

April 17, 2015

DECLARATION
AND
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS
FOR
THE VILLAGE AT CORDATA
A CONDOMINIUM^{1,2}

**This Document has been updated by
Applying Amendments 1 through 13**

¹ This document was prepared by Calvin Wright by scanning a photocopy of the February 1989 Declaration and its Fifth through Ninth amendments. (The First through the Fourth amendments were replaced by the Fifth.) After each page was scanned it was edited to correct scanning errors and to restore formatting lost during the scanning process, and it was compared with the page that was scanned to assure accuracy. Each page in this document contains exactly the same text as its scanned page, as does each line of text with some exceptions where necessary. Typos and other errors in the scanned documents were not corrected, although many, but not all, were footnoted where space permitted. Curly brackets {...} are used for within-text comments or references to amendments. Amendments Ten through Thirteen were added October 2007. If there is any question about text included here, refer to the original document.

² Whatcom County File No. 1629075, Vol. 95, starting on p. 959.

DECLARATION AND COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATIONS FOR
THE VILLAGE AT CORDATA

A Condominium

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⁴ This is an error. The correct heading is "MORTGAGEE PROTECTION".

⁵ This is an error. The correct word is "Mortgagee".

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⁶ This is an error. The correct word is "PHASED".

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A Condominium

Pursuant to the Act defined in Section 1.9.1 and for the purpose of submitting the Property hereinafter described (including the Land described in Schedule A) to the provisions of said Act, the undersigned, being sole owner(s), lessees or possessors of said Property, make the following Declaration. By acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the Property or any Apartment in the horizontal property regime created by this Declaration, it is agreed that this Declaration, together with the Survey Map and Plans referred to herein, states covenants, conditions, restrictions, and reservations effecting a common plan for the Condominium development mutually beneficial to all of the described Apartments, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire property and upon each such Apartment as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the Property or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of Apartments under security instruments.

ARTICLE 1

INTERPRETATION

1.1 Liberal Construction

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

1.2 Consistent with Act

The terms such as, but not limited to, "apartment," "apartment owner," "association of apartment owners," "building," "common areas and facilities," "common expenses," "land," "limited common areas" and property," used herein are intended to have the same meaning given in the Act unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

1.3 Covenant Running with Land

It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, binding on Declarant, its successors and assigns, all subsequent Owners of the Property, together with their grantees, successors, heirs, executors, administrators, devisees or assigns, supplementing and interpreting the Act, and operating independently of the Act should the Act be, in any respect, inapplicable.

1.4 Apartment and Building Boundary

In interpreting the Survey Map and Plans, the existing physical boundaries of the Building and each Apartment as constructed or reconstructed shall be conclusively presumed to be its boundaries.

1.5 Percentage of Mortgagees

For purposes of determining the percentage of first Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds first Mortgages on more than one Apartment, such Mortgagee shall be deemed a separate Mortgagee for each such first Mortgage so held.

1.6 Declarant is Original Owner

Declarant is the original Owner of all Apartments and Property and will continue to be deemed the Owner thereof except as conveyances or documents changing such ownership regarding specifically described Apartments are filed of record.

1.7 Captions and Schedules

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

1.8 Inflationary Increase in Dollar Limits

The dollar amounts specified in Articles 10, 13, 14 and 18 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, 1989, to adjust for any deflation in the value of the dollar.

1.9 Definitions

1.9.1 "The Act" shall mean the Horizontal Property Regimes Act of Washington, Laws of 1963, Chapter 156 (RCW Chapter 64.32) as amended.

1.9.2 "Apartment" shall mean a part of the Property intended for the use specified herein, including one or more rooms or spaces located on one or more floors (or part or parts thereof) in a Building. The boundaries of an Apartment are the unfinished interior surfaces of its perimeter walls, floors, ceilings, windows, and doors, and the Apartment includes both the portions of the Building so described and the air space so encompassed.

1.9.3 "Association" shall mean all of the Apartment Owners acting as a group in accordance with the Bylaws and with the Declaration as it is duly recorded as they may be lawfully amended, which Association is more particularly provided for in Article 9.

1.9.4 "Apartment Owner" or "Owner" shall mean the person or persons owning an Apartment in the kind of estate specified herein, together with an undivided interest in a like estate of the Common Areas in the percentage specified herein.

1.9.5 "Board" shall mean the board of directors of the Association provided for in Section 10.1.

1.9.6 "Building" shall mean the building or buildings containing the Apartments and comprising a part of the Property.

1.9.7 "Bylaws" shall mean the Bylaws of the Association provided for in Section 9.5.

1.9.8 "Common Areas" shall include the Common Facilities, and shall mean those portions of The Condominium Property (including the land described in Schedule A and improvements thereto) as provided in Article 6 as limited in Article 7.

1.9.9 "Common Expenses" shall include all sums lawfully assessed against Owners by the Association and expenses: of administration, maintenance, repair or replacement of the Common Areas; declared to be common expenses by the Act, the Declaration or the Bylaws (as they may be lawfully amended); and agreed upon as common expenses by the Association.

1.9.10 "Common Funds" shall mean those funds held by the Association and collected from Owners by means of regular or special assessments, for the payment of Common Expenses.

1.9.11 "Condominium" shall mean the horizontal property regime created by this Declaration.

1.9.12 "Declarant" shall mean the undersigned (being the sole owner(s), lessees or possessors of the Property described in Schedule A hereof).

1.9.13 "Declaration" shall mean this Declaration and any amendments thereto.

1.9.14 "Interior Surfaces" (where that phrase is used in defining the boundaries of Apartments or Limited Common Areas) shall not include paint, all paper, paneling, carpeting, tiles or other such decorative surface coverings or finishes. Said decorative finishes and coverings, along with fixtures and other tangible personal property (including furniture, planters, mirrors, and the like) located in and used in connection with said Apartment or Limited Common Area, shall be deemed a part of said Apartment or Limited Common Area.

1.9.15 "Limited Common Areas" shall include Limited Common Facilities, and shall mean those portions of the Common Areas as provided in Article 7.

1.9.16 "Majority" or "Majority of Apartment Owners" shall mean the Apartment Owners with fifty-one (51%) percent or more of the votes in accordance with the percentages assigned herein.

1.9.17 "Manager" shall mean the person retained by the Board (or Declarant exercising the Board's authority) 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.

1.9.18 "Mortgage" shall mean a recorded mortgage or recorded deed of trust that creates a lien against an Apartment and shall also mean a recorded real estate contract for the sale of an Apartment.

1.9.19 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of a recorded encumbrance on an Apartment 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 an Apartment. A Mortgagee of the Condominium and a Mortgagee of an Apartment are included within the definition of Mortgagee.

1.9.20 "Mortgage Foreclosure" shall include a deed of trust sale, a forfeiture of a real estate contract, and a deed given in lieu of such foreclosure, sale or forfeiture.

1.9.21 "Mortgagee of an Apartment" shall mean the holder of a Mortgage on an Apartment, which mortgage was recorded simultaneous with or after the recordation of this Declaration. Unless the context requires otherwise, the terms "Mortgagee of an Apartment" shall also be deemed to include the Mortgagee of the Condominium.

1.9.22 "Mortgagee of the Condominium" shall mean the holder of a Mortgage on the real property which this Declaration affects, which Mortgage was recorded prior to the recordation of this Declaration. The term "Mortgagee of the Condominium" does not include Mortgagees of the individual Apartments.

1.9.23 "Person" shall include natural persons, partnerships, corporations, associations, personal representatives, trustees or other legal entities.

1.9.24 "Property" shall mean the land, Buildings, all improvements and structures now or hereafter placed on the land described in Schedule A, and all easements, rights and appurtenances belonging thereto, and all articles of personalty intended for use in connection therewith.

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

1.9.26 "Survey Map and Plans" shall mean the survey map and the plans recorded simultaneously with this Declaration and any amendments, corrections, and addenda thereto subsequently recorded.⁷

1.9.27 "Eligible First Mortgagee" shall mean the holder of a first Mortgage on an Apartment that has filed with the secretary of the Association a request in writing that it be given copies of notices of any actions by the Association that requires the consent of first Mortgagees.

⁷ New Section 1.9.27, "Eligible First Mortgagee", added by the Twelfth Amendment.

ARTICLE 2

DESCRIPTION OF LAND

2.1 Description of Land

The land on which the Buildings and improvements provided for in this Declaration are located is described in Schedule A attached hereto.

ARTICLE 3

DESCRIPTION OF BUILDINGS AND IMPROVEMENTS

3.1 Apartment Buildings

A description of the principal materials of which the Apartment Building or Buildings are constructed, the number of Apartment floors in each Building and the number of Apartments, storage areas and parking spaces is set forth in Schedule B attached hereto.

3.2 Recreational Facilities

A description of the recreational facilities, if any, included within the Condominium project is set forth in Schedule B attached hereto.

ARTICLE 4

DESCRIPTION OF APARTMENTS, LOCATION AREA AND NUMBER OF ROOMS

4.1 Building Location

Each Apartment Building is identified and shown on the survey map filed in conjunction herewith.

4.2 Apartment Location

Each Apartment, parking space and storage locker is identified by a letter and/or number. The location of each Apartment, storage locker and parking space is shown in the Plans filed in conjunction herewith.

4.3 Apartment Description

In Schedules B and C attached hereto each Apartment is described by Apartment number, floor location, kind and number of rooms in the Apartment. The total square foot floor area of Apartment is set forth on Survey Maps and Plans filed simultaneously herewith and as from time to time amended.

