent of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element which will not be Repaired, vote not to Repair. Even if the Significant Damage is not to be Repaired, the Board shall still have authority to perform Emergency Work. The cost of Repair in excess of insurance proceeds and reserves is a Common Expense.

14.4.2 Damage not Restored. If all or any portion of the damaged portions of the Condominium are not Repaired (regardless of whether such damage is Significant): (a) 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; (b) the insurance proceeds attributable to Units and Limited Common Elements which are not Repaired 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 (c) the remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to the Common Element interests of all the Units.

14.4.3 Reallocation. If the Unit Owners vote not to Repair any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned under Section 15, and the Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations.

14.5 Restoration by Board

If the damage (regardless of whether such damage is Significant) is to be Repaired pursuant to Section 14.4, then:

14.5.1 Contract and Contractors. The Board shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors and others, and to take such other action as is reasonably necessary to effectuate the Repair and Restoration. Contracts for such repair and restoration shall be awarded when the Board, by means of insurance proceeds and sufficient Assessments, has provision for the cost thereof. The Board may further authorize the insurance carrier to proceed with Repair upon satisfaction of the Board



that such work will be appropriately carried out.

14.5.2 Insurance Trustee. The Board may enter into a written agreement in recordable form with any reputable financial institution or trust or escrow company that such firm or institution shall act as an insurance trustee to adjust and settle any claim for a loss in excess of Fifty Thousand Dollars (\$50,000), or for such firm or institution to collect the insurance proceeds and carry out the provisions of this Section.

14.6 Decision to Terminate. In the event of a decision to terminate the Condominium and not to Repair and Restore damage and destruction, the Board may nevertheless expend such of the insurance proceeds and funds of the Association as the Board deems reasonably necessary for Emergency Work (which Emergency Work may include but is not necessarily limited to removal of the damaged or destroyed buildings and clearing, filling and grading the real property), and the remaining funds, if any, and Property shall thereafter be held and distributed as provided in RCW 64.34.268.

S E C T I O N 1 5 C O N D E M N A T I O N

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

15.2 Partial Unit Condemnation. Except as provided in Section 15. 1, 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 Allocated 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.

15.3 Common Element Condemnation. If part of the Common Elements is acquired by condemnation the portion of the award attributable to the Common Elements taken shall be paid to the Owners based on their respective interests in the Common Elements. Any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

15.4 Recording of Judgment. The court judgment shall be recorded in every county in which any portion of the Condominium is located.



S E C T I O N 1 6 COMPLIANCE WITH DECLARATION

16.1 Enforcement. Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws and administrative rules and regulations passed hereunder, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to this Declaration, the Bylaws and administrative rules and regulations. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by the Board (acting through its officers on behalf of the Owners), or by the aggrieved Owner on his own against the party (including an Owner or the Association) failing to comply.

16.2 No Waiver of Strict Performance. The failure of the Board in any one or more instances to insist upon the strict performance of this Declaration, of the Bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board of any assessment from an Owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

S E C T I O N 1 7 LIMITATION OF LIABILITY

17.1 Liability for Utility Failure, Etc. Except to the extent covered by insurance obtained by the Board pursuant to Section 13, neither the Association nor the Board nor the Manager shall be liable for: any failure of any utility or other service to be obtained and paid for by the Board; or for injury or damage to person or property caused by the elements, or resulting from electricity, noise, smoke, water, rain (or other liquid), dust or sand which may leak or flow from outside or from any parts of the units, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other places; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

17.2 No Personal Liability. So long as a Board member, Association committee member, or Association officer has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by such person and such person's evaluation of such information, no such person (and no Association manager acting pursuant to the directions of the Board) shall be personally liable to any Owner, or other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence, including any discretionary decision, or failure to make a discretionary decision, by such person in such person's official capacity. Without limiting the generality of the foregoing, the term "discretionary decisions" shall include evaluating and deciding whether or not to act in response to reports, investigations or recommendations received by such person, and shall include deciding whether or not to commence, defend, continue, or settle lawsuits or arbitration/mediation or other legal proceedings involving the



Association or Condominium (or any part thereof). Provided, that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the Board pursuant to Section 13.

17.3 Indemnification of Board Members. Each Board member or Association committee member, or Association officer, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of being or having held such position at the time such expenses or liabilities are incurred, except in such cases wherein such person is adjudged guilty of willful or intentional misconduct, a knowing violation of the law in the performance of his duties and except in such cases where such person has participated in a transaction from which said person will personally receive a benefit in money, property or services to which said person is not legally entitled. Provided, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association. The Association and each Owner shall defend, indemnify and hold Declarant harmless from any claim, expense or liability based on the failure of the Association or such Owner to comply with applicable duties and obligations under: the Declaration, Association Articles or Bylaws, or Association rules and regulations; or under any warranty obtained or issued by Declarant; or under applicable law.

17.4 Legal Proceedings. The rights, powers, benefits, duties and obligations granted to and imposed upon parties subject to this Declaration (including without limitation the Declarant, Owners, Association, Board and Officers) shall not be restricted, diminished, or otherwise modified by threatened or pending legal proceedings (including without limitation litigation, administrative, mediation, or arbitration), which proceedings involve one or more of such parties.

S E C T I O N 1 8 MORTGAGEE PROTECTION

18.1 Change in Manager. In the event that professional management is employed by the Association, at least sixty (60) days notice of any contemplated change in the professional manager shall be given to any Eligible Mortgagee. The Association shall not elect to terminate professional management and assume self-management without the prior written approval of sixty-seven percent (67%) of the Owners and fifty-one percent (51%) of all Eligible Mortgagees; provided that such prior consent shall not be required to change from one professional manager to another professional manager.

18.2 Abandonment of Condominium Status. Except when acting pursuant to the provisions of the Act involving damage, destruction, or condemnation, the Association shall not: without prior written approval of sixty-seven percent (67%) of all Eligible Mortgagees and sixty-seven percent (67%) of the Owners of record of the Units, seek by act or omission to: abandon or terminate the condominium status of the project; or abandon, encumber, sell or transfer any of the Common Elements.

