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AMENDMENT TO DECLARATION OF CONDO  
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KING COUNTY, WA

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**AMENDED AND RESTATED DECLARATION FOR  
ASHBURY, A CONDOMINIUM**

GRANTOR(S): ASHBURY, A CONDOMINIUM OWNERS ASSOCIATION

GRANTEE(S): ASHBURY, A CONDOMINIUM

LEGAL DESCRIPTION: ASHBURY, A CONDOMINIUM, ACCORDING TO THE DECLARATION RECORDED UNDER RECORDING NO. 20000302001184, AND AMENDMENTS THERETO, AND SURVEY MAP AND PLANS RECORDED UNDER RECORDING NO. 20000218000263 IN VOLUME 161 OF CONDOMINIUMS, ON PAGES 88 THROUGH 95, INCLUSIVE, AND ANY AMENDMENTS THERETO, RECORDS OF KING COUNTY, WASHINGTON.

ASSESSOR'S PROPERTY TAX PARCEL NO.: 029090-0000 (MASTER)

REFERENCE NUMBER: 20000302001184



DEPARTMENT OF ASSESSMENTS

Examined and approved this 21<sup>st</sup> day of

January, 2020

John Wilson

Assessor

David Kissinger  
Deputy Assessor

**AMENDED AND RESTATED DECLARATION AND COVENANTS,  
CONDITIONS, RESTRICTIONS, AND RESERVATIONS FOR  
ASHBURY, A CONDOMINIUM**

**RECITALS**

The Declaration and Covenants, Conditions, Restrictions and Reservations for Ashbury, a Condominium (the "Original Declaration") was recorded on March 2<sup>nd</sup>, 2000 under King County recording no. 20000302001184, along with the Survey Map and Plans recorded on February 18<sup>th</sup>, 2000 under King County recording no. 20000218000263.

The Declaration was previously amended by the First Amendment to the Declaration and Covenants, Conditions, Restrictions and Reservations recorded on June 6<sup>th</sup>, 2000 under King County recording no. 20000606001474 and the Second Amendment to the Declaration and Covenants, Conditions, Restrictions and Reservations recorded on November 8<sup>th</sup>, 2000 under King County recording no. 20001108000781.

The Ashbury, A Condominium Owners Association (hereinafter the "Association") desires to replace and supersede the Original Declaration and its previous amendments.

Pursuant to Section 21.1 of the Original Declaration, after notice to all Owners was duly given, Owners holding not less than sixty-seven percent (67%) of the percentage interest in the Association approved this Amended and Restated Declaration.

To accomplish the foregoing purpose, the undersigned President and Secretary of the Ashbury, A Condominium Owners Association, do hereby declare that the following Amended and Restated Declaration was properly adopted and is acknowledged by them as officers of the Association:

**AMENDED AND RESTATED DECLARATION AND COVENANTS,  
CONDITIONS, RESTRICTIONS, AND RESERVATIONS FOR  
ASHBURY, A CONDOMINIUM**

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**ARTICLE 1  
INTERPRETATION**

1.1 Liberal Construction. The provisions of this Declaration shall be liberally construed to further its purpose of affecting a uniform plan for the operation of this Condominium under the provisions of Washington law. It is intended and covenanted also that, as it affects this Declaration and Condominium, the provisions of the Act referenced in this Declaration, shall be liberally construed to further the intent of this Declaration to the extent it is reasonably possible.

1.2 Consistent with Act. The terms used in this Declaration are intended to have the same meaning given in the Act, except to the extent otherwise provided in Section 1.7, and 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 all Owners, together with their grantees, successors, heirs, executors, administrators, devisees or assignees, 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 Captions and Exhibits. Captions given to the various Articles and Sections in this Declaration are for convenience only and are not intended to modify or affect the meaning of any substantive provisions. The various Exhibits referred to in this Declaration and attached shall be deemed incorporated in this Declaration by reference as though fully set forth where that reference is made.

1.6 Inflationary Increase in Dollar Limits. The dollar amounts specified in this Declaration 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 Original Declaration was recorded, to adjust for any deflation in the value of the dollar. If the All Urban Consumer Index is discontinued, then the closest successor or supplanting index selected by the Board in its discretion shall be used.

1.7 Definitions

1.7.1 “The Act” means the Washington Condominium Act, Laws of 1989, Chapter 43 (RCW Chapter 64.34) as amended, together with the Washington Uniform Common Interest Ownership Act, Laws of 2018, Chapter 277 (RCW 64.90), as amended, to the extent that the provisions of the Washington Uniform Common Interest Ownership Act are made applicable, either automatically as provided in RCW 64.90.080, or some other provision of law or by this Declaration, and any successor statute to the extent it is made automatically applicable by law.

1.7.2 “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 Article 8 as shown in Exhibit B.

1.7.3 “Assessment” means, unless the context clearly indicates otherwise, 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; (c) costs of collection, including attorneys’ fees, incurred by the Association in connection with the collection of a delinquent Owner’s Account; and (d) and all other sums payable by an Owner to the Association as provided in the Governing Documents,.

1.7.4 “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. The Association is more particularly provided for in Article 9.

1.7.5 “Board” means the board of directors of the Association provided for in Section 10.3.

1.7.6 “Books and Records of the Association” shall include the following:

(a) The current budget, detailed records of receipts and expenditures affecting the operation and administration of the Association, and other appropriate accounting records within the last seven years;

(b) Minutes of all meetings of its Unit Owners and Board other than executive sessions, a record of all actions taken by the Unit Owners or Board without a meeting, and a record of all actions taken by a committee in place of the Board on behalf of the Association;

(c) The names of current Unit Owners, addresses used by the Association to communicate with them, and the number of votes allocated to each Unit;

(d) Its Declaration, Articles of Incorporation, Bylaws, all amendments to the Declaration, Articles of Incorporation, Bylaws, and all Rules currently in effect;

(e) All financial statements and tax returns of the Association for the past seven years;

(f) A list of the names and addresses of its current Board members and officers;

(g) Its most recent annual report delivered to the secretary of state;

(h) Financial and other records sufficiently detailed to enable the Association to comply with RCW 64.34.425;

(i) Copies of contracts to which it is or was a party within the last seven years;

(j) Materials relied upon by the Board or any committee to approve or deny any requests for design or architectural approval for a period of seven years after the decision is made;

(k) Materials relied upon by the Board or any committee concerning a decision to enforce the governing documents for a period of seven years after the decision is made;

(l) Copies of insurance policies under which the Association is a named insured;

(m) Any current warranties provided to the Association;

(n) Copies of all notices provided to Unit Owners or the Association in accordance with the Act or the governing documents; and

(o) Ballots, proxies, absentee ballots, and other records related to voting by Unit Owners for one year after the election, action, or vote to which they relate.

1.7.7 “Building” means the building containing the Units and comprising a part of the Property.

1.7.8 “Bylaws” shall mean the bylaws of the Association provided for in Article 9.

1.7.9 "Commercial Unit" shall mean the Unit or Units now or hereafter designated as such in Exhibits B and C.

1.7.10 "Commercial Limited Common Element" shall mean those portions of the Common Elements as provided in Section 7.3.

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

1.7.12 "Common Expense" means any expense or financial liability of the Association, including, but not limited to: (a) all sums lawfully assessed against the Unit Owners in accordance with Common Expense Liability; (b) expenses of administration, maintenance, repair or replacement of the Common Elements; (c) any allocations to reserves; (d) expenses agreed upon as Common Expenses by the Unit Owners; and (e) expenses declared to be Common Expenses by the provisions of applicable Washington statutes, or by this Amended and Restated Declaration or the Bylaws..

1.7.13 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit in accordance with their Allocated Interests.

1.7.14 "Condominium" means the condominium named Ashbury, A Condominium created by the Original Declaration and related Survey Map and Plans pursuant to the Act.

1.7.15 "Convey" and "Conveyance" means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract, but shall not include the creation, transfer, or release of a security interest.

1.7.16 "Declaration" or "Amended and Restated Declaration" means this Declaration and any amendments thereto.

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

1.7.18 "Electronic Transmission" or "Electronically Transmitted" means any manner of electronic communication (a) not directly involving the physical transfer of a Record in a Tangible Medium; and (b) that may be retained, retrieved, and reviewed by the sender and the recipient of the communication, and that may be directly reproduced in a Tangible Medium by a sender and recipient.

1.7.19 "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.

1.7.20 "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a Security Interest or a deed or other Conveyance in lieu thereof.

1.7.21 “Governing Documents” means this Amended and Restated Declaration, Articles of Incorporation, Bylaws, and Rules, and other written instrument by which the Association has the authority to exercise any of the powers provided for in the Act or to manage, maintain, or otherwise affect the property under its jurisdiction.

1.7.22 “Identifying Number” means the designation of each Unit in a Condominium.

1.7.23 “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 tangible personal property (including furniture, planters, mirrors, and the like) located in and used in connection with the Unit or Limited Common Element, all of which shall be deemed part of the Unit or Limited Common Element.

1.7.24 “Lease” when used as a noun means any rental agreement or other writing executed by both the Unit Owner and Tenant that memorializes the terms of the Leasing of a Unit. When used as a verb, the term “Lease” shall have the same meaning as “Leasing”.

1.7.25 “Leasing” or “Renting” a Unit means and includes 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), whether or not in exchange for the payment of rent (that is, money, property or other goods or services of value), and the occupancy of a Unit solely by a Person or Persons other than its Owner, whether or not rent is paid; but does not mean and include joint ownership of a Unit by means of joint tenancy, tenancy in common or other forms of co-ownership. Co-occupancy of a Unit with its Owner and occupancy of a Unit by a Related Party are not Leasing, whether or not rent is charged.

1.7.26 “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 Article 7.

1.7.27 “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.

1.7.28 “Mortgage” means a recorded mortgage or recorded deed of trust that creates a lien against a Unit and also means a recorded Real Estate Contract for the sale of a Unit.