ARTICLE 5

ACCESS

5.1 Access to Common Ways

Each Apartment has direct access to Common Area roadways, streets, walks, parking areas and/or driveways.

5.2 Access to Public Streets

The Common Areas have a direct access to the public street(s) identified in Schedule B.

ARTICLE 6

DESCRIPTION OF COMMON AREAS AND FACILITIES;
CERTAIN ITEMS MAY BE MADE OWNER'S RESPONSIBILITY

6.1 Except as otherwise specifically reserved, assigned or limited by the provisions of Article 7 hereof, the Common Areas and Facilities consist of the following:

6.1.1 The land described in Schedule A.

6.1.2 The windows, roofs, foundations, columns, girders, studding, joists, beams, supports, walls (excluding non-bearing interior partitions of Apartments), chimneys, and all other structural parts of the Buildings, to the interior surfaces of the Apartments' perimeter walls, floors, ceilings, windows, and doors; that is, to the boundaries of the Apartments as the boundaries are defined in the Act, and any replacements thereto.

6.1.3 Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating; pipes, conduits, and wires, wherever they may be located whether in partitions or otherwise and whether they serve one Apartment, all Apartments or the Common Areas; 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 an Apartment for the exclusive use of the Apartment.

6.1.4 The driving areas (not assigned as limited Common Areas in Article 7) which provide access to the Limited Common Areas for parking, and any guest parking or other parking areas not assigned to Apartments.

6.1.5 The yards, gardens, landscaped areas and walkways which surround and provide access to the Buildings or are used for recreational purposes.

6.1.6 The lobbies, halls and corridors not within individual Apartments, storage areas not assigned to Apartments, stairways and stairs, entrances and exits of the Buildings, and (unless otherwise expressly provided in Schedule B) the recreational facilities described in said Schedule B.

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

6.1.8 Clubhouses, tennis or sport courts, Recreational Vehicle storage areas and all other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use.

6.1.9 Certain items which could ordinarily be considered Common Areas such as but not limited to screen doors, window screens, awnings, storm windows, planter boxes, and the like, may, pursuant to decision of a majority of owners and specification in the Bylaws or administrative rules, be designated Limited Common Areas and as items to be furnished and maintained by the individual Apartment Owner of Owners (who are directly benefiting from or using said items) at their individual expense, in good order, according to standards and requirements set by the Board by rule, regulation or Bylaws. ⁸

6.2 The provisions of this Section 6.2 supersede any other provisions regarding maintenance of the Common Area elements included here.

6.2.1 The individual Apartment Owner shall be responsible for the following optional maintenance and repair activities for Common Area elements located within the Limited Common Area of the Apartment:

- (a) Maintaining awnings, if any.
- (b) Fixing exterior door locks.
- (c) Fixing drafty exterior doors.
- (d) Maintaining screen doors.
- (e) Providing, installing and removing foundation vent plugs.
- (f) Installing leaf guards on gutters if desired by Owner.
- (g) Maintaining planter/flower boxes.
- (h) Removing ants, spiders, mosquitoes, flies, wasps, bees, etc. from the foundation or outside surfaces of the Apartment (removing carpenter ants and termites remain an Association responsibility).
- (i) Sweeping or pressure washing the walkway which provides access to the Apartment building.
- (j) Changing lights or fixtures for the walkway which provides access to the Apartment building, including porch lights (changing exterior garage lights remains an Association responsibility).
- (k) Washing the exterior side of windows.

6.2.2 Consistent with provisions in Section 1.9.9, 1.9.15, and 12.1, unless specified otherwise in Section 6.2.1 major repair or replacement of the Common Area elements shall be paid from the replacement

⁸ New Sections 6.2, 6.2.1, 6.2.2, and 6.2.3 added by the Eleventh Amendment.

fund as a Common Expense unless the element was installed by the Owner, or at the request of the Owner, or a previous Owner.

6.2.3 The Board of Directors may pass and amend appropriate Administrative Rules and Regulations making the individual Apartment Owner responsible for optional maintenance and repair activities for Common Area elements located within the Limited Common Area of the apartment in addition to those included in Section 6.2.1, subject to revocation by the Association membership as provided in Section 11.12.

ARTICLE 7

DESCRIPTION OF LIMITED COMMON AREAS: EASEMENTS FOR EXCLUSIVE USE RESERVED FOR CERTAIN APARTMENTS

7.1 Limited Common Areas

The Limited Common Areas and Facilities are reserved for the exclusive use of the Owner or Owners of the Apartment or Apartments to which they are adjacent or assigned and consist of:

7.1.1 The patio/yard area, deck or lanai, if any, which is adjacent to each Apartment as more particularly shown and designated as a Limited Common Area on the Survey Map and Plans, the boundaries of said patio/yard area, deck or lanai being defined by the interior surfaces of the walls, floor, ceiling, doors, windows; ground, railings, fence or curb enclosing said patio/yard areas, deck or lanai; provided, that, if no such fence, curb or other enclosure exists, then the boundary of such Limited Common Area shall be as depicted on the Survey Map and Plans.

7.1.2 Parking space (if any), and driving areas of the kind referred to in Section 6.1.4 (if any), which are assigned to an Apartment by the Declarant pursuant to Section 7.2, and as more particularly⁹ shown on the Survey Map and Plans, the boundaries of said parking stall being defined by the interior surfaces of the walls, floor, curb and/or striping enclosing said parking space.

⁹ Sic.

7.1.3 The storage lockers for each Apartment, if any, which automatically are Limited Common Area where said storage lockers are located on the deck, lanai, patio or hallway, or other Common Area, immediately adjacent to a particular Apartment and as shown on the Survey Map and Plans, the boundaries of said storage locker being defined by the interior surfaces of top, bottom, door and sides of said storage locker.

7.1.4 The storage locker, if any, which is assigned to an Apartment by the Declarant pursuant to Section 7.2, the boundaries of said storage locker being defined by the Interior Surfaces of top, bottom, door and sides of said storage locker.

7.1.5 Such other Limited Common Areas, if any, as may be described in Schedule B attached hereto.

7.2 Parking, Etc. Assignment

The total number of parking spaces and storage areas is shown on Schedule B attached hereto, and the general locations are depicted on the Survey Map and Plans,¹⁰ Unless the Property does not have sufficient off-street parking and/or storage areas for each Apartment, the Owner of each Apartment has the unqualified right to use at least one parking space and storage area which will be assigned as provided in this Section 7.2. Declarant reserves the right to make the initial assignment of parking spaces and storage areas to each Apartment, as referred to in Section 7.1.2 and 7.1.4, such assignment either being made: in Schedule C attached hereto; by amendment to the Declaration and/or Survey Map and Plans; or by designation contained in the initial Apartment deed, contract or other conveyance executed by Declarant. With respect to each Apartment, Declarant shall make such assignments prior to or contemporaneously with the closing of the sale of such Apartment by Declarant. Once all Apartments are sold, the balance of any parking spaces and storage areas, if any, not so assigned to specific Apartments shall constitute part of the Common Area to be used in accordance with the rules and regulations established from time to time by the Board.

7.3 Transfer of Parking Rights, Etc.

7.3.1 After Declarant's initial assignment, an Apartment Owner may rent or lease the parking space an¹¹/or storage areas assigned to that Apartment to any other Apartment Owner; provided, that the rental or lease term shall automatically expire on the date the lessor/Apartment owner disposes of its interest in the Apartment (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.

¹⁰ This appears to be an error and should probably be a period instead of a comma.

¹¹ This is an error. The correct word is "and".

7.3.2 Notwithstanding any other provision of this Declaration to the contrary, the Limited Common Area, parking space and/or storage area may be assigned as a Limited Common Area from one Apartment to another Apartment if the Owners of both Apartments, at their sole expense: prepare an appropriate amendment to the Declaration and Survey Map and Plans; submit for approval, as to form and legality, such amendment to the Board, who may require such owners to also obtain such approval from the Association's attorney and/or title insurer; obtain the written consent of the record Mortgagees, if any, of such Apartments; and cause such amendment to be executed and recorded as provided in Section 21.1 and 21.2. Any such amendment complying with the requirements of this Section 7.3 shall be deemed consented to by the Owners and Mortgagees of all other Apartments.

ARTICLE 8

VALUE AND PERCENTAGE OF UNDIVIDED INTEREST IN COMMON AREAS

The value of the entire Property and the values and percentages of interest for each Apartment are expressed in Schedule C attached hereto. Each Apartment includes all the Limited Common Areas appertaining thereto and the percentage of undivided interest in the Common Areas appertaining thereto. The values are schedules to establish the percentages required by the Act and do not reflect, necessarily, the amount for which an Apartment will be sold, from time to time, by Declarant or others. The undivided interest appertaining to each Apartment cannot be changed except as provided in Article 21. The undivided interest in the Common Areas and the title to the respective Apartments shall not be separated or separately conveyed and each undivided interest shall be deemed to be conveyed with its respective Apartment even though the description in the instrument of conveyance or encumbrance may refer only to the title to the Apartment.

ARTICLE 9

OWNER'S ASSOCIATION

9.1 Form of Association

Initially the Association may be an unincorporated association. The Board, or Declarant until such time as the initial Board is selected, may at any time if deemed advisable in the exercise of its sole discretion, without necessity of prior approval or other action by the members being necessary, cause such unincorporated association to be converted to a non-profit corporation under the laws of the state of Washington; provided, that from and after the formation of such non-profit corporation, the rights and duties of the members and of such corporation shall continue to be governed by the provisions of the Act, this Declaration and the Bylaws.