18.3 Partitions and Subdivision. The Association shall not combine nor subdivide any Unit or the appurtenant Limited Common Elements, nor abandon, partition, subdivide,
Declaration



encumber or sell any Common Elements, or accept any proposal so to do, without the prior written approval of fifty-one percent (51%) of all Eligible Mortgagees and sixty-seven percent (67%) of Owners of record of the Units, and without unanimous approval of the Eligible Mortgagee(s) and Owner(s) of the Unit(s), so affected.

18.4 Change in Percentages. The Association shall not make any Material Amendment (as defined in Section 21.7) to this Declaration or Bylaws (including changes in the percentages of interest in the Common Elements) without the prior written approval of fifty-one percent (51 %) of all Eligible Mortgagees and sixty-seven percent (67%) of all Owners of record of the Units, and without unanimous approval of the Eligible Mortgagee(s) and Owner(s) of the Unit(s) for which the percentage(s) would be changed.

18.5 Copies of Notices. A Mortgagee of a Unit (and any insurer or guarantor of such Mortgage) shall be entitled to receive timely written notice: (a) that the Owner/Mortgagor of the Unit has for more than sixty (60) days failed to meet any obligation under the Condominium documents; (b) of all meetings of the Association and be permitted to designate a representative to attend all such meetings; (c) of any condemnation loss or casualty loss affecting a material portion of the Property or the Unit on which it holds a Mortgage; (d) of any lapse, cancellation or material modification of insurance policies or fidelity bonds maintained by the Association; and (e) of any proposed action that requires the consent of a specified percentage of Mortgagees. To be entitled to receive notices under this Section 18.5, the Mortgagee (or Mortgage insurer or guarantor) must send a written request to the Association stating both its name and address and the Unit number or address of the Unit on which it has (or insures or guaranties) the Mortgage.

18.6 Effect of Declaration Amendments. No amendment of this Declaration shall be effective to modify change, limit or alter the rights expressly conferred upon Mortgagees in this instrument with respect to any unsatisfied Mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such Mortgage. Any provision of this Declaration conferring rights upon Mortgagees which is inconsistent with any other provision of said Declaration or the Bylaws shall control over such other inconsistent provisions.

18.7 Insurance

18.7.1 Board Duties. With respect to a first Mortgagee of a Unit, the Board shall:

(a) Cause any insurance carrier to include in the insurance policy a standard mortgage clause, naming any mortgagee who makes written request to the Board to be so named;

(b) Furnish any such Mortgagee with a copy of any insurance policy or evidence thereof which is intended to cover the Unit on which such Mortgagee has a lien;

(c) Require any insurance carrier to give the Board and any and all insured (including such Mortgagees) at least thirty (30) days' written notice before canceling, reducing the coverage or limits, or otherwise substantially modifying any insurance with respect to the Property on which the Mortgagee has a lien (including cancellation for a premium non-payment);

(d) Not make any settlement of any insurance claims for loss or damage to any such Unit, Common or Limited Common Element exceeding Five Thousand Dollars (\$5,000)



without the approval of such Mortgagee; provided, that the withholding of such approval shall not be unreasonable or in conflict with the provisions of Section 14;

(e) Give such Mortgagee written notice of any loss or taking affecting Common Elements, if such loss or taking exceeds Ten Thousand Dollars (\$10,000);

(f) Give such Mortgagee written notice of any loss, damage or taking affecting any Unit or Limited Common Elements in which it has an interest, if such loss, damage or taking exceeds One Thousand Dollars (\$1,000);

18.7.2 Additional Policy Provisions. In addition, the insurance policy acquired shall:

(a) Provide that any reference to a Mortgagee in such policy shall mean and include any holders of Mortgages of any Unit or Unit lease, in their respective order and preference, whether or not named therein;

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

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

18.8 Inspection of Books. Declarant (and Declarant's agents), Owners, Mortgagees, insurers and guarantors of any Mortgage on any Unit shall be entitled: to inspect and copy at all reasonable hours of weekdays (or under other reasonable circumstances) all of the Books and Records of the Association (as defined in Section 1.8), within a reasonable time following request; and, upon written request of any holder, insurer or guarantor of a first Mortgage at no cost to the party so requesting (or if this project contains fewer than fifty (50) Units, upon the written request of the holders of fifty-one percent (51 %) or more of first Mortgages at their expense if an audited statement is not otherwise available), to receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association.

**S E C T I O N 19
EASEMENTS**

19.1 General. It is intended that in addition to rights under the Act, each Unit has an easement in and through each other Unit and the Common and Limited Common Elements for all support elements and utility, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of this Condominium plan. Without limiting the generality of the foregoing, each Unit and all Common and Limited Common Element is specifically subject to an easement for the benefit of each of the other Units in the Condominium for all duct work for the several Units, and for heating, ventilation, air conditioning and fireplaces and associated flues or chimneys. In addition, each Unit and all the Common and Limited Common Elements is specifically subject to easements as required for the intercom, security and electrical entry system, if any, for the electrical wiring and plumbing, for the air conditioning lines and equipment, if any, for each Unit, for the vacuum system roughed-in each Unit, if any, and for the master antenna cable system, if any. Finally,



each Unit as it is constructed is granted an easement to which each other Unit and all Common and Limited Common Element is subject to the location and maintenance of all the original equipment and facilities and utilities for such Unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for Common Elements reserved by law.

19.2 Utility, Etc., Easements. The Board, (and the Declarant during the period of Declarant Control) on behalf of the Association and all members thereof, shall have authority to grant utility, road and similar easements, licenses and permits under, through or over the Common Elements, which easements the Board determines are reasonably necessary to the ongoing development and operation of the Property.

19.3 Association Functions. There is hereby reserved to the Association, or their duly authorized agents and representatives, such easements and rights of access over, across, under or into the Condominium (and any part thereof) as are necessary, for repairs, maintenance or replacement and/or to perform the rights, duties and obligations of the Association as are set forth, provided for or authorized in: this Declaration; or in the Articles, Bylaws or Association Rules.