1.7.29 “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.

1.7.30 "Occupant" means anyone who occupies a Unit as a permanent residence or who stays overnight in any Unit more than fourteen (14) days in any calendar month or more than sixty (60) days per calendar year.

1.7.31 "Original Declaration" means the Declaration and Covenants, Conditions, Restrictions and Reservations for Ashbury, A Condominium, recorded on March 2, 2000 in King County, Washington under recording number 20000302001184.

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

1.7.33 "Property" or "Real Property" means any fee, leasehold or other estate or interest in, over, or under the land described in Exhibit A, including the Building, 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" includes parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water, and all personalty intended for use in connection therewith.

1.7.34 "Purchaser" means any Person who by means of a Disposition acquires a legal or equitable interest in a Unit as security for an obligation.

1.7.35 "Real Estate Contract" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for payment of the purchase price. "Real Estate Contract" does not include earnest money agreements and options to purchase.

1.7.36 "Record," when used as a noun, means information inscribed on a Tangible Medium or contained in an Electronic Transmission.

1.7.37 "Related Party" means a Person who has been certified in a written document filed by a Unit Owner with the Association to be the Unit Owner's spouse, parent, parent-in-law, sibling, sibling-in-law, parent's sibling, or lineal descendant or ancestor of any of the foregoing persons, the officer or director of any Unit Owner that is a corporation, the member of any Unit Owner that is a limited liability company, the trustee or beneficiary of any Unit Owner that is a trust, or the partner of any Unit Owner that is a partnership. Notwithstanding the foregoing to the contrary, a Person who is the settlor and trustee of a living trust that owns a Unit shall be deemed to be the Unit Owner for all purposes under the Declaration.

1.7.38 "Reserve Component" means a physical component of the Condominium that the Association is obligated to maintain, repair, or replace, that has an estimated useful life of less than thirty (30) years, and for which the cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

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

1.7.40 "Residential Unit" shall mean the Unit or Units designated as such in Exhibits B and C.

1.7.41 "Residential Limited Common Element" shall mean those portions of the Common Elements as provided in Section 7.1.

1.7.42 "Rule" means a policy, guideline, restriction, procedure, or regulation of the Association, however denominated, that is not set forth in the Declaration, Articles of Incorporation, or Bylaws and that governs the conduct of persons or the use or appearance of property.

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

1.7.44 "Spouse" means a husband or wife, registered domestic partner or partner in a civil union.

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

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

1.7.47 "Tenant" means and includes any lessee, renter, or other non-Owner Occupant of a Unit that is not occupied by its Owner. Tenant shall not mean or include a Related Party or anyone who occupies a Unit with an Owner.

1.7.48 "Unit" both Commercial and Residential, means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described in Article 3.

1.7.49 "Unit Owner" or "Owner" means, subject to Section 1.8.5, the Person identified in the recorded Conveyance deed as the grantee of the fee title interest in the 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 1.7.25. If a purchase is financed through use of a Real Estate Contract, the contract's vendee is the Owner, even though the vendor appears as the grantee on the deed.

1.7.50 "Useful Life" means the estimated time during which a reserve component is expected to perform its intended function without major maintenance, repair, or replacement.

1.8 Construction and Validity

1.8.1 All provisions of the Declaration and Bylaws are severable.

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

1.8.3 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 or any other applicable statute.

1.8.4 The existence of this Condominium shall not be impaired and title to the Units and Common Elements shall not be rendered unmarketable or otherwise affected because of an insignificant failure of the Declaration or Survey Map and Plans or any amendment to comply with the Act.

1.8.5 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 1.7.49, 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 Person shall be disqualified from continuing in office if he or she ceases to have such an affiliation with that Person, or if that Person would have been disqualified from continuing in such office as a natural person.

**ARTICLE 2  
DESCRIPTION OF REAL PROPERTY**

The Real Property included in the Condominium is described in Exhibit A attached hereto.

**ARTICLE 3  
DESCRIPTION AND MAINTENANCE OF UNITS**

3.1 Description of Units. Exhibit B sets forth the total number of Units, the Identifying Number of each Unit, and the Unit descriptions, including with respect to each Unit:

3.1.1 The approximate square footage.

3.1.2 The number of bathrooms, whole or partial.

3.1.3 The number of rooms designated primarily as bedrooms.

3.1.4 The number of built-in fireplaces.

3.1.5 The level or levels on which each Unit is located.

**3.2 Unit Boundaries.** The Interior Surfaces of perimeter walls, floors, ceilings, windows, and doors are the boundaries of a Unit. Decorative and finished surface coverings (including paint, wallpaper, paneling, carpeting, tiles, and finish flooring) and all spaces, interior partitions (except for load bearing portions of those partitions that are part of the Common Elements), and other fixtures and improvements within those boundaries and the air space so encompassed are a part of the Unit. All other portions of the perimeter walls, floors, or ceilings, including lath, furring, wallboard, plasterboard, and plaster, are a part of the Common Elements.

**3.3 Interior Unit Maintenance.**

**3.3.1 Owner Responsibility.** Neither this Section or Section 3.4 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 interfere 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 in this Declaration. Furthermore, Unit Owners shall not permit nor commit waste of their Units or the Common Elements.

**3.3.2 Standard of Condition.** Unit Owners and Occupant shall at all times keep their Units 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. Unit Owners shall, at their sole expense, have the right and the duty to keep the interior of their Unit and its equipment, appliances, and appurtenances in good order, condition and repair. Owners shall be responsible for the construction, alteration, maintenance, repair or replacement of any plumbing fixtures, pipes (accessible from inside the Unit), water heaters, fans, heating or other equipment, electrical fixtures or appliances, that are used solely in connection with their Unit.

**3.4 Alterations of Units.** Without limiting the generality of Section 3.3, Owners shall have the right, at their sole cost and expense, to:

**3.4.1** 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 non-bearing walls located within their Unit; provided that the Owner or the Owner's assigns, contractors, or other agents or representatives shall not paint or in any manner cover, or obstruct the original sprinkler heads installed anywhere in a Unit; and provided that the installation of wood burning, gas, and propane fireplaces is prohibited.

3.4.2 Substitute new finished surfaces for the finished surfaces then existing on the ceilings, floors, and walls; provided that, hard surface flooring shall only be installed in Units by the Owner of the Unit only after securing prior written consent of the Unit Owner below, if any (but such consent will not be required to merely replace existing hard surface flooring with substantially identical flooring). In the event that an Owner is given permission to install hard surface flooring, including but not limited to hardwood, marble, granite, slate or other like surface, the design, construction and installation of such hard surface flooring shall meet the impact sound transmission and insulation Class II C standards as measured according to ASTM designation E492-77, Standard Method of Laboratory Measurement of Impact Sound Transmission through floor/ceiling assemblies using a "tapping machine" or other equivalent standard and measurement device as of the date of the proposed installation.

Where hard surface flooring is installed in a Unit, area carpets shall be used to convey normal foot traffic in areas of the Unit located immediately above another Unit except area carpets are not required where such hard surface flooring is installed in the front entryway, kitchen or kitchen nook, or bathroom(s) as part of original construction.

3.5 Maintenance of High Risk Components. Notwithstanding the provisions of this Declaration, the Board may, from time to time, after notice and an opportunity for Unit Owners to comment, determine that certain portions of the Units required to be maintained by the Unit Owners, or certain objects or appliances within the Units, pose a risk of damage to other Units and to the Common Elements if they are not properly inspected, maintained, repaired, or replaced. By way of example, but not of limitation, these portions, objects, or appliances include fireplaces and flues, dryer vents, smoke detectors and water heaters. Those items determined by the Board to pose such a risk are referred to as "High Risk Components."

Once it designates a "High Risk Component", the Board, after notice and an opportunity for Owners to comment, may require one or more of the following regarding the High Risk Component:

3.5.1 That it be inspected at specified intervals by the Association or an inspector or inspectors designated by the Association, provided that if the High Risk Component being inspected exists in all Units the cost of the inspection shall be a Common Expense paid by the Association and if the High Risk Component exists in less than all of the Units, the cost of the inspection shall be shared by only those Units in which the High Risk Component exists;

3.5.2 That it be maintained, repaired or replaced at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective;

3.5.3 That it be maintained, repaired or replaced by the Association and the cost be specially assessed to the Unit Owner as a Common Expense attributable to the Unit, shall be a lien upon the Unit and upon any appurtenant Common Elements, and shall be collectable as are other Assessments;

3.5.4 That it be replaced or repaired with items or components meeting standards or specifications established by the Board;

3.5.5 That when it is repaired or replaced, the installation includes additional components or installations specified by the Board;

3.5.6 That it be replaced or repaired by contractors having licenses, training or professional certification or by contractors approved by the Board;

3.5.7 If the replacement or repair is completed by a Unit Owner, that it be inspected by a Person designated by the Board;

3.5.8 The imposition of requirements by the Board under this Section 3.5 shall not relieve Unit Owners of their obligations under Section 3.3 of the Declaration, including, but not limited to, the obligation to perform and pay for repairs, maintenance, and replacement; and

3.5.9 If any Unit Owner fails to repair, maintain, or replace a High Risk Component in accordance with the requirements established by the Board under this Section 3.5, the Association may, in addition to any other rights and powers granted to it under the Governing Documents and the Act: (a) enter the Unit and inspect, repair, maintain, or replace the High Risk Component; (b) assess related expenses against the Unit, which shall be a lien upon the Unit and upon any appurtenant Common Elements, and shall be collectable as are other Assessments; and (c) exercise any and all other enforcement remedies available to the Association under the Governing Documents and the Act.

3.6 Access to Common Ways and Public Streets. Each Unit has direct access to Common Element stairways, lobbies, walls, parking areas, and/or driveways, and all such Common Elements have direct access to public streets.