9.2 Membership

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

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

9.3 Voting

9.3.1 Number of Votes. The total voting power of all Owners shall be one hundred (100) votes and the total number of votes available to Owners of any one Apartment shall be equal to the percentage of undivided interest in the Common Areas appertaining to such Apartment as set forth in Schedule C hereof.

9.3.2 Voting Owner. There shall be one (1) voting representative of each Apartment. Declarant shall be considered an "owner" as that term is used herein, and shall be the voting representative, with respect to any Apartment or Apartments owned by Declarant. If a person (including Declarant) owns more than one Apartment, he shall have the votes for each Apartment owned. The voting representative shall be designated by the Owner or Owners of each Apartment by written notice to the Board, and need not be an Owner. The designation shall be revocable at any time by actual notice to the Board from a party having an ownership interest in an Apartment, or by actual notice to the Board of the death or judicially declared incompetence of any party with an ownership interest in the Apartment. This power of designation and revocation may be exercised by the guardian of an Apartment Owner, and the administrators or executors of an Owner's estate. Where no designation is made, or where a designation has been made but is revoked and no new designation has been made, the voting representative of each Apartment shall be the group composed of all of its Owners.

9.3.3 Joint Owner Disputes. The vote for an Apartment must be cast as a single vote, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. In the event more than one (1) vote is cast for a particular Apartment, none of said votes shall be counted and said votes shall be deemed void.

9.3.4 Pledged Votes. If an Owner is in default under a first Mortgage on the Apartment for ninety (90) consecutive days or more, the Mortgagee shall automatically be authorized to declare at any time thereafter that the Apartment Owner has pledged his or her vote on all issues to the Mortgagee during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, or in the event the record Owner or owners have otherwise pledged their vote regarding special matters to a Mortgagee under a duly recorded Mortgage, only the vote of such Mortgagee or vendor, will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with this pledge has been filed with the Board. Amendments to this subsection shall only be effective upon the written consent of all the voting Owners and their respective Mortgagees, if any.

9.4 Meetings, Audits, Notices of Meetings

9.4.1 Annual Meetings, Audits. There shall be an annual meeting of the Owners in the first quarter of each calendar year, or such other fiscal year as the Board may by resolution adopt, at such reasonable place and time as may be designated by written notice of the Board delivered to the Owners no less than ten (10) days prior to the date fixed for said meeting. At the annual meeting, there shall be presented an audit of the Common Expenses, itemizing receipts and disbursements for the preceding fiscal year, and the allocation thereof to each Owner, and the estimated Common Expenses for the coming fiscal year. The Board at any time, or by written request of owners having at least forty (40%) percent of the total votes, may require that an audit of the Association and management books be presented at any special meeting. An Apartment Owner, at his own expense, may at any reasonable time make an audit of the books of the Board and Association.

9.4.2 Special Meetings. Special meetings of the owners may be called at any time for the purpose of considering matters which by the terms of the Act or of this Declaration require the approval of all or some of the Owners, or for any other reasonable purpose. Such meetings shall be called by written notice of the president of the Association upon the decision of the president, or after request signed by a majority of the Board, or by written request by the Owners having at least forty (40%) percent of the total votes, which notice shall be delivered not less than ten (10) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting, and in general the matters to be considered.

9.5 Bylaws of Association

9.5.1 Adoption of Bylaws. Bylaws for the administration of the Association and the Property, and for other purposes not inconsistent with the Act or with the intent of this Declaration, shall be adopted by the Association upon concurrence of those voting Owners holding seventy-five (75%) percent of the voting power at a regular or special meeting. Notice of the time, place and purpose of such meeting shall be delivered to each Apartment Owner at least ten (10) days prior to such meeting. Amendments to the Bylaws may be adopted by a majority vote of members present at a regular or special meeting of the Association."

9.5.2 Bylaws Provisions. The Bylaws shall be deemed to contain provisions identical to those provided in this Article 9, and may contain supplementary, not inconsistent, provisions regarding the operation of the Condominium and administration of the Property. The Bylaws shall establish such provisions for quorum, ordering of meetings, and details regarding the giving of notice as may be required for the proper administration of the Association and the Property.

ARTICLE 10

MANAGEMENT OF CONDOMINIUM

10.1 Administration of the Condominium

The Apartment Owners covenant and agree that the administration of the Condominium shall be in accordance with the provisions of this Declaration and the Bylaws of the Association which are made a part hereof.

10.2 Management by Declarant

Until a date seven (7) years from the date of the first conveyance of the first Apartment, or a date not more than one hundred twenty (120) days from the date on which Declarant shall have closed the sales of one hundred (100%) percent of the Apartments, or the date on which Declarant elects to permanently relinquish all of its authority under this Section 10.2 by written notice to all Owners, whichever date first occurs, the Property shall be managed and the Association organized as follows, in the exercise of the sole discretion of the Declarant:

10.2.1 So long as no temporary board is then entitled to exercise management authority under Section 10.2.2, Declarant, or a manager selected by Declarant, shall have the power and authority to exercise all the rights, duties and functions of the Board, including but not limited to enacting reasonable administrative rules, contracting for required services, property and insurance, and collecting and expending all assessments and Association funds. The Declarant, or any such Manager, shall have the exclusive right to contract for all goods and services, payment for which is to be made from any Common Funds; provided, that the Association may not be bound directly or indirectly to contract or leases

without a right of termination of any such contract or lease without cause, exercisable without penalty at any time after transfer of control from the Declarant, upon not more than ninety (90) days notice to the other party to the contract.

10.2.2 Declarant may at such times as Declarant deems appropriate select a temporary board of adequate size to handle the affairs of the Association, comprised of persons who own, or are purchasers of, Apartments, or are officers of corporations, trusts, partnerships or other entities owning or purchasing such Apartments. This temporary board shall have the full authority and all rights, responsibilities, privileges and duties to manage the Condominium under this Declaration and Bylaws, and shall be subject to all provisions of the Declaration and Bylaws; provided, that, after selecting any such temporary board, Declarant in the exercise of its sole discretion may at any time terminate such temporary board, and reassume its management authority under Section 10.2.1 or select a new temporary board under Section 10.2.2.

10.2.3 These requirements and covenants are made in order to assure that the Property and Condominium will be adequately administered in the initial phases of development, and to assure an orderly transition to Association operations. After the expiration of Declarant's management authority under Section 10.2, Declarant may elect to continue to exercise such authority on a day-to-day basis until a Board is elected pursuant to Section 10.3.

10.3 Management by Board

At the expiration of Declarant's management authority under Section 10.2, administrative power and authority shall vest in a Board of directors elected from among the Apartment Owners. The number of directors shall be specified in the Bylaws and shall be sufficient to adequately handle the affairs of the Association. The Board may delegate all or any portion of its administrative duties to a Manager or officer of the Association, or in such manner as may be provided by the Bylaws. All Board positions shall be open for election at the first annual meeting, or a special meeting called for that purpose, whichever meeting shall first occur after the period of Declarant's authority under Section 10.2 ends. The Board shall elect a president from among its members, who shall preside over meetings of the Board and the meetings of the Association.

10.4 Authority of the Board

10.4.1 The Board, or the Manager, or the Declarant as provided in Section 10.1 hereof, for the benefit of the Condominium and the Owners, shall enforce the provisions of this Declaration and of the Bylaws, shall have all powers and authority permitted to the Board under the Act and the Declaration, and shall acquire and shall pay for out of the Common Fund hereinafter provided for, all goods and services requisite for the proper functioning of the Condominium, including but not limited to the following:

(a) Water, sewer, garbage collection, electrical, telephone, gas and any other necessary utility service, including utility easements, as required for the Common Area. In as much as some apartments are on common water meters with other apartments, water and sewer service to apartments shall be paid as a Common Expense. This procedure shall apply for all apartments. The allocation of apartment water meter bills is to be on an equal basis."

(b) Policies of insurance or bonds providing coverage for fire and other hazard, liability for personal injury and property damage, and for fidelity of Association officers and other employees, as the same are more fully required hereafter and in the Bylaws.

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

(d) Legal and accounting services necessary or proper in the operation of the Association affairs, administration of the Common Area, or the enforcement of this Declaration.

(e) Painting, maintenance, repair and all landscaping and gardening work for the Common Area, and such furnishings and equipment for the Common Area as the board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Area; provided however, that the interior surfaces of each Apartment shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Owner as more particularly provided in Section 11.5.

(f) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure by law, or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration; provided that if for any reason such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for particular

Apartments or their Owners, the cost thereof shall be specifically charged to the Owner of such Apartments.

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

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

(i) The Board's power hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the Common Fund a capital addition or improvement (other than for purposes of restoring, repairing or replacing portions of the Common Areas) having a total cost in excess of Five Thousand (\$5,000.00) Dollars, without first obtaining the affirmative vote of a majority of owners 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 (\$25,000.00) Dollars must be approved by Owners having not less than seventy-five (75%) percent of the voting power.

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

(k) The Board shall have the exclusive right to contract for all goods and services, payment of which is to be made from the Common Fund. The Board may delegate such powers subject to the terms hereof.

(l) The Board may, from Common Funds of the Association, acquire and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interest therein, and may dispose of the same by sale or otherwise; and the beneficial interest in such property shall be owned by the Owners (as an appurtenance to and inseparable from the Apartment owned by such Owner) in the same proportion as their respective interest in the Common Areas, and such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the common benefit of the Owners as the Board may direct. The Board shall not, however, in any case acquire by lease or purchase real or personal property valued in excess of Five Thousand (\$5,000.00) Dollars except upon consent of a Majority vote of the Apartment Owners, or valued in excess of Twenty-five Thousand (\$25,000.00) Dollars except upon a seventy-five (75%) percent affirmative vote of the Apartment Owners, in the manner specified in subsection 10.3.1(i)¹².