19.4 Declarant Functions. There is hereby reserved to the Declarant and its duly authorized agents, employees, contractors and representatives, such easements and rights of access over, across, under or into the Condominium (and any part thereof) as are necessary, for repairs, maintenance or replacement and/or to perform the rights, duties and obligations of the Declarant as are set forth, provided for or authorized in: this Declaration; Survey Map and Plans; Articles, Bylaws, or Association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a Unit Purchaser; any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law.

19.5 Encroachments. Each Unit and each Common and Limited Common Element is hereby declared to have an easement over all adjoining Units and Common and Limited Common Element, for the purpose of accommodating any encroachment due to engineering errors, or errors in original construction, reconstruction, repair of any portion of the Building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said Owner or Owners. In the event a Unit or Common or Limited Common Element is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Units and Common and Limited Common Elements shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any Unit. The provisions of this Section 19.4 are intended to supplement Sections 4.2 and RCW 64.32.252 and, in the event of any conflict, the provisions of Section 4.2 and RCW 64.34.252 shall control.



S E C T I O N 2 0
PROCEDURES FOR SUBDIVIDING OR COMBINING

20.1 Procedure. Subdivision and/or combining of any Unit or Units, are authorized as follows:

20. 1.1 Owner Proposal. Any Owner of any Unit or Units may propose any subdividing or combining of any Unit or Units, and appurtenant Common Elements or Limited Common Elements in writing, together with complete plans and specifications for accomplishing the same and a proposed amendment to this Declaration, the Survey Map and Plans covering such subdividing or combining, to the Board, which shall then notify all other Unit Owners of the requested subdivision or combination.

20.1.2 Owner/Mortgagee Approval. Upon written approval of such proposal by sixty-seven percent (67%) of the Owners and fifty-one percent (51%) of the Eligible Mortgagees, and of all Eligible Mortgagee(s) and Owner(s) of the Unit(s) to be combined or subdivided, the Owner(s) making the proposal may proceed according to such plans and specifications; provided that the Board may in its discretion (but it is not mandatory that the Board exercise this authority) require that the Board administer the work or that provisions for the protection of other Units or Common Elements or reasonable deadlines for completion of the work be inserted in the contracts for the work.

20.1.3 Survey Map and Plans. The changes in the Survey Map, if any, and the changes in the Plans and Declaration shall be placed of record as amendments to the Survey Map, Plans, and Declaration of Condominium in accordance with the provisions of Section 21.

20.1.4 Allocated Interests. The Allocated Interests formerly allocated to the subdivided Unit shall be reallocated to the new Units in any reasonable and equitable manner prescribed by that Owner of the subdivided Unit. The Allocated Interests of the new Unit resulting from a combination of Units shall be the aggregate of the Allocated Interests formerly allocated to the Units being combined.

S E C T I O N 2 1
AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

21.1 In General. Except in cases of amendments that may be executed by a Declarant (in the exercise of any Development Right), the Association (in connection with Sections 4.3 or 7.3.2, Sections 15 or 20, or termination of the Condominium), or certain Unit Owners (in connection with Section 4 or 7.3.2, or Section 20, or termination of the Condominium), and except as limited by Section 21.4, the Declaration, including the Survey Maps and Plans, may be amended only by vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated; provided, that the following Sections and Articles may be amended only by vote or agreement of Owners of Units to which one hundred percent (100%) of the votes in the Association are allocated, and only with the consent of the Declarant so long as any right, duty or obligation of the Declarant continues under the Declaration or any express or implied warranty, agreement or law: Sections 10.2.2(c), 10.4.1(d), 10.6.1, 10.10, 10.11, 10.12, 17.2, 17.3, 18.8, 19.4, 21.6 and 21.7, and Sections 23 and 24.



21.2 Challenge to Validity. No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one year after the amendment is recorded.

21.3 Recording. Every amendment to the Declaration must be recorded in every county in which any portion of the Condominium is located, 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. All amendments adding Units shall contain a cross-reference by recording number to the Survey Map and Plans relating to the added Units and set forth all information required by RCW 64.34.216(1).

21.4 General Limitations. Except to the extent expressly permitted or required by other provisions of the Act, no amendment may create or increase Special Declarant Rights, increase the number of Units, change the boundaries of any Unit, the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of the vote or agreement of the Owner of each Unit particularly affected and the Owners of Units to which at least ninety percent of the votes in the Association are allocated other than the Declarant.

21.5 Execution. Amendments to the Declaration required by the Act to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

21.6 Special Declarant/Development Rights. No amendment may restrict, eliminate, or otherwise modify any Special Declarant or Development Right, or any other right, power, benefit provided in the Declaration to Declarant (nor otherwise hinder the business activities or expectations of, or benefits provided hereunder to, the Declarant) without the consent of the Declarant and any Mortgagee of record (excluding Mortgagees of Units owned by persons other than the Declarant) with a security interest in the Special Declarant or Development Right or in any real property subject thereto.

21.7 Material Amendments. Any amendment (other than an amendment necessary to exercise a Special Declarant right) to a provision of this Declaration establishing, providing for, governing or regulating the following (all of which shall be deemed "Material Amendments") shall require the consent of fifty-one percent (51%) of the Eligible Mortgagees: voting rights; Assessments, Assessment liens, or the priority of Assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common or Limited Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property to or from the Condominium; insurance or fidelity bond; leasing of Units; imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; a decision by the Association to establish self-management when professional management had been required previously by the Condominium's documents or by an Eligible Mortgage holder; restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration; any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or any provisions that



expressly benefit Mortgage holders, insurers, or guarantors. A Mortgagee who fails to respond within sixty (60) days of a written request to approve an amendment shall be deemed to have approved the request if such request was delivered by certified or registered mail with a return receipt requested.

21.8 Map and Plans Amendment. Except as otherwise provided herein, the Survey Map and Plans may be amended by revised versions or revised portions thereof referred to and described as to effect in an amendment to this Declaration adopted as provided for herein. Copies of any such proposed amendment to the Survey Map and Plans shall be made available for the examination of every Owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the appropriate county office in conjunction with the Declaration amendment.