#### **ARTICLE 4 BOUNDARIES**

4.1 Monuments as Boundaries. The physical boundaries of a Unit constructed in substantial accordance with the original Survey Map and Plans become its boundaries rather than the metes and bounds expressed in the Survey Map and Plans, regardless of settling or lateral 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 any person of liability for failures to adhere to the Survey Map and Plans.

4.2 Relocation of Boundaries; Subdivision and Combination of Units. The relocation of boundaries between Units, subdivision of Units, and combination of adjoining Units is prohibited.

## **ARTICLE 5 DESCRIPTION OF OTHER IMPROVEMENTS**

5.1 Recreational Facilities. The roof deck is the only recreational facility in the Condominium.

5.2 Parking. There are four (4) uncovered and thirty-eight (38) enclosed parking spaces.

## **ARTICLE 6 COMMON ELEMENTS**

6.1 Description. Except as otherwise specifically allocated by the provision of Section 4.1, Article 7, or other provisions of this Declaration, the Common Elements consist of all portions of the Condominium except Units and include the following:

6.1.1 The Real Property described in Exhibit A.

6.1.2 The windows, doors, roofs, foundations, columns, girders, studding, joists, beams, supports, walls (excluding non-bearing interior partitions of Units), and all other structural parts of the Building, to the boundaries of the Units as defined in Section 4.1, and any replacements of those parts.

6.1.3 Installations of central services such as: power, light, gas, hot and cold water, heating, refrigeration, and air conditioning; pipes, conduits, 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.

6.1.4 The driving areas (not allocated as Limited Common Elements by this Declaration or amendments thereto) that provide access to the Limited Common Elements for parking.

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

6.1.6 The lobbies, halls, corridors not within individual Units, storage areas not allocated to Units, stairways and stairs, entrances and exits of the Building, and the roof deck.

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

6.2 Common Element Maintenance. Except as otherwise specifically provided in this Declaration, the Association shall be responsible for the maintenance of Common Elements. The Association shall maintain and regulate the use of Common Elements for the benefit of each Unit and shall do all things reasonable and necessary to preserve and maintain the Common Elements for the purpose intended.

6.3 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.

6.4 Alteration of Common Elements. Nothing shall be altered or constructed in, or removed from any Common Elements except with the written consent of the Board. Any such improvements would be subject to the acquisition of all required permits from governmental agencies.

## **ARTICLE 7 LIMITED COMMON ELEMENTS**

7.1 Residential Limited Common Elements. The Residential Limited Common Elements are allocated for the exclusive use of the Owner or Owners of the Residential 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 Patio, Etc. The patio/yard area, deck, or lanai, if any, that is adjacent to each Unit as more particularly shown on the Survey Map and Plans, the boundaries of the patio/yard area, deck, or lanai are the Interior Surfaces of the walls, floor, ceiling, doors, windows, ground, railings, fence, or curb enclosing the patio/yard areas, deck, or lanai; but if there are no such Interior Surfaces, then the boundaries are as delineated on the Survey Map and Plans; but if no such boundaries are so delineated, then the perimeter edge of any patio, deck, or lanai as originally constructed by Declarant.

7.1.2 Ducts, Wires, Etc. If any chute, flue, duct, wire, conduit, pipe, bearing wall, bearing column, or any other fixture lies partially outside the designated boundaries of a Unit, any portion of those components serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion of those components serving more than one Unit or the Common Elements is part of the Common Elements.

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

7.1.4 Parking Spaces. The parking spaces allocated to the Units as indicated in Exhibit C. The boundaries of the parking stall are the Interior Surfaces of the walls, floor, curb, and striping enclosing the parking space.

7.1.5 Storage (Adjacent). The storage lockers for each Unit, if any, that automatically are Limited Common Elements where the storage lockers are located on the deck, lanai, patio, or hallway, or other Common Element, immediately adjacent to a particular Unit and as shown on the Survey Map and Plans. The boundaries of the storage locker are the Interior Surfaces of top, bottom, door, and sides of the storage locker.

7.1.6 Storage Lockers. The storage locker, if any, that may be allocated to a Unit as indicated in Exhibit C. The boundaries of the storage lockers are the Interior Surfaces of the top, bottom, door, and sides of the storage locker.

7.2 Residential Limited Common Element Maintenance. Residential Limited Common Elements, as defined in Article 1 and allocated in Article 7, are for the sole and exclusive use of the Residential Units for which they are reserved or assigned; provided, that the use, condition, and appearance of those Limited Common Elements may be regulated under provisions of the Bylaws, Rules or this Declaration including the following:

7.2.1 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 or redecorating Limited Common Elements (referred to as "Maintenance Work"), shall be made by the Board.

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

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

7.2.4 Owner Pays Cost. The Owner will be responsible for the cost of such Maintenance Work for the Residential Limited Common Elements reserved for or assigned to a Unit.

7.2.5 Multiple Owners. With respect to a Residential Limited Common Element reserved for or assigned to more than one Residential Unit for the mutual and joint use thereof, the cost of such Maintenance Work for such Limited Common Element shall be divided in equal shares among the Residential Units for which such Limited Common Element is allocated on the basis used to determine "Residential Allocated Interests Expense/Voting" in Exhibit B.

7.2.6 Cost as Special Charge. With respect to any such Maintenance Work performed by the Board, the cost (or the appropriate share of the cost if the Residential Limited Common Element is assigned or reserved jointly to more than one Residential Unit) shall be levied as a special charge against the Residential Unit or Units (and the Unit Owner or Owners) to which such Residential Limited Common Element is assigned or reserved.

7.3 Commercial Limited Common Elements. The Commercial Limited Common Elements are allocated for the exclusive use of the Owner or Owners of the Commercial 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 the parking spaces allocated to the Commercial Unit as indicated in Exhibit C. The boundaries of the parking stall are the Interior Surfaces of the walls, floor, curb, and striping enclosing the parking spaces.

7.4 Commercial Limited Common Element Maintenance. Commercial Limited Common Elements as defined in Section 1.7.10 and allocated in Section 7.3 are for the sole and exclusive use of the Commercial Unit to which the Element is allocated; provided, the use, condition, and appearance of those Limited Common Elements may be regulated under the provisions of Exhibit D, and the provisions of the Bylaws and this Declaration, including the following:

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

7.4.2 Performance of Work. Performance of such maintenance, repair, modification, painting and decoration work shall be carried out by the Board on behalf of the Owner of the Commercial Unit to which the Element is allocated; provided, that by written notice, the Board may permit such Owner or Owners to perform such Maintenance Work themselves.

7.4.3 Board Approval. Commercial Unit Owners may not, modify, paint, or otherwise decorate, or in any way alter their Limited Common Elements without prior written approval of the Board.

7.4.4 Owner Pays Cost. The Commercial Unit Owner shall be responsible for the cost of such work for the Commercial Limited Common Element allocated to the Commercial Unit.

7.4.5 Cost as Special Charge. With respect to any such Maintenance Work performed by the Board, the cost (or the appropriate share of the cost if the Commercial Limited Common Element in question has been assigned or reserved jointly to more than one Commercial Unit) shall be levied as a special charge against the Commercial Unit (and the Unit Owner) to which such Limited Common Element is assigned or reserved.

## **7.5 Renting and Transfer of Limited Common Elements.**

7.5.1 **Renting.** A Unit Owner may rent or lease the parking space and 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 agreement.

7.5.2 **Reallocation Between Units.** 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 review the request of the Owner or Owners under this Section within thirty (30) days and shall approve the request unless the proposed reallocation does not comply with the Act or the Declaration. The Association shall arrange for the Amendment to be prepared and it shall be recorded in the names of the parties and of the Condominium. Any costs incurred by the Association will be assessed to the Units of the Owners involved in the reallocation.

7.5.3 **Common to Limited Common, Etc.** Owners of Units to which at least sixty-seven percent (67%) 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. The Association shall arrange for a Declaration Amendment reflecting that reallocation to be prepared and it shall be recorded in the names of the Association, the Owners involved, and the Condominium. Any costs incurred by the Association will be assessed to the Units of the Owners involved in the reallocation.

## **ARTICLE 8 ALLOCATED INTERESTS**

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. 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.

**ARTICLE 9  
OWNER'S ASSOCIATION**

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 Ashbury, A Condominium Owners Association.

9.2 Membership.

9.2.1 Qualification. Each Owner shall be a member of the Association, and shall be entitled to one membership for each Unit owned; provided that, if a Unit has been sold on contract, the contract purchaser shall exercise the rights of the Unit Owner for purposes of the Association, this Declaration, and the Bylaws, except as limited below, and shall be the voting representatives 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 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 the 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 to the new Unit Owner.

9.3 Bylaws of the Association. The Bylaws may contain supplementary, but not inconsistent, provisions regarding the operation and administration of the Condominium and may be amended as provided in the Bylaws.

**ARTICLE 10  
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, the Articles of Incorporation, and the Bylaws.

10.2 Management by Board.

10.2.1 On Behalf of Association. Except as otherwise provided in the Declaration, including Section 10.2.2, the Bylaws, 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.

10.2.2 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 17.1, to terminate the Condominium pursuant to RCW 64.34.268, or to elect members of the Board or determine qualifications, powers, and duties, or terms of office of members of the Board pursuant to the Bylaws; but the Board may fill vacancies in its membership for the unexpired portion of any term.

**10.3 Authority of the Association.**

**10.3.1** 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)** 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;
- (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 10.7;
- (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 Section 7.1, and for services provided to Unit Owners;
- (k)** Impose and collect charges for late payments 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 adopted by the Board, levy reasonable fines in accordance with previously established schedules adopted by the Board and furnished to the Owners for violations of the Declaration, Bylaws, and Rules 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;

(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 the Unit has failed or refused to perform that maintenance or repair within a reasonable time after written notice of the necessity of that 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 of that lien or encumbrance that 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 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 attorneys' fees) incurred by the Association by reason of such lien shall be assessed against the Units of the Owners responsible to the extent of their responsibility.