(m) The Board and its agents or employees, may enter any Apartment or Limited Common Area 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 out of the Common Fund if the entry was due to an emergency, or for the purpose of maintenance or repairs to Common or Limited Common Areas 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 Apartment entered or its Owners, or requested by its Owners, the costs thereof shall be specially charged to such Apartment. In furtherance of the foregoing, the Board (or its designated agent) shall have the right at all times to possess such keys and/or lock combinations as are necessary to gain immediate access to Apartments and Limited Common Areas.

(n) Each Owner, by the mere act of becoming an Owner or contract purchaser or an Apartment, shall irrevocably appoint the Association as his attorney-in-fact, with full power of substitution, to take such action as reasonably necessary to promptly perform the duties of the Association and Board hereunder, including but not limited to the duties to maintain, repair and improve the Property, to deal with the Apartment upon damage or destruction, and to secure insurance proceeds.

10.4.2 In the discharge of its duties and the exercise of its powers as set forth in Section 10.4.1, but subject to the limitations set forth in this Declaration (including subsections 10.4.1 (i) and (l) and 18.4), the Board may borrow funds on behalf of the Association and to secure the repayment of such funds encumber the Common Areas and Association's funds and the undivided interest of each Apartment Owner therein. Provided, that the Owner of an Apartment may remove said Apartment and the percentage of undivided interest in the Common Areas appurtenant to such Apartment from the lien of such encumbrance or from any other lien arising pursuant to the provisions of RCW 64.32.070 by payment of the fractional or proportional amounts attributable to such Apartment.

¹² Sic. Invalid section number.

Such individual payments shall be computed by reference to the percentages appearing in this Declaration. Subsequent to any such payment, discharge, or satisfaction, the Apartment and the percentage of undivided interest in the Common Areas appurtenant thereto shall thereafter be free and clear of the liens so paid, satisfied, or discharged. Such partial payment, satisfaction, or discharge shall not prevent the lien or¹³ from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the Common Areas appurtenant thereto not so paid, satisfied, or discharged.

10.4.3 Association Agreements. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Horizontal Property Regimes Act, this Declaration and the Bylaws shall be binding on all owners, their successors and assigns.

10.5 Investment of Common Funds

Notwithstanding any limitation imposed upon the Board's authority by any other provision of this Declaration, the Board shall have authority to invest Common Funds in any of the following:

- (a) Any deposit account insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or any comparable or successor agency of the United States Government, including, without limitation, any federally-insured checking, savings, or money market account.
 - (b) Any certificate of deposit insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or any comparable or successor agency of the United States Government, having a maturity of five (5) years or less.
 - (c) Any security backed by the full faith and credit of the United States, including without limitation, any United States Treasury bond or note, having a maturity of five (5) years or less.^{0.5}
- Investment of Common Funds¹⁴

ARTICLE 11

USE; REGULATION OF USES; ARCHITECTURAL UNIFORMITY

11.1 Residential Apartments

The residential Apartments shall be used: for residential purposes only, including sleeping, eating, food preparation for on-site consumption by occupants and guests, entertaining by occupants of personal guests and similar activities common¹⁵ conducted within a residential dwelling, without regard to whether the Apartment Owner or occupant resides in the Apartment as a primary or secondary personal residence, on an ownership, rental, lease or invitee basis; for the common social, recreational or other reasonable uses normally incident to such purposes; and for purposes of operating the Association and managing the Condominium.

11.2 Sales Facilities of Declarant

¹³ Sic.

¹⁴ Added by Eighth Amendment.

¹⁵ Sic.

Notwithstanding any provision in Section 11.1, Declarant, its agents, employees and contractors shall be permitted to maintain during the period of sale of the Condominium upon such portion of the Property as Declarant may choose, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction, sale or rental of Apartments and appurtenant interest, including but not limited to, a business office, storage area, signs, model units, sales office, construction office, and parking areas for all prospective tenants or purchasers of Declarant. This Section 11.2 may not be amended without the prior written consent of Declarant so long as Declarant continues to own at least one (1) Apartment.

11.3 Vehicle Parking Restrictions

Parking spaces (except fully enclosed garages) are restricted to use for parking of operative automobiles; other items and equipment including boats and recreational vehicles may be parked or kept therein only subject to the rules or regulations of the Board. Such rules shall provide that boats and recreational vehicles may be kept in parking spaces for not more than three (3) consecutive days, after which their immediate removal shall be required. The Board shall require removal of any inoperative or improperly licensed vehicle, or any unsightly vehicle, and any other equipment or item improperly stored in parking spaces. If the same is not removed, the Board shall cause removal at the risk and expense of the Owner thereof. Use of all parking areas may be regulated by the Board and is subject to the provisions of Article 7 of this Declaration.

11.4 Common Drive and Walks

Common drives, walks, corridors, stairways and other general Common Areas 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.

11.5 Interior Apartment Maintenance

11.5.1 Each Apartment Owner shall, at his sole expense, have the right and the duty to keep the interior of his Apartment and its equipment, appliances, and appurtenances in good order, condition and repair and shall do all redecorating and painting at any time necessary to maintain the good appearance and condition of his Apartment. Each owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, fans, heating or other equipment, electrical fixtures or appliances which may be in or connected with his Apartment.

11.5.2 Without limiting the generality of the foregoing, each Owner shall have the right and the duty, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the windows, window frames, doors, door frames and trim and the interior surfaces of the ceilings, floors, and the perimeter walls of the Apartment and the surfaces of the bearing and non-bearing walls located within his Apartment and shall not permit o¹⁶ commit waste of his Apartment or the Common Areas. Each Owner shall have the right to substitute new finished surfaces for the finished surfaces then existing on said ceilings, floors and walls; provided that, except for hard surface flooring installed by

¹⁶ Sic ("ad" and "o").

Declarant or installed as part of the original construction of the Building, no Owner shall install hard surface flooring within an Apartment except with the prior written consent of the Board. Each Owner has the right to maintain, repair, paint, finish, alter, substitute, add or remove any fixtures attached to said ceilings, floors or walls. This section shall not be construed as permitting any interference with or damage to the structural integrity of the Building or interference with the use and enjoyment of the Common Areas or of the other Apartments or any of them, nor shall it be construed to limit the powers or obligations of the Board hereunder.

11.5.3 Limited Common Areas, as defined in Article 7, are for the sole and exclusive use of the Apartments for which they are reserved or assigned; provided, that the use, condition and appearance thereof may be regulated under provisions of the Bylaws, rules or this Declaration including the following:

(a) Decisions with respect to the standard of appearance and condition of Limited Common Areas, and with respect to the necessity for, and manner of, caring for, maintain¹⁷, repair¹⁸, repainting or redecorating Limited Common Areas, ("Maintenance Work" herein) shall be made by the Board;

(b) Performance of such Maintenance Work shall be carried out by the Board on behalf of the Owner or Owners of Apartments to which the Common Area in question is assigned or reserved; provided, that by written notice, the Board may permit such Owner or Owners to perform such Maintenance Work themselves;

(c) Owners may not, however, modify, paint, or otherwise decorate, or in any way alter their respective Limited Common Areas without prior written approval of the Board; provided that private garden patches of up to 100 square feet may be maintained in the Limited Common Areas but only behind an Apartment in its rear yard and not in its front yard or side yard. Front yards shall mean and include the yard area adjoining the roadway that services the Apartments garage. Gardens shall be maintained at all times by the Apartment Owner or Occupant in a neat and clean condition. The Board may establish maintenance rules and further limit garden locations. If gardens are not maintained according to the terms of this Declaration or according to rules later established by the Board, performance of such maintenance work shall be carried out by the Board on behalf of the Owner or Owners of the Apartment and the Board shall charge the Owner or Owners for such services;

(d) Apartment owners will be responsible for the cost of such Maintenance Work (as defined in Section 11.5.3(a)) for the Limited Common Areas reserved for or assigned to their Apartments; however, consistent with provisions in Sections 1.9.9, 1.9.15, and 12.1, major repair or replacement of Limited Common Area elements shall be paid from the replacement fund as a Common Expense unless the element was installed by the owner, or at the request of the owner, or by the previous owner. Section 7.1.1 of the Declaration provides that Limited Common Area includes any yard area shown and designated on survey maps and plans. Though

¹⁷ Sic.

¹⁸ Sic.

designated as Limited Common Area, these yard areas shall nonetheless be maintained as a Common Expense. Also parking spaces intruding into Limited Common Areas and driving areas assigned to an apartment, if any, (identified in Section 7.1.2) shall be maintained as a Common Expense. Apartment Owners will be responsible for the cost of such Maintenance Work. Section 7.1.1 of the Declaration provides that Limited Common Area includes any yard area shown and designated on survey maps and plans. Though designated as Limited Common Area, these areas shall nonetheless be maintained as a Common Expense. Also parking spaces intruding into Limited Common Areas shall be maintained as a Common Expense.

(e) With respect to a Limited Common Area reserved for or assigned to more than one Apartment for the mutual and joint use thereof, the cost of such Maintenance Work for such Limited Common Area shall be divided in equal shares among the Apartments for which such Limited Common Area is reserved;

(f) With respect to any such Maintenance Work performed by the Board, the cost thereof (or the appropriate share thereof if the Limited Common Area in question has been assigned or reserved jointly to more than one Apartment) shall be levied as a special charge against the Apartment or Apartments (and the Owner or Owners thereof) to which such Limited Common Area is assigned or reserved.