S E C T I O N 22 MISCELLANEOUS

22.1 Notices for All Purposes

22.1.1 Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws may be delivered either personally or by mail. If delivery is made by mail, any such notice shall be deemed to have been delivered twenty-four (24) hours after a copy has been deposited in the United States mail, postage prepaid, for first class mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board, in writing, for the purpose of service of such notice, or to the most recent address known to the Board. Notice to the Owner or Owners of any Unit shall be sufficient if mailed to the Unit of such person or persons if no other mailing address has been given to the Board by any of the persons so entitled. Mailing addresses may be changed from time to time by notice in writing to the Board. Notice to be given to the Board may be given to Declarant until the Board has been constituted and thereafter shall be given to the President or Secretary of the Board.

22.1.2 Mortgagee Notice. Upon written request therefor, and for a period specified in such notice, the Mortgagee of any Unit shall be entitled to be sent a copy of any notice respecting the Unit covered by its security instrument until the request is withdrawn or the security instrument discharged. Such written request may be renewed an unlimited number of times.

22.2 Mortgagee's Acceptance

22.2.1 Priority of Mortgage. This Declaration shall not initially be binding upon any Mortgagee of record at the time of recording of said Declaration but rather shall be subject and subordinate to said Mortgage.

22.2.2 Acceptance Upon First Conveyance. Unless otherwise expressly approved by the Purchaser of a Unit, Declarant shall not consummate the conveyance of title of such Unit until the Mortgagee referred to in 22.2.1 shall have accepted the provisions of this Declaration and made appropriate arrangements, in accordance with the Act, for partial release of Units with their appurtenant Limited Common Elements and Allocated Interest in Common Elements from the lien of said Mortgage. The issuance and recording of the first such partial release by



said Mortgagee shall constitute its acceptance of the provisions of this Declaration and the Condominium status of the Units remaining subject to its Mortgage as well as its acknowledgment that such appropriate arrangements for partial release of Units have been made; provided, that, except as to the Units (and their Allocated Interests in Common Elements) so released, said Mortgage shall remain in full effect as to the entire Property.

22.3 Severability. The provisions hereof shall be deemed independent and severable, and the validity or partial invalidity or enforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof if the remainder complies with the Act or as covenants effect the common plan.

22.4 Conveyances; Notice Required. The right of a Unit Owner to sell, transfer, or otherwise convey the Unit shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf. An owner intending to sell a Unit shall deliver a written notice to the Board, at least two (2) weeks before closing, specifying: the Unit to be sold; the name and address of the Purchaser, of the closing agent, and of the title insurance company insuring the Purchaser's interest; and the estimated closing date. The Board shall have the right to notify the Purchaser, the title insurance company, and the closing agent of the amount of unpaid assessments and charges outstanding against the Unit, whether or not such information is requested. It is understood, however, that a violation of this Section shall not invalidate a sale, transfer or other conveyance of a Unit which is otherwise valid under applicable law.

22.5 Transfer of Declarant's Powers. It is understood that Declarant, at any time in the exercise of its sole discretion, may sell, assign, transfer, encumber, or otherwise convey to any person, upon such terms and conditions as Declarant may determine, all of Declarant's rights, powers, privileges and authority arising hereunder by virtue of Declarant's capacity as Declarant (which rights, powers, privileges and authority are in addition to those arising from Declarant's ownership of one or more Units and include Development Rights and Special Declarant Rights).

22.6 Effective Date. This Declaration shall take effect upon recording.

22.7 Reference to Survey Map and Plans. The Survey Map and Plans of the Condominium referred to herein were filed with the Recorder/Auditor of the County in Washington where this project is located simultaneously with the recording of this Declaration under File No. 4249604.

22.8 Structural Component/Mechanical System Completion. Declarant certifies that the structural components and mechanical systems of all Buildings containing or comprising any Units hereby created are, or prior to closing the first sale of a Unit will be, substantially completed.

SECTION 23 SPECIAL DECLARANT RIGHTS DEVELOPMENT RIGHTS

23.1 Special Declarant Rights. As more particularly provided in this Section, Declarant, for itself and any successor Declarant, has reserved the following Special Declarant Rights:



23.1.1 Completion of Improvements. Declarant, its agents, employees, contractors and representatives shall have the right to complete, repair, replace or correct improvements and otherwise perform work as set forth, provided for or authorized in: this Declaration; Survey Map and Plans; Articles, Bylaws, or Association Rules; building or other governmental permits or approvals; and Purchase and Sale Agreement between Declarant and a Unit Purchaser; any express or implied warranty under which Declarant is obligated; or otherwise authorized or required by law. This Special Declarant Right shall continue so long as any right, duty or obligation of the Declarant continues under any express or implied warranty, agreement or law.

23.1.2 Sales Facilities of Declarant. Declarant, its agents, employees and contractors shall be permitted to establish and maintain in any Unit still owned by Declarant and in any of the Common Elements (other than Limited Common Elements assigned to Units not owned by Declarant), such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction, sale or rental of Units and appurtenant interests, including but not limited to: business offices; management offices; sales offices; construction offices; storage areas; signs; model units; and parking areas for all agents, employees, contractors, prospective tenants or purchasers of Declarant. Any such facilities not designated a Unit by the Declaration is a Common Element and, if Declarant ceases to be a Unit Owner, the Declarant ceases to have any rights with regard thereto unless it is removed promptly from the Condominium, which Declarant shall have the right to do. Declarant may maintain signs on the Common Elements advertising the Condominium. The provisions of this Section are subject to the provisions of other state law and to local ordinances. The number, size, location, and relocation of such facilities shall be determined from time to time by Declarant in the exercise of its sole discretion; provided, that the maintenance and use of such facilities shall not unreasonably interfere with a Unit Owner's use and enjoyment of: the Unit and appurtenant Limited Common Elements; and those portions of the Common Elements reasonably necessary to use and enjoy such Unit and Limited Common Elements.

23.1.3 Exercise of Development Rights. Declarant shall have the right to exercise Development Rights, if any, under this Declaration and the Act.

23.1.4 Combination with Larger Project. Declarant shall have the right to make the Condominium part of a larger condominium or development under RCW 64.34.276, and the Allocated Interests of Units shall be reallocated using the same formula as provided in either Exhibit B, B-1 and/or B-2.