10.3.2 The Board's power enumerated above 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 present at a meeting called for such purpose, 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.

10.3.3 Nothing in this Declaration shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Owners or any of them.

10.3.4 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 related costs shall be specially charged to such Unit. If a Unit Owner does not provide access to a Unit when necessary, all costs associated with gaining access to the Unit, including attorneys' fees, shall be assessed against that Unit.

10.4 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, and subject to the approval of Owners holding at least a majority of the voting power participating in the vote, the Board may: borrow funds on behalf of the Association; execute loan documents; determine the terms of payment of any Assessments against Owners for the repayment of that loan, including but not limited to, the dates on which the Assessments must be paid and the effect of any prepayment of part or all of that Assessment; and take other actions necessary to complete the loan process. Each Unit's allocated share of the borrowed funds and the obligation to pay that allocated share shall be a lien against the Unit and the undivided interest in the Common Elements appurtenant to the Unit. Provided, that the Owner of a Unit may remove the 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 to that Unit 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 their rights against any other Unit and the Allocated Interest in the Common Elements appurtenant to that Unit that are not paid, satisfied, or discharged. Common Expenses incurred by the Association because of the loan shall be assessed against only those Units and Owners benefitting from the loan.

10.5 Association Records and Funds.

10.5.1 Records and Audits. The Association shall keep financial records 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 1.7) shall be made reasonably available (at all reasonable hours of weekdays or under other reasonable circumstances) for examination and copying by 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. The financial statements of the Condominium shall be audited at least annually by a certified public accountant unless it is waived annually by Owners of Units to which sixty (60%) percent of the votes are allocated.

10.5.2 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.

10.6 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.

10.7 Common Elements, Conveyance, Encumbrance.

10.7.1 In General. Portions of the Common Elements that are not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association 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 agree to that action, but all the Owners of Units to which any Limited Common Element is allocated must agree 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.

10.7.2 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, 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 must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording.

10.7.3 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 10.7.1 and 10.7.2. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

10.7.4 Void Transactions. Any purported conveyance, encumbrance, or other voluntary transfer of Common Elements, unless made pursuant to this Section shall not deprive any Unit of its rights of access and support.

10.7.5 Support Rights. A conveyance or encumbrance of Common Elements pursuant to this Section shall not deprive any Units of its rights of access and support.

10.7.6 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 the Common Elements) or on Common Elements.

10.8 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 proper disposal of clippings; replacement of landscape that dies 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 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 case deposit or other bond made by Declarant.)

## **ARTICLE 11**

### **USE; REGULATIONS OF USES; ARCHITECTURAL UNIFORMITY**

#### 11.1 Permitted Uses.

##### 11.1.1 Residential Units. The Units shall be used:

(a) for Residential Purposes only, including sleeping, eating, food preparation for on-site consumption by occupants, 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;

(b) for such other reasonable ancillary purposes commonly associated with residential dwellings (including without limitation home-offices and home-occupations) that do not: cause unusual traffic, parking, noise or similar problems; or otherwise violate provisions of this Declaration, Rules, or applicable law for residential dwellings;

(c) for the common, social, recreational or other reasonable uses normally incident to such purposes; and

(d) for purposes of operating the Association and managing the Condominium.

**11.1.2 Commercial Units.** The use and purpose of the Commercial Units, including ownership, rental, lease or invitee basis, shall be as set forth, and subject to, the restrictions set forth in Exhibit D.

**11.2 Vehicle Parking Restrictions.** Common Element and Limited Common Element parking spaces are restricted to use for parking of operable passenger motor vehicles such as automobiles, light trucks, and passenger vans which may be parked or kept therein only subject to the provisions of this Section, Article 7 of the Declaration, and the Rules. Boats, motor homes, trailers, campers or other recreational vehicles may not be stored in parking spaces or other Limited Common Element areas. 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 of that vehicle or personal property. Except as permitted by the Rules, personal property (other than an operable motor vehicle) may not be stored in a parking space (regardless of whether such space is a Limited Common Element or part of a Unit), or such parking space be used for a purpose other than parking, to an extent that would prevent the parking therein of any motor vehicle regularly used by a person occupying a Unit for more than seven (7) days in any calendar month. The use of any wall-mounted, ceiling mounted, or other storage facility or area within a Limited Common Element parking space shall not interfere with the parking of a motor vehicle (or the opening of vehicle doors) in an adjacent parking space to an extent greater than caused by parking a vehicle in such Limited Common Element space.

**11.3 Common Drives 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 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.

**11.5 Board Decisions.** 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 in this Declaration, no work of any kind shall be conducted without the express written approval of the Board.

11.6 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 finishes 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 an Owner. This power of the Board extends to screens, doors, awnings, rails or other visible portions of each Residential Unit. 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. No garments, rugs or other objects shall be hung from the windows or facades, lanais of the project or otherwise displayed in public view. Notwithstanding the foregoing, but subject to the limitations set forth in this Declaration and so long as reasonably consistent with the essentially residential character of the Building, the installation, maintenance repair, modification, painting and decoration of the Commercial Units (including design and decoration), interior decorations visible from the exterior, entry and entry door shall be the responsibility of the Commercial Unit Owner (at such Owners' sole cost) and not subject to Board approval.

11.7 Effect on Insurance. Nothing shall be done or kept in any Residential Unit or in the Common or Residential Limited Common Element that will increase the rate of insurance on the Common Elements or Residential Units without the prior written consent of the Board. Any increase in the rate of insurance on the Common Elements, or Residential Limited Common Elements or Residential Units as a result of the use of the Commercial Units shall be assessed to and paid for by the Owner or Owners of the Commercial Unit causing such increase. No Owner shall permit anything to be done or kept in their Unit or in the Common or Limited Common Elements that will result in the cancellation of insurance on any Unit or any part of the Common or Limited Common Elements, or that would be in violation of any laws.

11.8 Signs. No sign of any kind shall be displayed to the public view on or from any Residential Unit or Commercial or Residential 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. Political signs shall not be prohibited, but the Board may adopt Rules governing the display of those signs, including restrictions on the size and number of signs, and the time, place, and manner of their display. Notwithstanding the foregoing, with respect to the Commercial Units, and without the Board's prior approval, signs may be displayed to the public view: from within the Commercial Units; and attached to the exterior of the entry door or on the interior wall adjacent thereto; provided, all signs shall comply with the provisions of applicable governmental laws, rules and regulations; and provided further, no such Commercial Unit sign shall interfere with the quiet and peaceful enjoyment of any Residential Unit.

11.9 Pets. Domestic household pets, such as dogs and cats, may be kept by Unit Owners; provided, that the keeping of pets shall be subject to such reasonable Rules as the Board may from time to time adopt. The Board may require the removal of any animal that the Board in the exercise of reasonable discretion finds disturbing other Unit Owners unreasonably and may exercise this authority for specific animals even though other animals are permitted to remain.

Pets will not be allowed on any Common Elements (or Limited Common Elements allocated for the use of more than one Unit) unless they are on a leash or being carried and are being walked to or from the Unit to a public walk or street. At all times the Common Elements shall be free of any pet debris, including food and feces matter. At no time is pet feces to be deposited in garbage. No livestock, poultry, rabbits or other animals whatsoever shall be allowed or kept in any part of the Condominium, nor may any animal be bred or used therein for any commercial purpose. Any outside facility for pets must be kept clean on a daily basis and no waste products or food may be left in either the facility or on the Property.

11.10 Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or Common or Limited Common Element, nor shall anything be done anywhere within the Condominium that may be or become an annoyance or nuisance to other Owners.

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

Although sound transmission reduction methods may have been employed in construction of the condominium, all Occupants 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.

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

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.

11.11 Common Element Alterations. Nothing shall be altered or constructed in, or (except for an Owner's personal property) removed from, the Common Element except upon the written consent of the Board and after procedures required by the Governing Documents or by law.

11.12 Rules. The Board or the Association membership is empowered to pass, amend, and revoke detailed, reasonable administrative, procedural, or other Rules necessary or convenient from time to time to ensure compliance with the general guidelines of this Declaration. Such Rules shall be binding on all Unit Owners, residents, lessees, guests, and invitees upon adoption by the Board or Association.

11.13 Rental Units. The Leasing or Renting of a Residential Unit by its Owner shall be governed by the provisions of this Section 11.13:

11.13.1 No Transient Purposes; Minimum Lease Term. With the exception of a lender in possession of a Unit following a default in a Mortgage, a Foreclosure proceeding or any other deed or other arrangement in lieu of a Foreclosure, no Person shall Lease or otherwise permit their Unit to be used for hotel or transient purposes which shall be defined as Rental, occupancy, or use by a Tenant or other non-Owner for an initial occupancy period of less than twelve (12) months. The foregoing includes short term rentals and licenses for use through services such as Airbnb and VRBO. No Owner or Tenant who does not occupy Unit as a primary residence shall cause or allow the overnight accommodation of employees or business invitees in the Unit on a temporary or transient basis.

Every Lease shall be for an initial fixed term of not less than twelve (12) months but may be renewed on a month to month basis following that initial fixed term.

11.13.2 Entire Unit. No Residential Unit Owner may Lease less than the entire Unit.

11.13.3 Written Leases. All Leasing or Rental agreements shall be in writing and be subject this Declaration and Bylaws (with a default by the Tenant in complying with this the Governing Documents constituting a default under the Lease or Rental agreement). The Board shall be notified in advance of an Owner's intentions to Rent or Lease a Unit. The Board shall also be notified of the names of all Occupants of the Unit being Rented or Leased.