11.6 Exterior Appearance

In order to preserve a uniform exterior appearance to the Building, and the Common and Limited Common Areas visible to the public, the Board shall require and provide for the painting and other decorative finish of the Building, lanais or patio/yard areas, or other Common or Limited Common Areas, 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 Areas undertaken or proposed by any Owner. This power of the Board extends to screens, doors, awnings, rails or other visible portions of each Apartment and Apartment Building. The Board may also require use of a uniform color and kind of Apartment window covering visible¹⁹ from the exterior (including draperies, blinds, shades, etc.).

11.7 Effect on Insurance

Nothing shall be done or kept in any Apartment or in the Common or Limited Common Area which will increase the rate of insurance on the Common Area or Apartments without the prior written consent of the Board. No Owner and/or purchaser shall permit anything to be done or kept in this Apartment or in the Common or Limited Common Areas which will result in the cancellation of insurance or any Apartment or any part of the Common or Limited Common Areas, or which 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 Apartment or Common or Limited Common Area 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

¹⁹ Sic.

designated by the Board, indicating that an Apartment is for sale or lease; and provided, that this section shall not apply to Declarant or Declarant's agents in exercising the rights provided under Section 11.2.

11.9 Pets

All animals (which term includes livestock, domestic animals, poultry, reptiles or living creatures of any kind), shall be raised, bred, or kept in any Apartment or in the Common or Limited Common Areas, whether as pets or otherwise, in strict compliance with the rules and regulations adopted by the Board, or Bylaws adopted by the Owners. The Board may at any time require the removal of any animal which it finds is disturbing other Owners unreasonably, in the Board's determination, and may exercise this authority for specific animals even though other animals are permitted to remain. All dogs or other animals outside any Apartment shall be kept on a leash under direct personal control of an Owner or Occupant at all times.

11.10 Offensive Activity

No noxious or offensive activity shall be carried on in any Apartment or Common or Limited Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners.

11.11 Common Area and Limited Common Area Alterations

Nothing shall be altered or constructed in, or (except for an Owner's personal property) removed from, the Common Area or Limited Common Area except upon the written consent of the Board and after procedures required herein or by law or as otherwise provided herein. This restriction applies to antennae, sheds, appendages to Apartments and all other alterations or construction, including outside clotheslines.

11.12 House Rules

The Board or the Association membership is empowered to pass, amend and revoke ²⁰detained administrative rules and regulations, or "House Rules," necessary or convenient from time to time to insure compliance with the general guidelines of this Article and the other provisions of this Declaration. Such House Rules shall be binding on all Apartments Owners, lessees, guests and invitees upon adoption by the Board or Association.

11.13 Rental Apartments

The Leasing or Renting of an Apartment by its Owner shall be governed by the provisions of this Section 11.13:

11.13.1 With the exception of a lender in possession of an Apartment following a default in a first Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of a foreclosure, no Apartment Owner shall be permitted to Lease his Apartment for hotel or transient purposes which shall be defined as Renting for any period less than thirty (30) days. The Association may be²¹ resolution of the Board of Directors

²⁰ Probably should be "detailed" instead of "detained".

²¹ Probably should be "by" instead of "be".

prohibit the Leasing of any Apartment for a period of less than six (6) months.

11.13.2 No Apartment Owner may Lease less than the entire Apartment.

11.13.3 All Leasing or Rental agreements shall be in writing and be subject to the Declaration and Bylaws (with a default by the tenant in complying with the Declaration and/or Bylaws constituting a default under the Lease or Rental agreement).

11.13.4 If an Apartment 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 Apartment 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;'s²² 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 Apartment 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 Apartment or its Owner; nor in derogation of any rights which a Mortgagee of such Apartment may have with respect to such rents.

11.13.5 Effective the date this amendment is recorded with the County Auditor, the number of Apartments leased or rented shall be no more than ten (10) or fewer at any given time. The Board of Directors may pass and amend appropriate administrative Rules and Regulations necessary or convenient to implement this provision and assure compliance with it

11.14 Age of Occupants

The Village at Cordata has been designed as housing for older persons and is intended and shall be operated for occupancy by persons fifty-five (55) years of age or older. Owners and Occupants shall be subject to the following requirements:

11.14.1 Significant facilities and services are planned to meet the physical and social needs of older persons including, but not limited to:

(a) All units are designed with at least one or more bedrooms and bathrooms on the main floor so use of steps may be avoided by occupants.

(b) Double attached garages are provided with all units for ease of movement from garage to unit. Automatic garage door openers are provided so older persons do not have to exit their vehicles to open garage doors.

(c) Expansive greenbelts and walking paths are provided for exercise and enjoyment.

(d) Common exterior maintenance services are provided so that older people who cannot handle such chores will be provided for.

²² Sic.

(e) Recreational vehicle storage area is provided to serve older persons who may desire to winter in Southern United States.

(f) Clubhouse with meeting rooms, lap pool and hot tub are provided for exercise and relaxation rather than a diving pool which might be intended for younger persons.

(g) Optional 100 square foot garden plots are permitted for older persons who enjoy gardening.

(h) The density and proximity of units have been specifically designed to serve older persons.

11.14.2 At least eighty percent (80%) of the occupied units at The Village at Cordata shall be occupied by at least one person fifty-five (55) years of age or older. Effective April 1, 1999, no Apartment in this Condominium may be sold or leased unless at least one lawful Occupant of the Apartment following such sale or leasing is at least 55 years of age. The exception to these requirements for the remaining twenty percent (20%) of the Apartments in this Condominium is designed to permit surviving spouses or other lawful Occupants of Apartments formerly occupied by persons at least 55 years of age to continue to occupy those Apartments following the death or departure of the older occupants, without serious further disruption of the survivors' lives; such exception shall not be deemed to constitute a reserve or "set-aside" for new sales or rentals to persons under the age of 55. Without limiting the authority provided under Section 16.1 of the Declaration, the Association shall have the right to seek injunctive relief from the Superior Court of the State of Washington in Whatcom County with respect to any Owner, Occupant or other party in the event of any noncompliance with this Section 11.14.2. In an appropriate case, a noncomplying Owner and/or Occupant may be evicted. The prevailing party in such an action shall be entitled to reasonable attorneys' fees and costs of suit. The Association shall maintain a list of all Occupants and their respective birth dates to assure compliance with this paragraph. All permanent Occupants of each Apartment shall be eighteen (18) years old or older. Children under the age of eighteen (18) shall be allowed to visit Owners or Occupants, but only for periods of time not to exceed two (2) weeks out of any eight (8) week period as to each particular child who may be visiting. The Board may adopt additional rules regarding such visitation and may require that any visitor under eighteen (18) years of age that it finds to be disturbing other Owners unreasonably, in the Board's determination be required to leave the premises, and may exercise its authority for specific visitors under age eighteen (18) even though other visitors under age eighteen (18) are permitted to remain.

11.14.3 It is the intention of the Declarant that The Village at Cordata provide housing for older persons in accordance with the Public Law 100-430, September 13, 1988, and regulations later promulgated by the Secretary of HUD, thereunder.

So long as Declarant continues to own one or more Apartments, or any land subject to this Declaration, the Declarant, upon Declarant's sole signature, and as attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interest, may at any time amend this Declaration to conform to the requirements of Public Law 100-430, Section 805 (a) through (d) amending 42USC3605 and 42USC3607 and any regulations promulgated thereunder by the Secretary.

ARTICLE 12

COMMON EXPENSES AND ASSESSMENTS

12.1 Estimated Expenses

Within sixty (60) days prior to the beginning of each calendar year, or such other fiscal year as the Board may adopt, the Board: shall estimate the charges including Common Expenses, and any special charges for particular Apartments, to be paid during such year; shall make provision for creating, funding and maintained reasonable reserves for contingencies and operations, as well as for maintenance repair, replacement and acquisition of Common Areas; and shall take into account any expected income and any surplus available from the prior year's operating fund. Without limiting the generality of the foregoing but in futherance thereof, the Board shall create and maintain from regular monthly assessments a reserve fund for replacement of those Common Areas which can reasonably be expected to require replacement or a major repair prior to the end of the useful life of the Buildings. The Board shall calculate the contribution to said reserve so that there are sufficient funds therein to replace, or perform such major repair, to each Common Area covered by the fund at the end of the estimated useful life of each such Common Area. The Declarant or initial Board may at any suitable time establish the first such estimate. If the sum estimated and budgeted at any time proves inadequate for any reason (including non-payment for any reason of any Owner

assessment, the Board may at any time levy a further assessment, which shall be assessed to the Owners according to Section 12.5. Similarly, if the sum estimated and budgeted, and being collected and/or already collected, at any time proves excessive, the Board may reduce the amount being assessed and/or apply existing funds (in excess of current needs and required reserves) against against future assessments and/or refund such excess funds.

12.2 Payment by Owners²³

Each owner shall be obligated to pay their share 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 (1st) day of each month during such year. Assessments become delinquent after the fifth (5th) day of the current month. 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 Areas or abandonment of the Owner's Apartment. Assessments for each Apartment Owner shall begin on the date said Owner closes the transaction in which they acquire right, title or interest in the Apartment. Any unpaid assessment or charge may bear a late charge to be determined by the Board but no less than five (\$5.00) dollars. An additional late charge may be imposed in an amount of ten (\$10.00) dollars of²⁴ any unpaid assessment or charge which has remained delinquent for more than fifteen (15) days. The budget may be reviewed and revised by the membership at any annual meeting, or any special meeting called for such purpose, but if not reviewed or if no change is made, shall be deemed approved.

12.3 Purpose

All funds collected hereunder shall be expended for the purposes designated in this Declaration.