23.1.5 Subject to Master Association. Declarant shall have the right to make the Condominium subject to a Master Association under RCW 64.34.276.

23.1.6 Subdivision. Declarant reserves the right to withdraw property subject to the right to withdraw from the Condominium. In addition Declarant if subdivision is required to remove the property, to plat the entire Condominium property in order to withdraw the property subject to the right of withdrawal. The existing Units created by this Declaration would be situated on one of the plat lots created. The remaining property in the condominium would be withdrawn from the provisions of this Declaration in accordance with the above provisions. Declarant upon its sole signature and without the consent of any other owners or their lenders being required and as an attorney-in-fact for all Unit Owners and their lenders with an irrevocable power coupled with an interest may apply for and sign preliminary plat



approval, the final plat documents and any other documents reasonably necessary to obtain plat approval. Provided that the Unit Owners shall incur no out of pocket expense related to the short plat. Each Unit Owner and their lenders in accepting title or security to a Unit waive any objection to a short plat of the property by Declarant. If any government agency or utility requires that a Unit Owner and/or their lender signs any document in order to plat the property then such owner and lender by accepting a deed or interest to or in a condominium Unit agrees to sign such documentation upon request.

23.1.6 Termination of Declarant Rights. Except as otherwise provided in this Declaration, the foregoing Special Declarant Rights shall continue so long as Declarant is completing improvements which are within or may be added to this Condominium, or Declarant owns any Units, or any Development Rights remain in effect; provided, that Declarant may voluntarily terminate any or all of such Rights at any time by recording an amendment to the Declaration, which amendment specifies which Right is thereby terminated.

23.2 Development Rights. As more particularly provided in this Section, the Declarant, for itself and any successor Declarant, has reserved the following Development Rights:

23.2.1 Subdivision and Combination. Declarant shall have the right to subdivide or combine Units (owned by Declarant) or convert Units (owned by Declarant) into Common Elements. Whenever Declarant exercises a Development Right to subdivide, combine or convert a Unit previously created into additional Units, Common Elements, or both:

(a) If Declarant converts the Unit entirely to Common Elements, the amendment to the Declaration must reallocate all the Allocated Interests of that Unit among the other Units as if that Unit had been taken by condemnation under Section 15.

(b) If Declarant subdivides the Unit into two or more Units, whether or not any part of the Unit is converted into Common Elements, the amendment to the Declaration must reallocate all the Allocated Interests of the Unit among the Units created by the subdivision in any reasonable and equitable manner prescribed by the Declarant.

(c) If Declarant combines two or more Units, the amendment to the Declaration must reallocate to the new Unit all of the Allocated Interests formerly allocated to the Units so combined.

Declarant further reserves the right to create additional Units on Tract A by the filing of a Declaration of Condominium and Survey Map and Plans upon Tract A as allowed by the City of Coupeville.

23.2.2 Boundaries of Limited Common Elements. Declarant shall have the right to establish, expand, contract or otherwise modify the boundaries of any Limited Common Element allocated to a Unit; provided, the prior consent will be required from the Owner of the Unit.

23.2.3 Different Parcels; Different Times

(a) Any Development Right may be exercised with respect to different parcels of Real Property at different times;



(b) No assurances are made as to final boundaries of such parcels or as to the order in which those parcels may be subjected to the exercise of each Development Right; and

(c) Even though a Development Right is exercised in any portion of the Real Property subject to that right, that right need not be exercised in all or in any other portion of the remainder of that Real Property.

23.2.4 Development in Phases

(a) Right to Phase. This Condominium will be developed and established in more than one (1) phase. This Declaration provides a description of: the land within all phases; the general Common and Limited Common Elements for all phases; and the Units for all phases. The Survey Map and Plans, filed simultaneously herewith, depict the surface of the land for all phases; the vertical and horizontal boundaries, the location of all such Units, and the number and dimensions of all such Units. Said Survey Map and Plans, or amendments thereto, shall show such data with respect to the remainder of phases. The provisions regarding all phases shall be effective immediately to establish Phase 1 (including the Phase 1 land and all Units, Buildings and other improvements constructed thereon) as a Condominium under the Act. The provisions regarding subsequent phases shall not be effective to establish subsequent phases (including the land and all Units, Buildings and other improvements constructed thereon) as a Condominium under the Act until Declarant records an amendment to the Declaration (and an amendment to the Survey Map and Plans, if necessary) pursuant to subsection 21.1. Prior to recording of the Declaration, the Declarant may elect to withhold from the Condominium, certain proposed phases, in which event the provisions concerning subsequent phases shall become applicable. Phases may be added in any order the Declarant selects.

(b) Declaration, Survey Map and Plans Amendments. For each subsequent phase following Phase 1, the Declarant shall execute and record an amendment to this Declaration stating that said subsequent phase (including the subsequent phase land, and all Units, Buildings and other improvements thereon) is established as a Condominium under the Act. From and after the recording of said amendment, all of the land within Phase 1 and within subsequent phases for which such an amendment has been recorded, together with all Units, Buildings and other improvements constructed thereon, shall constitute a single Condominium pursuant to the Act and the provisions of this Declaration. In conjunction with said amendment to the Declaration, an updated or revised Survey Map, or Plans, or both, shall be filed if the previous Map and Plans filed affecting or describing said subsequent phase lack required detail, certification or other matters required under the Act. The Declarant is the Unit Owner of any Units thereby created. The amendment to the Declaration shall assign an Identifying Number to each new Unit created, and reallocate the Allocated Interests among all Units. The amendment must 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 by RCW 64.34.228. Development Rights may be reserved within any real property added to the Condominium if the amendment adding that real property includes all matters required by RCW 64.34.216 or 64.34.220, as the case may be, and the Survey Map and Plans include all matters required by RCW 64.34.232. This provision does not extend the time limit on the exercise of Development Rights imposed by this Declaration. Phases may be added in any order selected by Declarant.



(c) Common Elements. All Common Elements for each phase will be utilized by Unit Owners of the next succeeding phase as it is established, and the additional Owners will, after the effective date of the subsequent phase, also share in the expenses of such Common Elements. Owners in a prior phase will utilize the Common Elements for the subsequent phases and also share in the expense thereof.