11.13.4 Rent to Association. If a Unit is Rented by its Owner, the Board may collect, and the Tenant or lessee shall pay over to the Board, so much of the rent for such Unit as is required to pay any amounts due the Association hereunder, plus interest and costs if the same are in default over thirty (30) days. The renter or lessee shall not have the right to question payment over to the Board, and such payment will discharge the lessee's or renter's duty of payment to the Owner for rent, to the extent such rent is paid to the Association, but will not discharge the liability of the Owner or purchaser and the Unit under this Declaration for assessments and charges, or operate as an approval of the lease. The Board shall not exercise this power where a receiver has been appointed with respect to the Unit or its Owner; nor in derogation of any rights that a Mortgagee of such Unit may have with respect to such rents.

11.13.5 Notice of Moving Date. All Owners shall provide the Board or its designated agent with reasonable prior notice, at least five (5) days in advance of the date on which they expect Occupants to move into or out of a Unit.

11.13.6 Other Restrictions. Other than as stated in this Section 11.13, there is no restriction on the right of any Unit Owner to Lease or otherwise Rent their Unit. Neither the Association nor the Board shall have the right by any means (including without limitation amendments to the Declaration, Articles, Bylaws or Rules) to impose any further restriction on the right of any Unit Owner to Lease or otherwise Rent their Unit without such Owner's prior written consent.

11.14 Move-In/Move Out Fee. The Board is authorized to adopt and assess a reasonable fee against any Unit in connection with any change in occupancy of that Unit.

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

11.16 Television, Cable, Etc. After written notice to the Board or its designated agent, Owners may be allowed to install, at the Owner's sole expense and solely for the Owner's or Occupant's personal use, any satellite dish or antennae permitted by the OTARD rules adopted by the FCC. The satellite dish or antennae shall not be affixed to the building exterior and must be located entirely within the Unit or Limited Common Element allocated to that Unit in areas shielded from view to the maximum extent possible from neighboring Units or streets, without unreasonably increasing the cost of installation and without damage to areas under the control of or maintained by the Association or areas that raise safety concerns.

## **ARTICLE 12 COMMON EXPENSES AND ASSESSMENTS**

12.1 Estimated Expenses and Budget Approval. 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; make provisions for creating, funding and maintaining reasonable reserves for contingencies and operations, as well as for maintenance, repair, replacement and acquisition of Common Elements; and 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 of that purpose, the Board shall create and maintain from regular monthly Assessments a reserve fund for replacement of those Common Elements that can reasonably be expected to require replacement or a major repair prior to the end of the useful life of the Building. The Board shall calculate the contributions to the 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. If the sum estimated and budgeted at any time proves inadequate for any reason (including non-payment for any reason of any Owner's Assessments), the Board may at any time levy a

further Assessment, that shall be assessed to the Owners according to Section 12.3. Similarly, if the sum estimated and budgeted 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.

Within thirty (30) days after adoption of any proposed budget, the Board must provide a copy of the budget to all the Unit Owners and set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than fifty (50) days after providing the budget. 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 and the Assessments against the Units included in the budget are ratified, whether or not a quorum is present.

If the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a subsequent budget proposed by the Board.

The budget must include:

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

The Board, at any time, may propose a special Assessment. The Assessment is effective only if the Board follows the procedures for ratification of a budget described above and the Unit Owners do not reject the proposed Assessment. The Board may provide that the special Assessment may be due and payable in installments over any period it determines and may provide a discount for early payment.

**12.2 Payment by Owners.** Each Owner shall be obligated to pay their portion of Common Expenses and special charges made pursuant to this Article 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. Owners may not exempt themselves 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 Allocated Liability. Except for Assessments under Sections 12.4, 12.5, 12.6 and 12.7, all Common Expenses must be assessed against all the Units in accordance with the allocations set forth in Exhibit B. Any past due Common Expense Assessment or installment of that Assessment bears interest at the rate established by the Association pursuant to Section 12.11.13.

12.4 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.

12.5 Only Some Units Benefitted. The Board may elect that any Common Expense or portion of a Common Expense benefiting fewer than all of the Units must be assessed exclusively against the Units benefitted.

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

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

12.8 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.

12.9 Owner Misconduct. To the extent that any Common Expense is caused by the willful misconduct of any Unit Owner, the Association shall assess that expense against the Owner's Unit. For example, failure to comply with required maintenance obligations as outlined in this Amended and Restated Declaration or the negligence or intentional acts of any Owner, Tenant, or a guest or invitee of a Unit Owner or Tenant that results in damage to the property.

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

12.11 Lien for Assessments.

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

12.11.2 Priority. A lien under Section 12.11 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.

**12.11.3 Mortgage Priority.** Except as provided in Sections 12.11.4 and 12.11.5, the lien shall also be prior to the Mortgages described in Section 12.11.2(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, that would have become due during the six (6) 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.

**12.11.4 Mortgagee Notice.** The priority of the Association's lien against Units encumbered by a Mortgage held by an Eligible Mortgagee or by a Mortgagee that has given the Association a written request for a notice of delinquent Assessments shall be reduced by up to three (3) months if and to the extent that the lien priority under Section 12.11.3 includes delinquencies that related 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 mechanic's or materialmen's liens, or the priority of liens for other Assessments made by the Association.

**12.11.5 Recording as Notice.** Recording of the Original Declaration constituted 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 12.11.4.

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

**12.11.7 Foreclosure.** The lien arising under Section 12.11 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 (8) months. Nothing in this Section shall prohibit an Association from taking a deed in lieu of foreclosure.

**12.11.8 Non-Judicial Foreclosure.** The Owners by approval of this Amended and Restated Declaration each hereby bargain, sell, and convey to First American Title Insurance Company, or another appropriate trustee company as designated by the Board, (referred to in this Declaration as the "Trustee") in Trust, for the benefit of the Association, as beneficiary, with power of sale, the real property that is subject to this

Declaration, which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any way appertaining, and the rents, issues, and profits thereof.

This grant is made by each Unit Owner to secure performance of the payment of all Assessments due hereunder against each Owner's respective Unit.

Upon default by any Unit Owner in the payment of any Assessment, upon the written request of the Association, Trustee shall sell the Unit subject to the lien for Assessments, in accordance with the Deed of Trust Act of the State of Washington and the Washington Condominium Act, at public auction to the highest bidder. Any Person except the Trustee may bid at the Trustee's Sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of sale, including a reasonable Trustee's fee and attorneys' fees; (2) to the obligation secured by this grant in trust; (3) the surplus, if any, shall be distributed to the Persons entitled thereto.

Trustee shall deliver to the purchaser at the sale its deed, without warranty, that shall convey to the purchaser the interest in the property that the Unit Owner has or had the power to convey at the time of adoption of this Declaration, and such as he or she may have acquired thereafter. Trustee's Deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of the Declaration. That recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrancers for value.

In the event of the death, incapacity, disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the real property records of the county in which this Declaration is recorded, the successor trustee shall be vested with all powers of the original trustee.

If the Association forecloses its lien non-judicially pursuant to Chapter 61.24 RCW, the Association shall not be entitled to the lien priority provided for under Section 12.11.2.

**12.11.9 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 Unit Owner, the Association shall be entitled to the appointment of a receiver to collect from the lessee the rent for the Unit as and when due. If the rent is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and related attorneys' fees, 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 (90) days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

**12.11.10 Mortgagee Liability.** Except as provided in Section 12.11.3, 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 of 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.

**12.11.11 Lien Survives Sale.** The lien arising under Section 12.11 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 12.11.10.

**12.11.12 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.

**12.11.13 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.

**12.11.14 Attorneys' 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 of reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

**12.11.15 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 (15) 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.

**12.12 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 demand immediate payment of all, or such portion as the Board determines, of the

monthly Assessments and special charges that the Board reasonable determines will become due during the next succeeding twelve (12) months with respect to such Unit.

**12.13 Delinquent Assessment Deposit.**

12.13.1 A Unit Owner may be required by the Board or by the Manager, from time to time, to make and maintain a deposit not less than one (1) month nor in excess of three (3) months estimated monthly Assessment and charges, that 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.

12.13.2 Resort may be had thereto at any time when that Owner is ten (10) days or more delinquent in payment of their monthly or other Assessments and charges. That deposit shall not be considered as advance payments of regular Assessments. In the event the Board should draw upon the deposit as a result of a Unit Owner's delinquency in payment of any Assessments, the Owner shall continue to be responsible for the immediate and full payment of the delinquent Assessment (and all penalties and costs thereon) and thus the full restoration of the 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.

12.13.3 Upon the sale of a Unit, the seller/Owner 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 benefit of the Unit Purchaser, and the Unit seller shall be responsible for obtaining from the Purchaser appropriate compensation.

**ARTICLE 13  
INSURANCE**

13.1 In General. To the extent reasonably available and subject to such reasonable deductibles as determined in the discretion of the Board, the Association shall obtain and maintain at all times as a Common Expense a policy or policies and bonds required to provide:

13.1.1 Property insurance that shall, at the minimum, include all risk or special cause of loss coverage in the amount equal to the full replacement value (i.e., 100% of current replacement cost exclusive of land, excavation, and other items normally excluded from coverage) of the Common and Limited Common Elements, Units, all fixtures and personal property belonging to the Association, and any fixtures, equipment or other property within the Unit as originally constructed by Declarant with an "Agreed Amount Endorsement" and, if available, an "Inflation Guard Endorsement" and, if applicable and required by Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC), construction code endorsement, such as a "Demolition Cost Endorsement", a "Contingent Liability from Operation of Building Laws

Endorsement”, and “Increased Cost of Construction Endorsement”, and such other endorsements as FNMA and FHLMC deem necessary and are available.

The property insurance shall also cover fixtures and other betterments and improvements subsequently added by an Owner of a Unit, including but not limited to fixtures, improvements and alterations that are of the building or structure, and appliances such as those that are used for refrigerating, ventilating, cooking, dishwashing, laundering, security, or housekeeping.