12.4 Separate Accounts

The Board shall require that the Association maintain separate accounts for current operations, reserves, and a special separate escrow reserve account for payment of insurance. Each month the Board shall first deposit into the insurance reserve account a portion of the monthly Common Expense assessments equal to at least one-twelfth (1/12th) of the annual estimated total cost of all of the insurance policies required under Section 13.1. Such insurance reserve account shall be held separately and inviolate until utilized for payment of insurance premiums. Thereafter the remainder of the assessments and charges collected may be utilized for payment of other expenses or deposited or credited to other accounts. All such assessments and charges shall be collected and held in trust for, and administered and expenses for the benefit of, the Apartment Owners.

12.5 Based on Percentage

Except for certain special charges which may be levied against particular Apartments under the provisions of this Declaration, all assessments for Common Expenses shall be assessed to Apartments and the Owners thereof on the basis of the percentages set forth in Schedule C hereof and any

²³ Replaced by the Seventh Amendment.

²⁴ Probably should be "on" instead of "of".

amendments thereto.

12.6 Omission of Assessment

The omission by the Board or the Association before the expiration of any year to fix the estimate for assessments and charges hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owner from the obligation to pay the assessments and charges, or any installment thereof for that or any subsequent year; but the assessment and charge fixed for the preceding year shall continue until a new assessment or charge is fixed.

12.7 Records

The Board shall cause to be kept detailed and accurate records, in the form established by the Association's accountant, of the receipts and expenditures of the Association, specifying and itemizing the maintenance and repair expenses and any other expense incurred. Such records and any resolutions authorizing the payments involved shall be available for examination by any Owner at convenient hours of week days.

12.8 Declarant Liability

The assessments provided for in this Declaration shall be imposed on Apartments owned by Declarant beginning on the day the first Apartment sale closes on the same basis as imposed on all other Apartments, regardless of whether Declarant-owned Apartments are vacant or have been sold, leased or rented. During such time as garbage collection charges and any other utility, service, management or other expenses or charges are based on the number of occupied Apartments, any Apartments owned by Declarant and not occupied shall be exempt from assessments for such charges.

12.9 Lien Indebtedness

In the event any monthly assessment or special charge attributable to a particular Apartment remains delinquent for more than thirty (30) days, the Board may, upon fifteen (15) days written notice to the Owner of such Apartment, accelerate and demand immediate payment of all, or such portion as the Board determines will become due during the next succeeding twelve (12) months with respect to such Apartment. Each monthly Common Expense assessment and each special charge shall be joint and several personal debts and obligation of the Owner or Owners and contract purchasers of Apartments for which the same are assessed or charged as of the time the assessment or charge is made and shall be collectible as such. In connection with the voluntary conveyance of an Apartment, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments up to the time of conveyance without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor. The amount of any assessment or charge, whether regular or special, assessed or charged to any Apartment and the Owner and/or purchaser of any apartment, plus interest at the rate of

eighteen (18%) percent per annum and late charges in an amount determined by the Board, and costs, including charges in an amount determined by the Board, and costs, including reasonable attorney's fees, shall be a lien upon such Apartment, the appurtenant interest in Common and Limited Common Areas and the exclusive use thereof. The said lien for payment of such assessments and charges shall have priority over all other liens and encumbrances, recorded or unrecorded, except that such priority shall be limited as provided in Article 18. Suit to recover a money judgment for unpaid assessments or charges shall be maintainable without foreclosure or waiving the lien securing the same.

12.10 Certificate of Assessment

A certificate executed and acknowledged by the treasurer or the president of the Board, or an authorized agent thereof if neither the president nor treasurer is available, stating the indebtedness for assessments and charges or lack thereof secured by the assessment lien upon any Apartment shall be conclusive upon the Board and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all person who rely thereon in good faith. Such a certificate within a reasonable time after request, in recordable form, at a reasonable fee.²⁵ Unless otherwise prohibited by law, any encumbrancer holding a lien on an Apartment may pay any unpaid assessments or charges with respect to such Apartment, and, upon such payment, such encumbrancer shall have a lien on such Apartment for the amounts paid of the same priority rank as the lien of his encumbrance.

12.11 Assessment Deposit

12.11.1 An Apartment Owner may be required by the Board or by the Manager, from time to time, to make and maintain a deposit not less than two (2) months nor in excess of three (3) months estimated monthly assessment and charges, which may be collected as are other assessments and charges. Such deposit shall be held in a separate fund, be credited to the Apartment owned by such Owner, and be for the purpose of establishing a working capital fund for initial project operations and a reserve for delinquent assessments. Resort may be had thereto at any time when such owner is ten (10) days or more delinquent in paying his monthly or other assessments and charges, or to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Said deposits shall not be considered as advance payments of regular assessments.

12.11.2 In the event the Board should draw upon said deposit as a result of an Apartment Owner's delinquency in payment of any assessments, said Owner shall continue to be responsible for the immediate and full payment of said delinquent assessment (and all penalties and costs thereon) and thus the full restoration of said deposit, and the Board shall continue to have all of the rights and remedies for enforcing such assessment payment and deposit restoration as provided by this Declaration and by law.

²⁵ Sic.

12.11.3 At any time after a date two (2) years from the recording of this Declaration or after the date on which the first Board is elected pursuant to Section 10.3 (whichever date last occurs,)), and so long as the reserves required by Section 12.1 and 12.4 are otherwise maintained, all or any portion of the deposit made under this Section 12.11 may be refunded by the Association in the discretion of the Board to the then Owner of the Apartment for which the deposit was initially made, such refund being made as a cash refund or a credit against assessments subsequently to become due or a combination thereof. Provided, upon the sale of an Apartment, the seller/Owner thereof shall not be entitled to a refund from the Association of any deposit or reserve account made or maintained with respect to such Apartment pursuant to this or any other section of the Declaration; rather, any such deposit or reserve account shall continue to be held by the Association for the credit of such apartment, and the Apartment seller shall be responsible for obtaining from the purchaser appropriate compensation therefor.

12.11.4 Declarant shall collect the initial deposit under this Section 12.11 at the time of closing from the first purchaser of each Apartment, but in all events the deposit for each unsold Apartment shall be paid by Declarant to the Association within sixty (60) days after the date of conveyance of the first Apartment in the project; provided, if Declarant has paid said initial deposit with respect to an unsold Apartment, then notwithstanding any provisions in a purchaser and sale agreement to the contrary, the initial deposit paid at sale closing by the first purchaser shall be paid to Declarant and not the Association.

12.12 Foreclosure of Assessment Lien; Attorney's Fees & Costs

The Declarant, Manager, or Board on behalf of the Association may initiate action to foreclose the lien of any assessment. In any action to foreclose a lien against any Apartment for nonpayment of delinquent assessments or charges, any judgment rendered against the owners of such Apartment in favor of the Association shall include a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law.

12.13 Termination of Utility Service

In addition to, and not by way of limitation upon, other methods of collecting any assessments, the Board shall have the right, after having given (10) days' notice to any Apartment Owner who is delinquent in paying his assessments or charges, to cut off any or all utility services to the delinquent Owner's Apartment until such assessments or charges are paid.

12.14 Remedies Cumulative

The remedies provided are cumulative, and the Board may pursue them concurrently, as well as any other remedies which may be available under law although not expressed herein.

ARTICLE 13

INSURANCE

13.1 Insurance Coverage

The Board shall obtain and maintain at all times as a Common Expense a policy or policies and bonds of property insurance covering all of the general Common and Limited Common Areas including fixtures and Building service equipment, common personal property and supplies belonging to the Association, which shall include at a minimum:

13.1.1 Fire insurance, with extended coverage (including vandalism, malicious mischief, sprinkler leakage, debris removal, windstorm and water damage) endorsement, in an amount equal to the full insurable current replacement value (without deduction for depreciation and exclusion of land, foundation, excavation and other items normally excluded from coverage) of the Common and Limited Common Areas and the Apartments, with the Board named as insured as trustee for the use and benefit of Owners and Mortgagees as their interest may appear, or such other fire and casualty insurance as the Board shall determine to give substantially equal or greater protection insuring the owners, and their Mortgages, in the percentage of common ownership as set forth in Schedule C. Said policy or policies shall provide for separate protection for each Apartment to the full insurable replacement value thereof, (limited as above provided) and a separate loss payable endorsement, in favor of the Mortgagee or Mortgagees of each Apartment, if any, and further, a separate loss payable clause in favor of the Mortgagee of the Condominium, if any. All insurance shall be obtained from an insurance carrier rated Triple A (and rated as in Class VI or better financial condition) by Best's Insurance Reports or equivalent rating service.

13.1.2 General comprehensive liability insurance insuring the Board, the Association, the Owners, Declarant and Manager against any liability to the public or to the Owners of Apartments, and their invitees, or tenants, incident to the ownership or use of the Common and Limited Common Areas (including but not limited to owned and non-owned property of others and, if applicable, elevator collision and garagekeeper's liability), and legal liability arising out of lawsuits related to employment contracts of the Association, the liability under which insurance shall be in an amount determined by the Board after consultation with insurance consultants, but no less than One Million (\$1,000,000.00) Dollars covering all claims for personal injury, including death an²⁶/or property damage arising out of a single occurrence (such policy limits to 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 Workmen's compensation insurance to the extent required by applicable laws.

13.1.4 The Association shall obtain blanket fidelity insurance for any

²⁶ Sic.

person who either handles (or is responsible for) funds that he or she holds or administers, whether or not that individual receives compensation for services. The policy shall name the Association as the insured and must include a provision that calls for ten (10) days written notice to the Association before the policy can be canceled or substantially modified for any reason. The policy should cover the maximum funds that will be in the custody of the Association or its Manager at any time while the policy is in force. A Manager (as defined in Section 1.9.17) who handles funds for the Association shall be covered by his own fidelity insurance policy, which must provide the same coverage required of the Association.