(d) Completion. Declarant shall complete subsequent phases in accordance with the plans and specifications prepared from time to time by or for Declarant and as approved from time to time by governmental authorities having jurisdiction thereof and by the lender or lenders financing the construction of subsequent phases. Improvements within subsequent phases will be reasonably consistent with improvements in prior phases in terms of quality of construction. Completion of subsequent phases will be pursued by Declarant as expeditiously as reasonably possible, subject to delays for reasons (including, but not limited to, financing availability, labor disputes, material shortages, and acts of God) reasonably beyond the control of Declarant. All improvements for subsequent phases shall be substantially completed before such phase is incorporated into the Condominium by amendment as provided in subsection 21.1.2(b) above.

(e) Allocated Interests. It is specifically covenanted that the Allocated Interests for Phase 1 are calculated with respect to the Units within Phase 1. At such time as additional phases are made effective by the filing of the above-described Declaration Amendment by Declarant, the Allocated Interests thereafter effective for all Units in Phase 1 and those added in each subsequent phase shall be reallocated as provided in Exhibit B attached hereto. The allocated interest shall be determined by the formula set forth in the Declaration.

(f) Assessments Based on Allocated Interests for Phases. All Assessments for the various phases shall utilize and be based on the Allocated Interests stated for that phase until the succeeding phase is activated and commenced. The Declarant or Board may upon the activation of any phase, based on the reallocation of Allocation Interests, recompute the budget and the Assessments, and impose the revised Assessments.

(g) Easements for Phased Development.

(i) In addition to the general easements reserved by statute and by reference in other sections of this Declaration, there is reserved a non-exclusive easement in favor of Declarant (and Declarant's heirs, successors, assigns and purchasers) over and across the Phase 1 land (and across the land hereafter described in Exhibit A, as hereafter amended, for any subsequently completed phase) for ingress and egress and over and across easements, roadways, and utility lines specified or established in and for completed phases, and the right to connect thereto is reserved. Such reservations are for the purpose either of completing subsequent phases, or otherwise developing portions of the land for other purposes if not completed as a Condominium phase.

(ii) The easements reserved under this Section shall entitle the Declarant (and Declarant's heirs, successors, assigns), for development of each successive phase of the Condominium, or for development and utilization of the lands to have been included in any phase if such lands are utilized for other purposes under the powers reserved to Declarant: to tie into water, sewer, storm sewer, electrical, gas, telephone or other utility



lines of all varieties; to connect with roadways or utility systems developed and emplaced in the completed phases of the Condominium; and, to the extent as owners and occupants within the Condominium, utilize any recreational facilities developed in completed phases of the Condominium.

(iii) Declarant shall bear the cost of tie-ins to said utilities and roads and will not connect with said utilities in a manner that impairs or significantly reduces the quality of the utility service to the land described in Exhibit A as Phase 1 and for the land in a subsequently completed phase; provided, that if said tie-ins cause an increase in the cost of delivering affected utility services to Phase 1 and for land in any subsequently completed phase, that cost shall be borne by the Declarant.

(iv) Any land which is not developed as a subsequent phase of the Condominium and which utilizes and benefits from the utility, roadway easements and recreational facility reserved to Declarant hereunder, shall pursuant to an irrevocable covenant running with the land be obligated to pay a pro rata share (based on relative number of living units) of the costs of subsequent repairs, maintenance and operation of said utilities, roadways and recreational facilities.

(v) Declarant (and Declarant's heirs, successors and assigns) shall have a non-exclusive easement to construct and maintain (at any time and at Declarant's sole cost and expense and in the exercise of Declarant's sole discretion and at such locations within Phase 1 and within any subsequently completed phases of the Condominium as Declarant may determine) such signs as Declarant may deem necessary for the identification of the name, location and direction, and for the sale or renting, of Buildings and Units, regardless of whether such Buildings and Units are located on land which is within a subsequent phase of the Condominium or on land which the Declarant under powers reserved hereunder has elected not to develop as a phase of the Condominium.

(h) Liens Arising in Connection with Phases. At the time the amendment incorporating a subsequent phase into the Condominium is made, no lien arising in connection with the Declarant's ownership of, and construction of improvements upon, the subsequent phase land will adversely affect the rights of existing Unit Owners or the priority of first Mortgages on Units in the existing Condominium Property. All taxes, assessments, mechanics liens, and other charges affecting a subsequent phase land will be paid or otherwise satisfactorily provided for by the Declarant.

(i) Withdrawal of Subsequent Phases. If, despite the good faith efforts of Declarant, and for reasons (including, but not limited to, financing availability, labor disputes, material shortages and acts of God) beyond the reasonable control of Declarant, all or any of the subsequent phases are not completed and/or the amendment(s) provided for in this Section is not recorded, then Declarant at any time may elect not to incorporate all or some of such subsequent phases into the subject Condominium project and elect not to record the amendments provided on in this Section. To effectuate the foregoing, Declarant, upon its sole signature and without further consent of any of the other Owners being required, may file such amendment to this Declaration and to the Survey Map and Plans as is necessary to withdraw the land within such subsequent phases (and improvements constructed thereon) from the provisions of this Declaration and to relinquish Declarant's rights under this Section. In the event Declarant should exercise its rights under this Section to withdraw the land within



such subsequent phases (and improvements thereon), from the provisions of this Declaration, or if the Declarant's right to add phases expires pursuant to Section 23.2 then: the phases in fact made a part of the Condominium shall thereafter continue to constitute a complete, fully operational Condominium; land within such subsequent phases (and improvements thereon) may be used for any other lawful purpose in Declarant's discretion; and the easements provided for in this Section (including without limitation Section 23.2 shall continue for the benefit of land within such subsequent phases and Declarant (and its heirs, successors and assigns) for the development and utilization of land within such subsequent phases.

(j) Limitation of Declarant's Rights.

(i) It is understood that the total project (if all phases are completed) shall include Condominium residential Units not exceeding those allowed under city codes, as they may be amended.