The Association’s policy shall provide a separate loss payable endorsement in favor of the Mortgagee of each Unit. The policy may, in the discretion of the Board, cover the peril of earthquake or flood if such coverage is reasonably available. The Board or insurance trustee, if any, shall hold insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Each Owner and the Owner’s Mortgagee, if any, shall be beneficiaries of the policy in accordance with the percentage of undivided interest of each Unit Owner. Certificates of Insurance shall be issued to each Owner and Mortgagee upon written request to the Association; and

13.1.2 General comprehensive liability insurance insuring the Board, the Association, the Owners, and managing agent against any liability to the public or to the Owners of Units, and their families, guests, invitees, or Tenants, incident to the ownership or use of the Common and Limited Common Elements (including but not limited to owned and non-owned automobile liability, water damage, host liquor liability, liability for property of others and, if applicable, elevator collision, garage keeper’s liability) the liability under which insurance shall be in an amount determined by the Board after consultation with insurance consultants, but not less than \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate covering all claims for personal injury and/or property damage. Such policy limits will be reviewed at least annually by the Board and increased in its discretion. Such insurance shall contain appropriate provisions or endorsements precluding the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.

13.1.3 A policy of liability insurance insuring directors, officers, committee members, and agents of the Association to the extent the Association is required to indemnify such individuals under the Declaration or Bylaws. The policy limits for such insurance shall not be less than \$1,000,000.00.

13.1.4 Fidelity bonds or employee dishonesty insurance 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 an amount not less than the total of all reserve funds held by the Association plus three (3) months of regular Assessments. Such fidelity bonds or employee dishonesty insurance shall include as principals employees of any professional Manager employed by the Association and shall also 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 Such other insurance as the Board deems advisable; provided that notwithstanding any other provisions of this Declaration, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond requirements for Condominium projects established by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority, Veteran's Administration, or other governmental or quasi-governmental agencies involved in the secondary Mortgage market, so long as either 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 Additional Provisions. Insurance policies carried pursuant to this Article shall:

13.3.1 Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counter claims, apportionment, proration, or contribution because of any other insurance obtained by or for any Unit Owner or any Mortgagee;

13.3.2 Contain no provision relieving the insurer from liability for loss because of any act or neglect that is not within the control of the Association or because of any failure of the Association to comply with any warrant or condition regarding any portion of the premises over which the Association has no control;

13.3.3 Contain a waiver of subrogation by the insurer as to any claims against the Association, the Owner of any Condominium Unit and/or their respective agents, employees, or Tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured; and

13.3.4 Provide that, despite any provision giving the insurer the right to restore damage in lieu of a cash settlement that 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.

13.4 Insurance Proceeds. Insurance proceeds for damage or destruction to any part of the Property shall be paid to the Association. The Association, acting through its Board, shall have the authority to settle and compromise any claim under insurance obtained by the Association and the insurer may accept a release and discharge of liability made by the Board on behalf of the named insureds under the policy.

**13.5 Owners' Individual Insurance.** To the extent reasonably available, Unit Owners shall, at their own expense, obtain and maintain individual insurance policies that provide coverage for: portions of the Owner's Unit and risks that are not covered by the Association's policy described in Section 13.1.1, that may include personal belongings, loss of use, Loss Assessment exposures, and Backup of Sewer; Comprehensive Personal Liability coverage with a minimum limit of \$300,000 for any damage to other Units or Common Elements arising or resulting from the Owner's negligence, carelessness, or intentional act or omission; and coverage for the Association's property insurance deductible; however, no Owner shall be entitled to maintain insurance coverage in any manner that would decrease the amount that the Board, or any trustee for the Board, on behalf of all Unit Owners, would otherwise realize under any insurance policy that the Association may have in force on the Condominium at any particular time.

Upon request from the Board or Manager, Unit Owners shall provide a certificate of insurance for or copy of their individual policies.

Owners may obtain information about the Association's insurance coverage and the deductible amount by contacting the Association's manager.

**13.6 Certificate.** An insurer that has issued an insurance policy under this Article 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 applicable provisions of Chapter 48.14 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 Article 13 of the name and address of the new Owner and request that the new Owner be made a named insured under such policy.

**13.8 Liability for Uninsured Amounts, Deductibles.**

**13.8.1** Liability for the cost of repair or replacement of damage to property that is uninsured or is subject to any applicable insurance deductible shall be the responsibility of the individual Unit Owner where: (a) the damage is limited solely to the Owner's Unit or the Limited Common Elements assigned to the Unit and neither subsection (b) nor (c) of this Section apply with respect to another Owner; (b) the damage is the result of negligence or intentional action on the part of the Owner or the Owner's Tenant, or the family, servants, employees, agents, visitors, or licensees of that Owner or the Owner's Tenant; or (c) the damage results from a failure to maintain or repair something for which the Owner has maintenance or repair responsibility. Unit Owners shall also be responsible for the cost of repair or replacement up to the amount of any applicable

deductible if the damage is caused by something within their Unit or under the control of the Owner or the Owner's Tenant, or the family, servants, employees, agents, visitors, or licensees of that Owner or the Owner's Tenant.

In accordance with the preceding paragraph, the amount of any Association or individual Unit Owner insurance deductible for an insured loss, or the repair or replacement cost of any uninsured loss, shall be paid by the Owner responsible by act, negligence or carelessness for the damage; or by the Owner responsible for the control or maintenance of the item causing the damage to or destruction of the property. The Association may assess any Common Expense for which an Owner is responsible under this Section against the Owner's Unit in the same manner as other Assessments.

For example, items that Unit Owners are responsible for maintaining and repairing include, but are not limited to dishwashers, washing machines, sinks, bathtubs, toilets, hot water heaters, refrigerators, and all hoses, pipes, and supply lines within the Unit serving appliances or fixtures. If one of these items leaks within a Unit and damages that Unit, neighboring Units, or Common Elements, the Unit Owner in whose Unit the item is located bears responsibility in all circumstances for the cost of repairing or replacing all damage up to the amount of the deductible and to the extent subsections (a), (b) or (c) above apply, the Owner bears responsibility for uninsured amounts as well.

13.8.2 Except as provided in Section 13.8.1 above, liability for the amount of uninsured damage or damage subject to any deductible applicable to insurance obtained by the Association shall be prorated as determined by the Board between the Association and any involved Owners in proportion to the relative amount of damage to the Common Elements and to each of the affected Units, including the Limited Common Elements assigned thereto, where the damage involves both Common Elements and one or more Units or the Limited Common Elements assigned thereto.

13.8.3 Nothing set forth in this Section 13.8 shall require the Association to pay any insurance deductible due under a Unit Owner's individual insurance policy or any Tenant's policy of renter's insurance. The decision whether to file a claim under the Association's master insurance policy is within the discretion of the Board. The Board may require a Unit Owner to file a claim under the Owner's policy if the Owner is responsible for damage and has not otherwise paid for the necessary repairs.

13.8.4 Nothing set forth in this Section shall require an individual Owner to pay any uninsured amount or insurance deductible resulting from damage caused by an earthquake or flood, except to the extent such an amount is assessed to all Owners in proportion to the percentage of undivided interest for their respective Units as shown in Exhibit B.

13.8.5 The imposition of requirements by the Association under this Section 13.8 shall not relieve a Unit Owner of their obligations under any other Section of the Declaration, including but not limited to, the obligation to perform and pay for repairs, maintenance, care, and replacement.

**ARTICLE 14**  
**DAMAGE OR DESTRUCTION; RECONSTRUCTION**

14.1 Definitions; Significant Damage; Repair; Emergency Work. This Section shall not apply to damage to reserve components due to normal wear and tear, or if replacement of a reserve component is needed because it is at the end of its useful life.

14.1.1 As used in this Article, the term “Significant Damage” means damage or destruction, whether or not caused by casualty, to any part of the Property that 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) that 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 Article, the term “Repair” means to repair, reconstruct, rebuild or restore the Building or improvements that 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 Article, the term “Emergency Work” shall mean work that the Board deems reasonably necessary to avoid further damage, destruction or substantial diminution in value to the improvements and to reasonable 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 extent to which any individual Unit Owner is responsible for the cost of repair of damage and the amount of Assessments against individual Units in accordance with allocation of liability in the Declaration, including but not limited to, Section 13.8.

14.2.5 The amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds available for that repair together with Assessments against individual Units in accordance with Section 14.2.4 and the amount of Assessment against each Unit if the excess was paid as a Common Expense and specially assessed against all the Units in proportion to their percentages of undivided interest in the Common Elements as shown in Exhibit B.

14.2.6 The Board's recommendation as to whether the damage or destruction should be repaired.

14.3 Notice of Damage or Destruction. The Board shall promptly, and in all event within thirty (30) days after the date of the 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 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 Article that 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; (c) eighty percent of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element that 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 that 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 lienholders, as their interests may appear; and (c) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, 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 has been condemned under Exhibit E, 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. 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 Article.

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 Building 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.

## **ARTICLE 15 COMPLIANCE WITH DECLARATION**

15.1 Enforcement. Owners shall comply strictly with the provisions of the Governing Documents, as the same may be lawfully amended from time to time, and with all decisions adopted in accordance with the Governing Documents. 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 their own against the party (including an Owner or the Association) failing to comply.

15.2 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 of this Declaration shall be deemed to have been made unless expressed in writing and signed by the Board.

**ARTICLE 16**  
**LIMITATION OF LIABILITY**

16.1 Liability for Utility Failure, Etc. Except to the extent covered by insurance obtained by the Board pursuant to Article 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 that may leak or flow from outside or from any parts of the Building, 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 order 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.

16.2 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 of those proceedings). 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 Article 13.

16.3 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 where such person is adjudged guilty of willful or intentional misconduct, a knowing violation of the law in the performance of their duties and except in such cases where such person has participated in a transaction from which that person will personally receive a benefit in money, property or services to which that 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.

16.4 Legal Proceedings. The rights, powers, benefits, duties, and obligations granted to and imposed upon parties subject to this Declaration (including without limitation the 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 those parties.