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

13.1.6 If the Condominium contains a steam boiler, a broad form policy of repair and replacement boiler and machinery insurance of at least Fifty Thousand (\$50,000.00) Dollars per accident per location.

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

13.2 Owner's Additional Insurance

Each owner shall obtain additional insurance respecting his Apartment as contemplated under RCW 64.32.220 and 64.32.010(1) at his own expense; no Owner shall, however, be entitled to exercise his right to maintain insurance coverage in any manner which would decrease the amount which the Board, or any trustee for the Board, on behalf of all of the owners, will realize under any insurance policy which the Board may have in force on the Condominium at any particular time. Each owner is required to and agrees to notify the Board of all improvements by the owner to his Apartment the value of which is in excess of One Thousand (\$1,000.00) Dollars. Each Owner is hereby required to file a copy of such individual policy or policies with the Board within thirty (30) days after purchase of such insurance, and the Board may review its effect with the Board's insurance broker, agent or carrier.

13.3 Insurance Proceeds

Insurance proceeds for damage or destruction to any part of the Property shall be paid to the Board on behalf of the Association which shall segregate such proceeds from other funds of the Association for use and payment as provided for in Article 14. The Association acting through its Board shall have the exclusive 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. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Owners Association's authorized representative, including the Board or any other trustee with whom such Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance.

Each Apartment Owner appoints the Association, or any insurance Trustee or substitute Insurance Trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association or any Insurance Trustee is required to receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Apartment Owners and their first Mortgagees, as their interests may appear.

13.4 Additional Provisions

The Board shall obtain insurance policies which:

(a) Provide the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaims, apportionment, proration, contribution or assessment by reason of, any other insurance obtained by or for any Apartment Owner or any Mortgagee;

(b) 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 warranty or condition regarding any portion of the premises over which the Association has no direct control;

(c) Contain a waiver of subrogation by the insurer as to any and all claims against the Association, the owner of any Apartment and/or their respective agents, employees or tenants, and of any defenses based upon co-insurance or upon invalidity²⁷ arising from the acts of the insured.

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

(e) Contain no provision (other than insurance conditions) which will prevent Mortgagees²⁸ from collecting insurance proceeds.

²⁷ Sic.

²⁸ Sic.

(f) May not be cancelled or modified substantially without at least ten (10) days prior written notice to the Association and each holder of a first Mortgage listed in the insurance policy as a scheduled holder of a first Mortgage.

(g) Contains, if available, an agreed amount and Inflation Guard Endorsement.

ARTICLE 14

DAMAGE OR DESTRUCTION: RECONSTRUCTION

14.1 Initial Board Determinations

In the event of damage or destruction to any part of the Property, the Board shall promptly, and in all events within twenty (20) days after the date of damage or destruction, make the following determinations with respect thereto employing such advice as the Board deems advisable:

14.1.1 The nature and extent of the damage or destruction, together with an inventory of the improvement and property directly affected thereby.

14.1.2 A reasonably reliable estimate of the cost to repair and restore the damage and destruction, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

14.1.3 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.

14.1.4 The amount, if any, that the estimated cost of repair and restoration exceeds the anticipated insurance proceeds therefor and the amount of assessment to each Apartment if such excess was paid as a Common Expense and specially assessed against all the apartments in proportion to their percentage of interest in the Common Areas.

14.1.5 The Board's recommendation as to whether such damage or destruction should be repaired or restored.

14.2 Notice of Damage or Destruction

The Board shall promptly, and in all events within thirty (30) days after the date of damage or destruction, provide each Owner, and each first Mortgagee with a written notice summarizing the initial Board determination made under Section 14.1. If the Board fails to do so within said thirty (30) days, then any Owner or first Mortgagee may make the determinations required under Section 14.1 and give the notice required under this Section 14.2.

14.3 Definitions: Restoration; Emergency Work

14.3.1 As used in this Article 14, the words "repair," "reconstruct," "rebuild" or "restore" shall mean restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction,

with each Apartment and the Common and Limited Common Areas 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.

14.3.2 As used in this Article 14, the term "Emergency Work" shall mean that work which the Board deems reasonably necessary to avoid further damage, destruction or substantial diminution in value to the improvements and to reasonably protect the Owners from liability from the condition of the site.

14.4 Restoration by Board

14.4.1 Unless prior to the commencement of Repair and Restoration Work (other than Emergency Work referred to in subsection 14.3.1) the Owners shall have decided not to Repair and Reconstruct in accordance with the provisions of either subsection 14.5.3 or 14.6.3, the Board shall promptly Repair and Restore the damage and destruction, use the available insurance proceeds therefor, and pay for the actual cost of repair and restoration in excess of insurance proceeds secured as a Common Expense which shall be specialty assessed against all Apartments in proportion to their percent percentages²⁹ of interest in the Common Areas.

14.4.2 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,³⁰ Contracts for such repair and restoration shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has provision for the cost thereof. The Board may further authorize the insurance carrier to proceed with Repair and Restoration upon satisfaction of the Board that such work will be appropriately carried out.

14.4.3 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 such loss in excess of Fifty Thousand (\$50,000.00) Dollars, or for such firm or institution to collect the insurance proceeds and carry out the provisions of this Article.

14.5 Limited Damage; Assessment Under \$3,500.00

If the amount of the estimated assessment determined under subsection 14.1.4 does not exceed Three Thousand Five Hundred (\$3,500.00) Dollars for any one Apartment, then the provisions of this Section 14.5 shall apply:

14.5.1 The Board may, but shall not be required to, call a special Owners' meeting to consider such Repair and Restoration work which notice shall be given simultaneously with the notice required to be given by the Board under Section 14.2 above. If the Board shall fail to call such meeting, then the requisite number of Owners or any first Mortgagee, within fifteen (15) days or³¹ receipt of the notice given by the Board under Section 14.2

²⁹ Sic.

³⁰ Sic.

³¹ Probably should be "of" instead of "or".

above, or the expiration of such thirty (30) day period, whichever is less, may call such special Owners' meeting to consider such Repair and Restoration work. Any meeting called for under this Section 14.5.1 shall be convened not less than ten (10) nor more than twenty (20) days after the date of such notice of meeting.

14.5.2 Except for Emergency Work, no Repair and Restoration work shall be commenced until after the expiration of the notice period set forth in Section 14.5.1 and until after the conclusion of said special meeting if such meeting is called within said requisite period.

14.5.3 A unanimous written decision of the Apartment Owners and first Mortgagee (based upon a one vote for each first Mortgage owned) will be required to avoid the provisions of subsection 14.4.1 and to determine not to Repair and Restore the damage and destruction in accordance with the original plans, as amended by subsequent amendments, if any; provided, that the failure of the Board, the requisite number of owners or a first Mortgagee to call for a special meeting at the time or in the manner set forth in Section 14.5 shall be deemed a unanimous decision to undertake such work.

14.6 Major Damage; Assessment over \$3,500.00

If the amount of the estimated assessment determined under subsection 14.1.4 exceeds Three Thousand Five Hundred (\$3,500.00) Dollars for any one Apartment, then the provisions of this Section 14.6 shall apply:

14.6.1 The Board shall promptly, and in all events within thirty (30) days after the date of damage or destruction, provide written notice of a special Owners' meeting to consider Repair and Restoration of such damage or destruction, which notice shall be delivered with the notice required to be provided under Section 14.2 above. If the Board fails to do so within said thirty (30) day period, then notwithstanding the provisions of this Declaration or the Bylaws with respect to calling special meetings, any Owner or first Mortgagee may within fifteen (15) days of the expiration of said thirty (30) day period, or receipt of the notice required to be provided by the Board under Section 14.2 above, whichever is less, call a special meeting of the Owners to consider Repair and Restoration of such damage or destruction by providing written notice of such meeting to all Owners and first Mortgagees. Any meeting held pursuant to this Section 14.6 shall be called by written notice and shall be convened not less than ten (10) nor more than twenty (20) days from the date of such notice of meeting.

14.6.2 Except for Emergency Work no repair and restoration work shall be commenced until the conclusion of the special Owners' meeting required under subsection 14.6.1.

14.6.3 A concurrence in writing of more than seventy-five (75%) percent of the first Mortgagees (based upon one vote for each first Mortgage owned), and Owners (other than the sponsor, developer, or builder) of the individual Apartments will be required to avoid the provisions of Section 14.4 and to determine not to Repair and Restore the damage and destruction; provided, however, that the failure to obtain said seventy-five (75%) percent concurrence in writing shall be deemed a decision to Rebuild and Restore the damage and destruction in accordance with the original plans, as

amended by subsequent amendments, if any; provided, further, that the failure of the Board, or Owners or first Mortgagees to convene the special meeting required under Section 14.6.1 within ninety (90) days after the date of damage or destruction shall be deemed a unanimous decision to undertake such repair³² and Restoration work.