(ii) At the time of recording this Declaration, Declarant may not have acquired title to or an interest in the land for some or all of the land for phases subsequent to Phase 1. Declarant shall not be entitled to exercise its rights to include the land for phases subsequent to Phase 1 (and improvements thereon) as a part of this Condominium until such time as Declarant has acquired title to or an interest in the land necessary for such subsequent phase.

(iii) Notwithstanding any other provision of this Declaration, Declarant's right to add phases by amendments under this Section shall expire seven (7) years after initial Declaration recording.

(k) Exercise of Development Rights. The exercise of any development or Declarant right in the Declaration may be exercised upon the sole signature of Declarant, Successor or Assignee.

23.2.4 Exercise of Development Right. To exercise any Development Right reserved under Section 23.2, the Declarant shall prepare, execute, and record an amendment to the Declaration under Section 21 and comply with RCW 64.34.232.

23.2.5 Termination of Development Rights. Except as otherwise provided in this Declaration, the foregoing Development Rights shall continue so long as Declarant is completing improvements which are within or may be added to this Condominium, or Declarant owns any Units, or any Special Declarant Rights remain in effect; provided, that Declarant may voluntarily terminate any or all of such Rights at any time by recording an amendment to the Declaration, which amendment specifies which Right is thereby terminated.

23.3 Liability for Damage. The Declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the Condominium, of any portion of the Condominium damaged by the exercise of rights reserved by Declarant pursuant to or created by this Declaration or the Act.

23.4 Declarant's Easements. Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Special Declarant Rights or Development Rights, whether arising under the Act or



reserved in the Declaration.

SECTION 24 DISPUTE RESOLUTION

24.1 Policy - Mediation. The parties hope there will be no disputes arising out of their relationship. To that end, each commits to cooperate in good faith and to deal fairly in performing its duties under this Declaration in order to accomplish their mutual objectives and avoid disputes. But if a dispute arises, the parties agree to resolve all disputes by the following alternate dispute resolution process: (a) the parties will seek a fair and prompt negotiated resolution, but if this is not successful, (b) all disputes shall be resolved by binding arbitration, provided that during this process, (c) at the request of either party made not later than forty-five (45) days after the initial arbitration demand, the parties will attempt to resolve any dispute by nonbinding mediation (but without delaying the arbitration hearing date). The parties confirm that by agreeing to this alternate dispute resolution process, they intend to give up their right to have any dispute decided in court by a judge or jury.

24.2 Arbitration. All disputes not involving fees, assessments, or covered by insurance shall be resolved by arbitration. This includes disputes between the Association and Owners or the Association and Declarant, or Declarant and Owners. In the event of a dispute, the parties shall submit the names of two professional or business persons to form a list of potential arbitrators. Each party shall then remove one of the other party's choices from the list. The names of the two remaining individuals shall be placed in a container for drawing by a neutral person. The name drawn shall be the Arbitrator. Each party shall pay one half the cost of the arbitration. The procedure for arbitration shall be set by the Arbitrator or by agreement of the parties. This provision does not include construction defect claims, which have a different process for dispute resolution, provided for in RCW 64.34.

24.3 Warranty Dispute Resolution. In the event Declarant has issued a warranty of quality to the initial purchasers of Units, and such warranty contains provisions governing the making of claims and governing the resolution of disputes, then the provisions of such warranty shall control over the provisions of this Section 24 with respect to all express and implied warranty claims (including without limitation the Washington Condominium Act implied warranties) involving Units and Common Elements (regardless of whether the Unit Owner, Association or Board is asserting the claim).

SECTION 25 MANAGEMENT RIGHTS RETAINED BY DECLARANT

25.1 Transition Date. The "Transition Date" shall be the date upon which full authority and responsibility to administer and manage the Association and the condominium, subject to this declaration and the Bylaws, passes to the Association. The transition date will be the first to occur of the following: (a) sixty days after conveyance of seventy-five percent of the units which may be created to unit owners other than the Declarant; (b) two years after the last conveyance or transfer of record of a unit except as security for a debt; (c) five years after the first conveyance to a unit purchaser (other than Declarant); (d) two years after any development right to add new units was last exercised; or (e) the date upon which Declarant



records an amendment to the declaration pursuant to which he voluntarily surrenders the right to further appoint and remove officers and members of the Board. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of that period pursuant to (a), (b) and (c) of this section conditioned upon the requirement that for the duration of the period of Declarant control, that specified actions of the Association or Board as described in the recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

25.2 Declarant's Powers Until Transition Date. Until the Transition Date, Declarant or persons designated by Declarant shall have the full power and authority to appoint and remove the officers and members of the Board. The Board appointed by Declarant shall have the same authority as given the Board in Section 10 of this Declaration subject to the limitations in this Declaration and in the Act.

25.3 Limitations of Power of Board Appointed by Declarant.

25.3.1 Interim Election of Board Members. Not later than sixty days after conveyance of twenty-five percent of the units which may be created to unit owners other than Declarant, at least one member and not less than twenty five percent of the members of the Board will be elected by unit owners other than Declarant. Not later than sixty days after conveyance of fifty percent of the units, which may be created to unit owners other than Declarant, not less than thirty three and one-third percent of the members of the Board will be elected by unit owners other than Declarant.

25.3.2 Removal of Directors. The unit owners other than Declarant may remove by two-thirds vote any directors elected by the unit owners, but may not remove directors selected by Declarant. The Declarant may not remove any director duly elected by the unit owner.

25.3.3 Standard of Care. In performance of their duties on behalf of the association directors appointed or selected by Declarant are required to exercise the care required of fiduciaries of the unit owners.

25.3.4 Termination of Contracts. If entered into before the transition date, any contract, and/or any lease of recreational or parking elements or facilities or common elements may be terminated without penalty by the association at any time after the Board elected by the unit owners takes office upon not less than ninety days written notice to the other party or within such lesser period provided for without penalty in the contract or lease.

25.4 Transfer of Control to Association. Declarant will provide for and foster early participation of unit owners in the management of the condominium. After the transition date control of the association shall be transferred to the unit owners in accordance with the following guidelines:

25.4.1 Director Election. Within thirty (30) days after the transition date, the unit owners shall elect a board of directors of at least three members, at least a majority of which must be unit owners. The board of directors shall elect the officers. Such members of the board and officers shall take office upon election.