## **ARTICLE 17 AMENDMENT OF DECLARATION, SURVEY MAP, PLANS**

17.1 In General. Except in cases of amendments that may be executed by the Association (in connection with Sections 7.5.2, 7.5.3, Exhibit E, or termination of the Condominium), or certain Unit Owners (in connection with Sections 7.5.2, 7.5.3, or Exhibit H, or termination of the Condominium), the Declaration, including the Survey Map 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.

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

17.3 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 64.32.216(1).

17.4 General Limitations. Except to the extent expressly permitted or required by other provisions of the Act, no amendment may 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 (90%) percent of the votes in the Association are allocated.

17.5 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.

17.6 Material Amendments. Any amendment 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 their 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 thirty (30) 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.

17.7 Map and Plans Amendment. Except as otherwise provided in this Declaration, the Survey Map and Plans may be amended by revised versions or revised portions referred to and described as to effect in an amendment to this Declaration adopted as provided in this Article. 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.

## **ARTICLE 18 MISCELLANEOUS**

### 18.1 Notices for All Purposes.

18.1.1 Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws may be delivered either personal, by mail, or by other Electronic Transmission if the Person has consented in writing to receive notices in that manner. 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. If delivery is made by Electronic Transmission, notice shall be deemed to have been delivered immediately upon transmission. 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 the Association Manager or President or Secretary of the Board.

18.1.2 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.

18.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the validity, partial validity, or enforceability of any one provision or portion of a provision shall not affect the validity or enforceability of any other provision if the remainder complies with the Act.

18.3 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 that is otherwise valid under applicable law.

18.4 Effective Date. This Amended and Restated Declaration shall take effect upon recording.

## **ARTICLE 19 DISPUTE RESOLUTION**

This Article shall not apply to or be construed to limit any rights of the Association to collect Assessments or to exercise any of the rights and remedies provided in Article 12 for collecting Assessments. This Section shall not operate to preclude the Board or any Owner from pursuing a Court order for immediate injunctive relief as may be necessary under the circumstances of a dispute.

19.1 Policy – Mediation. The parties hope there will be no disputes arising out of their relationship or compliance with the Governing Documents. 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.

19.2 Binding Arbitration. The parties shall agree to one arbitrator mutually acceptable to both parties. If an arbitrator cannot be agreed upon, then either party may petition appointment by a King County Superior Court Judge. The prevailing party in any dispute shall recover costs and reasonable attorneys' fees incurred.

19.3 Hearing – Law – Appeal Limited. The arbitrator shall take such steps as may be necessary to hold a private hearing within ninety (90) days of the initial demand for arbitration and to conclude the hearing within three (3) days; and the arbitrator's written decision shall be made not later than fourteen (14) calendar days after the hearing. The parties have included these time limits in order to expedite the proceeding, but they are not jurisdictional, and the arbitrator may for good cause afford or permit reasonable extensions or delays, which shall not affect the validity of the award. The written decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator shall apply applicable substantive law. Absent fraud, collusion, or willful misconduct by an arbitrator, the award and decision shall be final, and the judgment may be entered in any court having jurisdiction over the matter. The arbitrator may award injunctive relief or any other remedy available from a judge, including without limitation joinder of parties or consolidation of this arbitration with any other involving common issues of law or fact that may promote judicial economy.

**ASHBURY, A CONDOMINIUM OWNERS ASSOCIATION**

By: Diane E. Calvert

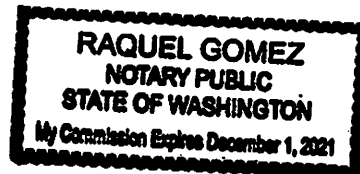
Print Name: DIANE E. CALVERT President

STATE OF WASHINGTON )  
 ) ss.:  
COUNTY OF KING )

On this 19<sup>th</sup> day of December, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared DIANE E. CALVERT to me, known to be the President of the Ashbury, A Condominium Owners Association, the Washington non-profit corporation that executed the within and foregoing instrument, and acknowledged that instrument to be the free and voluntary act and deed of the Association, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute the instrument on behalf of the Association.

WITNESS my hand and seal hereto affixed the day and year in this certificate above written.

Raquel Gomez  
RAQUEL GOMEZ (Print name)  
Notary Public in and for the State of  
Washington, residing at SEATTLE  
My commission expires: 12/1/2021





**EXHIBIT A**  
**DESCRIPTION OF REAL PROPERTY**

**1. Description of Real Property included in Condominium:**

LOTS 5, 6, 7 AND 8, BLOCK 67, DENNY AND HOYT'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGES 136, IN KING COUNTY WASHINGTON.

**2. Allocation of Expenses between Residential and Commercial Units.**

Notwithstanding any other provisions of the Declaration to the contrary, all expenses shall be allocated 96.5% to Residential Units (as a group and shall be paid by Residential Units on the basis of the Residential Allocated Interests in Exhibit B) and 3.5% to Commercial Units (as a group and shall be paid by Commercial Units on the basis of the Commercial Allocated Interests in Exhibit B) except 100% of the following expenses (and reserves therefor) benefitting the Residential Units and not benefitting the Commercial Unit shall be allocated to and paid by Residential Units on the basis of the Residential Allocated Interests in Exhibit B – gas, metro capacity, cleaning (expense & supplies), elevator (maintenance & repairs), heating & air conditioning (maintenance & repairs), gardening & yard maintenance, interior painting, carpet, decks.

**EXHIBIT B  
BUILDING/UNIT DATA & ALLOCATED INTERESTS**

UNIT #	FLOOR	UNIT DESCRIPTION						SQUARE FOOTAGE Surveyor's "as-built"	DECLARED VALUE	ALLOCATED INTERESTS Common Expense, Common Element, Votes		
		# of Bathrooms			# of Bdrms	# of FrPlcs	Dwelling portion			Residential Units	Commercial Units	All Units
		Full	3/4	1/2								
101	1	2				2	1	921	\$205,000	2.5184%		2.4303%
102	1	1	1			2	1	1084	\$215,000	2.6413%		2.5489%
103	1	1				1	1	803	\$185,000	2.2727%		2.1932%
104	1	1	1			2	1	937	\$220,000	2.7027%		2.6082%
105	1	1				1	1	599	\$165,000	2.0270%		1.9561%
201	2	1				1	1	808	\$235,000	2.8870%		2.7860%
202	2	1				1	1	716	\$200,000	2.4570%		2.3711%
203	2	1				1	1	658	\$165,000	2.0270%		1.9561%
204	2	1				1	1	709	\$210,000	2.5799%		2.4896%
205	2	1				1	1	813	\$220,000	2.7027%		2.6082%
206	2	1				1	1	824	\$220,000	2.7027%		2.6082%
207	2	1	1			2	1	932	\$265,000	3.255%		3.1417%
208	2	1				1	1	897	\$185,000	2.2727%		2.1932%
209	2	1	1			2	1	939	\$295,000	3.6241%		3.4973%
210	2	1				1	1	816	\$255,000	3.1327%		3.0231%
301	3	1				1	1	808	\$245,000	3.0098%		2.9046%
302	3	1				1	1	716	\$225,000	2.7641%		2.6675%
303	3	1				1	1	658	\$190,000	2.3342%		2.2525%
304	3	1				1	1	709	\$220,000	2.7027%		2.6082%
305	3	1				1	1	813	\$230,000	2.8256%		2.7267%
306	3	1				1	1	824	\$230,000	2.8256%		2.7267%
307	3	1	1			2	1	925	\$285,000	3.5012%		3.3788%
308	3	1				1	1	597	\$195,000	2.3956%		2.3118%
309	3	1	1			2	1	930	\$315,000	3.8698%		3.7344%
310	3	1				1	1	816	\$255,000	3.1327%		3.0231%
401	4	1				1	1	789	\$255,000	3.1327%		3.0231%

UNIT #	FLOOR	UNIT DESCRIPTION						SQUARE FOOTAGE Surveyor's "as-built"	DECLARED VALUE	ALLOCATED INTERESTS Common Expense, Common Element, Votes			
		# of Bathrooms				# of Bdrms	# of FrPlcs			Dwelling portion	Residential Units	Commercial Units	All Units
		Full	3/4	1/2	1/4								
402	4	1	1			2	1	1055	\$339,000	4.1646%		4.0190%	
403	4	1	1			2	1	1057	\$329,000	4.0418%		3.9004%	
404	4	1				1	1	785	\$240,000	2.9484%		2.8453%	
405	4	1				1	1	805	\$240,000	2.9484%		2.8453%	
406	4	1	1			2	1	916	\$309,000	3.7961%		3.6633%	
407	4	1				1	1	597	\$200,000	2.4570%		2.3711%	
408	4	1	1			2	1	916	\$329,000	4.0417%		3.9004%	
409	4	1				1	1	805	\$269,000	3.3046%		3.1892%	
<b>TOTAL RESIDENTIAL</b>								<b>27674</b>	<b>\$8,140,000</b>	<b>100.0000%</b>			
COMMERCIAL								2820	\$295,000		100.0000%	3.4974%	
<b>COMMERCIAL TOTALS</b>								<b>2820</b>	<b>\$295,000</b>		<b>100.0000%</b>	<b>3.4974%</b>	
<b>RESIDENTIAL &amp; COMMERCIAL TOTALS</b>								<b>30494</b>	<b>\$8,435,000</b>			<b>100.0000%</b>	

#### UNIT SQUARE FOOTAGE AREA NOTES

\*Square footages are: (a) good faith estimates only, (b) based on architectural plans and (c) may include perimeter wall thickness. Square footage in the recorded Original Declaration, at the Declarant's election was either: (a) determined by surveyor's "as-built" certificate upon completion of construction (based on interior surface dimensions excluding perimeter wall thickness); or (b) based on architectural plan estimates. In either case, actual square footage may be less than square footages used in the Public Offering Statement or in advertising and sales material, that were based on good faith architectural estimates.