25.4.2 Transfer of Property and Records. Within sixty (60) days after the transition date the Declarant shall deliver to the association all property and records of unit owners and of the association held or controlled by the Declarant including but not limited to those items required to be delivered by RCW 64.34.312.

25.4.3 Audit of Association Records. Upon transfer of control to the association, the records of the association shall be audited as of the date of transfer by an independent certified public accountant in accordance with generally accepted auditing standards and the requirements of RCW 64.34.312(2) unless the unit owners, other than the Declarant, by two thirds vote elect to waive the audit. The cost of the audit shall be a common expense of the association.

DATED AS OF: April 23, 2009

DECLARANT: CASCADIAN HOLDINGS, a Washington Limited Liability Corporation

By: 
John P. Meehan
Its: Managing General Partner



**KRUEGER COMMONS CONDOMINIUMS
EXHIBIT A
TO THE DECLARATION**

1. Description of Real Property included in Condominium:

a. Legal Description of All Possible Phases:

Lot 3, Coupeville Short Plat No. 04/01.R13233-164-3100 as recorded December 21, 2004, in Volume 4 of Short Plats, Pages 68 and 69, under Auditor's File No. 4121169, records of Island County, Washington; being a portion of the J. Alexander Donation Land Claim, in Section 33, Township 32 North, Range 1 East of the Willamette Meridian.

Situate in the County of Island, State of Washington.

b. Legal Description for Phase 1

Units 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220 and 222 and Common Elements of Krueger Commons Condominiums pursuant to Declaration of Condominium.

c. Legal Description for Phase 2

Units 100, 102, 104 and 106 of Krueger Commons Condominiums pursuant to Declaration of Condominium.

d. Legal Description for Phase 3

Units 108, 110, 112 and 114 of Krueger Commons Condominiums pursuant to Declaration of Condominium.

2. Description of any Real Property which may be allocated subsequently by the Declarant as Limited Common Elements (other than Limited Common Elements specified in Sections 4.1.2 and 4.1.4):

See Paragraph 1 above.

3. Description of the Real Property to which any Development Right or Special Declarant Right applies: See Paragraph 1 above.

4. Moorage Slips: None.

5. Recreational Facilities: None.

6. Parking: (if all possible phases are included)

a. Uncovered	0
b. Covered	40
c. Enclosed	0
TOTAL	40

[All parking are Estimates only; Subject to change]



**Krueger Commons Condominiums
 Exhibit B to the Declaration**

Building	Unit Number	Floor Location	Unit Descriptions - Number of				Unit Square Footage **	Allocated Interests Phase 1	Allocated Interests Phase 1 & 2	Allocated Interests All Phases	Assigned Parking Spaces ****
			Bathrooms	Bedrooms	Fireplaces (gas)						
			Full								
D	200	*	2	3	0	1,644	1/12	1/16	1/20	2	
D	202	*	2	3	0	1,644	1/12	1/16	1/20	2	
D	204	*	2	3	0	1,644	1/12	1/16	1/20	2	
D	206	*	2	3	0	1,644	1/12	1/16	1/20	2	
E	208	*	2	3	0	1,644	1/12	1/16	1/20	2	
E	210	*	2	3	0	1,644	1/12	1/16	1/20	2	
E	212	*	2	3	0	1,644	1/12	1/16	1/20	2	



E	214	*	2	3	0	1,644	1/12	1/16	1/20	2
A	216	*	2	3	0	1,644	1/12	1/16	1/20	2
A	218	*	2	3	0	1,644	1/12	1/16	1/20	2
A	220	*	2	3	0	1,644	1/12	1/16	1/20	2
A	222	*	2	3	0	1,644	1/12	1/16	1/20	2
Phase 2										
C	100	*	2	3	0	1,644	n/a	1/16	1/20	2
C	102	*	2	3	0	1,644	n/a	1/16	1/20	2
C	104	*	2	3	0	1,644	n/a	1/16	1/20	2
C	106	*	2	3	0	1,644	n/a	1/16	1/20	2



Phase 3										
B	108	*	2	3	0	1,644	n/a	n/a	1/20	2
B	110	*	2	3	0	1,644	n/a	n/a	1/20	2
B	112	*	2	3	0	1,644	n/a	n/a	1/20	2
B	114	*	2	3	0	1,644	n/a	n/a	1/20	2
	Total								100%	

* **Not Applicable:** Each Unit is a two story townhome.

** **The Square Footage** of the unit is based upon the surveyor's as-built survey and is based on the perimeter boundaries of the interior surfaces of the Unit at floor level as shown on the Survey Map & Plan. The square footage is an approximation, and includes the storage areas on the first floor.

*** **Allocated Interest** of a Unit in Common Elements, Common Expenses and Association Votes was determined in accordance with the formula established in Section 5.2. When additional phases are added the Allocated Interests shall be determined by the same formula.

**** **Parking.** Each Unit has a two car garage. There are no assigned parking spaces outside the garages.
 There are no moorage slips or recreational facilities.



CONDOMINIUM DECLARATION INSTRUCTIONS

You must review the Declaration to make sure all information is accurate.

Then it is best to take it to your title company to review. They may be willing to take the document for recording as described below.

Please have the original Declaration and Map recorded with the County Auditor. This must be recorded simultaneously with the Survey Map and Plans for the Condominium. Each must be cross referenced at the time of recording.

You need to provide me with the recording numbers for the Declaration and for the Survey Map & Plans. When the Survey Map is recorded you will need to fill in the recording number in Section 22.7 on page 45 of the Declaration.

You will also need to take the original Condominium Name Reservation document to the county Auditor if the surveyor has reserved the name. Obtain this from the surveyor.

If possible, get a conformed copy of the Declaration from the county at the time of recording.

If you have any questions, don't hesitate to call my office at (425) 712-3107.

Randy M. Boyer

RANDY M. BOYER, INC.

PROFESSIONAL SERVICE CORPORATION

A T T O R N E Y

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