#### ALLOCATED INTEREST NOTES

The Allocated Interest of a Unit on Common Expense Liability, Association votes, and Common Elements was determined by dividing the Declared Value of a Unit by the aggregate Declared Value of all Units. The Declared Value is not based on an appraisal nor the price for which a Unit may be sold, but rather is an amount used to calculate Allocated Interests. Some Allocated Interests may have been rounded so that the aggregate Allocated Interests equal 1.00. If this Condominium may be created in phases, as additional phases are added, Allocated Interests will be reallocated on the basis of the foregoing formula.

**EXHIBIT C  
PARKING AND STORAGE ASSIGNMENTS**

UNIT NUMBER	PARKING	STORAGE
	Enclosed Space Number(s)	Storage Unit Number(s)
101	2	26
102	37	27
103	3	29
104	34	10
105	9	30
201	16	19
202	6	24
203	4	25
204	8	22
205	7	23
206	20	20
207	36	17
208	40	21
209	26	16
210	29	18
301	27	28
302	13	33
303	5	14
304	12	34
305	14	32
306	15	31
307	23	12
308	21	15
309	30	13
310	18, 32	7
401	38	2
402	39	8
403	10, 28	9
404	17	3
405	31	4
406	33	11
407	22	1
408	24	6
409	25	5
Commercial	41, 42, 43 & 44 (unenclosed)	

\*\*Parking spaces 19 & 35 have not been assigned.

**EXHIBIT D**  
**REGULATION AND USES OF COMMERCIAL UNIT**

1. Permitted Uses. Any and all uses permitted by applicable land use and zoning codes, except as provided in paragraph 2 below.

2. Prohibited Uses. A Commercial Unit shall not be used for conducting: manufacturing activities; wholesale on-site sale food or beverages; wholesale or retail sales of pornographic literature, photographs or movies; card room, dance hall, pool hall or other similar form of amusement center; automobile service station or automobile rentals; bowling lane; skating rink; dance and/or music school or studio; adult motion picture theatre; automobile and pleasure boat display or sales establishment; automobile repair; automobile rental and sales; parking garage and automobile rental garage; on-site laundry, dry-cleaning, dyeing or run cleaning plants; fire station; branch telephone exchange, microwave or line-of-sight transmission station, static transformer and booster station, and other public utility service uses; public or private park; railroad rights-of-way, including passenger shelter stations, switching, storage, freight yards or sidings; radio and television studio; jail; hotel, apartment hotel and motel; tavern; package liquor store, and other similar enterprises; frozen-food lockers, retail ice dispensary, and ice manufacture; plant nursey; taxidermy shop; retail pet shop or small animal clinic; retail building supply store; automobile laundry; work release center; helistop; steam manufacture; automobile service station; parking garage, automobile rental garage or commercial parking lot for vehicles; drive-in restaurant.

3. Miscellaneous.

(a) The delivery of shipment of merchandise, supplies, and fixtures to and from the Commercial Unit shall be accomplished in a manner that shall not unreasonably interfere with the quiet enjoyment, or with the security of the Residential Unit Owners.

(b) All garbage and refuse shall be kept in a kind of commercial container and prepared for collection in the manner and at the times and places established by the City of Seattle Solid Waste Utility.

(c) The Commercial Unit Owners or Tenants shall not utilize any illegal method of conducting sales or advertising.

(d) The Commercial Unit Owners or Tenants shall not use, or permit to be used, any advertising medium, or loudspeaker, or sound amplifier, or radio or television broadcast, which may be heard outside the Commercial Unit property.

(e) The Commercial Unit or Tenant shall not use the plumbing facilities that it shares with the Owners of the Residential Units for any purpose other than that for which they are constructed.

(f) The Commercial Unit Owner or Tenant shall not install, operate, or maintain in the Unit any electrical equipment which will overload the electrical system that it shares

with the Residential Units or any part thereof, beyond its reasonable capacity for proper and safe operation as determined by the Seattle City Light Department.

(g) The Commercial Unit Owner or Tenant shall not allow or permit any continuing vibration ("Vibration") or any offensive or obnoxious and continuing noise ("Noise") or any offensive or obnoxious and continuing odor ("Odor") to emanate from the Unit into the Residential Units, nor shall the Commercial Unit Owner allow or permit any machine or other installation therein to constitute a nuisance or otherwise to unreasonably interfere with the safety or comfort of any of the other Owners of such building. Upon the Commercial Unit Owner's failure to remedy Noise or Vibration within ten (10) days of written notice of the condition from the Board, the Board may at its option either: (1) cure such condition at the Commercial Unit Owner's cost and expense; or (2) pursue any other available legal or equitable remedy. Upon the failure of the Commercial Unit Owner to remedy Odor within ten (10) days of written notice of the condition from the Board, the Board may, at its option either: (1) attempt to resolve the matter by agreement with the Commercial Unit Owner; or (2) submit the matter to arbitration by a panel of three independent arbitrators, in which case one arbitrator shall be chosen by the Board, the second arbitrator shall be chosen by the Commercial Unit Owner, and the third arbitrator shall be chosen by the other two arbitrators. Notwithstanding anything herein to the contrary, if the nature of such Vibration, Noise or Odor is such that more than ten (10) days are required to remedy them, the Board shall not effect a cure or pursue any remedy against the Commercial Unit Owner if the Commercial Unit Owner commences a cure within said ten (10) days and thereafter diligently prosecutes such cure to completion.

Construction, remodeling and maintenance of the Commercial Units and activities reasonably necessary to accomplish the same shall not be deemed to be Vibration, Noise or Odor within the meaning of this paragraph. Conditions in existence at the time of purchase of any Residential Unit shall not be deemed to be Vibration, Noise, or Odor within the meaning of this paragraph.

#### 4. Commercial Unit Owners' Rights.

(a) With respect to the Commercial Units, and without the Board's prior approval, signs may be displayed to the public view: from within the Commercial Units; and attached to the exterior of the entry door or on the interior wall adjacent thereto; provided: all signs shall comply with the provisions of any applicable governmental laws, rules and regulations; shall not consist of strobe or flashing lights; and shall not interfere with the quiet and peaceful enjoyment of any Residential Unit.

(b) Commercial Unit Owners shall bear the expenses relating to any changes in electrical service necessitated by its operations.

(c) Commercial Unit Owners may perform alterations within the interior of the Commercial Unit which alterations are consistent with the permitted uses of the Commercial Unit and applicable governmental regulations.

(d) All of the foregoing shall be performed by the Commercial Unit Owners at its sole cost and expense, and in strict compliance with the Declaration and all applicable governmental laws, rules and regulations.

(e) Residential Unit Owners, and their Tenants and invitees, shall: Neither park motor vehicles on any street or alleyway adjacent to the Property in a manner which violates any provisions of this Declaration, Bylaws and applicable governmental laws, rules and regulations; nor dispose of garbage anywhere on the Property except in receptacles designated for that purpose and then only in compliance with the provisions of the Declarations, Bylaws and applicable governmental laws, rules and regulations.

(f) Notwithstanding any provisions of the Declaration and Bylaws to the contrary, the approval of a majority vote of the voting power of all Commercial Units shall be required for any amendment to the Declaration, Bylaws or Rules, which amendment would either: delete or otherwise modify any right, privilege or protection specially accorded to the Commercial Units and the Owners thereof; or, impose any new duty or obligation against the Commercial Units and the Owners thereof.

(g) Notwithstanding any provisions of the Declaration and Bylaws to the contrary, no Commercial Unit or Owner thereof shall under any circumstances be responsible for payment by means of Assessment or otherwise of any of the costs, charges, or Assessments payable by one or more of the Residential Units pursuant to the provisions of the Declaration and Bylaws. Provided, no Residential Unit or Owner thereof shall under any circumstances be responsible for payment by means of Assessment or otherwise of any of the costs, charges or Assessments payable by one or more of the Commercial Units pursuant to the provisions of the Declaration and Bylaws.

## **EXHIBIT E CONDEMNATION**

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 that 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 appurtenant 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.

2. **Partial Unit Condemnation.** Except as provided in Section 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 appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides: (a) That Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit, and (b) the portion of the Allocated Interests divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced allocated interests.

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 interest 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.

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

5. **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.

**EXHIBIT F**  
**MORTGAGEE PROTECTION**

1. Change in Manager. In the event that professional management is employed by the Association, at least thirty (30) 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.

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.

3. Partitions and Subdivisions. The Association shall not combine nor subdivide any Unit or the appurtenant Limited Common Elements, nor abandon, partition, subdivide, 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 all Owners of record of the Units, and without unanimous approval of the Eligible Mortgagee(s) and Owner(s) of the Unit(s) so affected.

4. Change in Percentages. The Association shall not make any Material Amendment (as defined in Section 17.6) 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 the unanimous approval of the Eligible Mortgagee(s) and Owner(s) of the Unit(s) for which the percentage(s) would be changed.

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 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.

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 that is inconsistent with any other provision of the Declaration or the Bylaws shall control over such other inconsistent provisions.

**7. Insurance.**

**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 of a policy that 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 limiting, 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 Article 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);

**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; any and contribution clause.

**8. Inspection of Books.** 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 reasonably circumstances) all of the Books and Records of the Association (as defined in Section 1.7), within a reasonable time following request; and, upon written request of holders of fifty-one percent (51%) or more of first Mortgagees at their expense if an audited statement is not otherwise available, to receive an annual audited financial statement of the Association.

## **EXHIBIT G EASEMENTS**

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 each 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 are 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 Elements are 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.

2. Utility, Etc., Easements. The Board, on behalf of the Association and all its members, shall have authority to grant utility, road and similar easements, licenses and permits, under, through or over the Common Elements, if the Board determines they are reasonably necessary to the operation of the Property.

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 of it) 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 Rules.