14.7 Decision Not to Restore; Disposition

In the event of a decision under either subsections 14.5.3 or 14.6.3 not to Repair and Restore damage and destruction, the Board may nevertheless expend such of the insurance proceeds and Common Funds as the Board deems reasonably necessary for Emergency Work (which Emergency Work may include but is not necessarily limited to removal of the damaged or destroyed buildings and clearing, filling and grading the real property), and the remaining funds, if any, and Property shall thereafter be held and distributed as follows:

14.7.1 The Property shall be owned in common by the Apartment Owners and shall no longer be subject to this Declaration or to Condominium ownership;

14.7.2 The undivided interest in the Property owned in common which appertains to each Apartment Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

14.7.3 Any Mortgages or liens affecting any of the Apartments shall be deemed transferred in accordance with the existing priorities to the percentage of the undivided interest of the Apartment Owner in the property as provided herein; and

14.7.4 The Property shall be subject to an action for partition at the suit of any Apartment Owner, in which event the net proceeds of sale, together with the net proceeds of the Insurance of the Property, if any, shall be considered as one fund; such fund shall be divided into separate shares one for each Apartment Owner in a percentage equal to the percentage of undivided interest owned by each such Owner in the Property; then, after first paying out of the respective share of each Apartment Owner, to the extent sufficient for the purposes, all Mortgagee and liens on the undivided interest in the Property owned by such Apartment Owner, the balance remaining in each share shall then b³³ distributed to each Apartment Owner respectively.

14.8 Miscellaneous

The provisions of this Article 14 shall constitute the procedure by which a determination is made by the Apartment Owners to Repair, Restore, Reconstruct or Rebuild as Provided in the Act. By the act of accepting an interest in the Property, each Apartment Owner and party claiming by, through or under such Owner hereby consents and agrees to the provisions hereof. In the event that any provision of this Article 14 shall be determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not effect the validity of any other provision of this Declaration. The purpose of this Article 14 shall be to provide a fair and

³² Sic.

³³ Sic.

equitable method of allocating the costs of Repair and Restoration and making a determination for Repair and Restoration if all or a portion of the improvements are damaged or destroyed. The provisions of this Article 14 shall be liberally construed to accomplish such purpose. By unanimous vote of the Apartment Owners, which vote shall be taken within ninety (90) days after the damage or destruction, the owners may determine to do otherwise than provided in this Article 14.

ARTICLE 15

CONDEMNATION

15.1 Consequences of Condemnation

If at any time or times during the continuance of the Condominium ownership pursuant to this Declaration, all or any part of the Property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Article 15 shall apply. The Board shall provide each owner, and each first Mortgagee with a written notice of the commencement of any such condemnation proceeding, and of any proposed sale or disposition in lieu thereof, in advance of such proceeding or sale.

15.2 Proceeds

All compensation, damage, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

15.3 Complete Taking

In the event that the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership pursuant thereto shall terminate. The Condemnation Award shall be apportioned among the owners in proportion to the respective undivided interest in the Common Area; provided, that if a standard different from the value of the Property as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principal, the Board shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. After first paying out of the respective share of each Owner, to the extent sufficient for the purpose, all Mortgages and liens on the interest of such Owner, the balance remaining in each share shall then be distributed to each Owner respectively.

15.4 Partial Taking

In the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not³⁴ terminate. Each Owner shall be

³⁴ Sic.

entitled to a share of the Condemnation Award to be determined in the following manner:

15.4.1 As soon as practicable the Board shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds.

15.4.2 The Board shall apportion the amounts so allocated to taking of or injury to the Common Areas which in turn shall be apportioned among Owners in proportion to their respective undivided interests in the Common Areas.

15.4.3 The total amount allocated to severance damages shall be apportioned to those Apartments which were not taken or condemned.

15.4.4 The respective amounts allocated to the taking of or injury to a particular Apartment and/or improvements as Owner had made within his own Apartment shall be apportioned to the particular Apartment involved.

15.4.5 The amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board determines to be equitable in the circumstances.

15.4.6 In³⁵ an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Board shall employ such allocation to the extent it is relevant and applicable.

15.4.7 Distribution of apportioned proceeds shall be made to the respective Owners and their respective Mortgagees in the manner provided in Section 15.3.

15.5 Reductions of Condominium Upon Partial Taking

In the event that (a) a partial taking occurs which pursuant to Section 15.4 does not result in a termination of condominium ownership hereunder, and (b) at least one (1) Apartment is taken or condemned and (c) the condemning authority elects not to hold, use and own said Apartment as a Condominium Apartment Owner subject to an³⁶ in accordance with the Declaration, then the provisions of this Section 15.5 shall take effect immediately upon the condemning authority taking possession of the Apartment or Apartments so taken or condemned:

15.5.1 The Apartments subject to this Declaration shall be reduced to those Apartments not taken or condemned (or not sold or otherwise disposed of in lieu of or in avoidance thereof).

15.5.2 The general Common Areas subject to this Declaration shall be reduced to that Common Area not so taken or condemned.

³⁵ Probably should be "If" instead of "In".

³⁶ Sic.

15.5.3 The Limited Common Areas, which were not taken or condemned, but which were appurtenant to Apartments that were taken or condemned, shall be deemed part of the general Common Areas remaining subject to this Declaration.

15.5.4 The percentage of undivided interest in the Common Areas appurtenant to each Apartment not so taken or condemned shall be recalculated on the basis that the value of each of said Apartments shall remain the same as set forth in Schedule C and that value of the entire Property not so taken or condemned shall be the aggregate of said values of said Apartments.

15.5.5 Except with respect to the share of proceeds apportioned pursuant to Section 15.4, no Owner or Mortgagee of an Apartment so taken or condemned shall have, nor shall there be appurtenant to any Apartment so taken or condemned, any right, title, interest, privilege, duty or obligation in, to or with respect to the Association and any Apartment, Common Area or Limited Common Area which remains subject to this Declaration and which is not so taken or condemned.

15.5.6 Except as otherwise expressly provided in Section 15.5, the rights, title, interest, privileges, duties and obligations of an Owner and Mortgagee in, to or with respect to an Apartment not so taken or condemned (and in, to or with respect to the Association and the Common Areas and Limited Common Areas appurtenant to said Apartment) shall continue in full force and effect as provided in this Declaration.

15.5.7 The provisions of Section 15.5 shall be binding upon and inure to the benefit of all Owners and Mortgagees of (and other persons having or claiming to have any interest in) all Apartments which are, as well as all Apartments which are not, so taken or condemned. All such Owners, Mortgagees and other persons covenant to execute and deliver any documents, agreements or instruments (including, but not limited to, appropriate amendments to the Declaration, Survey Map and Plans) as are reasonably necessary to effectuate the provisions of Section 15.5.

15.6 Reconstruction and Repair

Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 14 above, provided that the Board may retain and apply such portion of each Owner's share of the Condemnation Award as is necessary to discharge said Owner's liability for any special assessment arising from the operation of said Article 14.

ARTICLE 16

COMPLIANCE WITH DECLARATION

16.1 Enforcement

Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws and administrative rules and regulations passed hereunder, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to this Declaration, the Bylaws and administrative rules and regulations. Failure to comply shall be grounds for an action to

recover sums due for damages, or injunctive relief, or both, maintainable by the Board (acting through its officers on behalf of the Owners), or by the aggrieved owner on his own against the party (including an Owner or the Association) failing to comply.

16.2 No waiver of Strict Performance

The failure of the Board in any one or more instances to insist upon the strict performance of any of the terms, covenants, conditions or restrictions of this declaration, or of the Bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board of any assessment from an Owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board. This section also extend³⁷ to: the Manager; and to Declarant or Declarant's managing agent, exercising the powers of the Board during the initial period of operation of the Association and the Condominium development.

ARTICLE 17

LIMITATION OF LIABILITY

17.1 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 (or the Declarant or Declarant's managing agent exercising the powers of the Board) shall be liable for: any failure of any utility or other service to be obtained and paid for by the Board; or for injury or damage to person or property caused by the elements, or resulting from electricity, noise, smoke, water, rain, (or other liquid), dust or sand which may lead or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other places; or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of Common Expense assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

17.2 No Personal Liability

So long as a Board member, or Association committee member, or Association officer, or Declarant or Declarant's managing agent exercising the powers of the Board, has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by such person, then no such person shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of

³⁷ Sic.

such person; 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.

17.3 Indemnification of Board Members

Each Board member or Association committee member, or Association officer, or Declarant or Declarant's managing agent exercising the powers of the Board, shall be indemnified by the owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or in which he³⁸ may become involved, by reason of being or having held such position, or any settlement thereof, whether or not he holds such position at the time such expenses or liabilities are incurred, except in such cases wherein such person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interest of the Association.

ARTICLE 18

MORTGAGEE PROTECTION

18.1 Priority of Mortgages

Notwithstanding all other provisions hereof and as provided in the Act, the liens created under this Declaration upon any Apartment for assessments shall be subject to tax liens on the Apartment in favor of any assessing unit and/or special district and be subject to the rights of the secured party in the case of any indebtedness secured by Mortgages which were made in good faith and for value upon the Apartment. Where such Mortgagee of the Apartment, or other purchaser of an Apartment, obtains possession of an Apartment as a result of³⁹ mortgage foreclosure or deed in lieu thereof, such possessor and his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Apartment which become due prior to such possession, but will be liable for the Common Expenses and assessments accruing only after such possession. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Apartment Owners including such possessor, his successor and assigns. For the purpose of this section, the term "mortgages" and "mortgagees" shall not mean real estate contracts or the vendor, or the designee of a vendor of a real estate contract.

18.2 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 (and any agreement for the providing of goods and/or services between the Association and the Declarant) shall: permit cancellation by the Association for cause upon thirty (30) days written notice; permit termination by either party without cause and without penalty or payment of a

³⁸ Sic.

³⁹ Sic.

termination fee on ninety (90) days or less written notice; and have a term not in excess of one (1) year, renewable by agreement of the parties for successive one-year periods. The Association shall not elect to terminate professional management and assume self-management without the prior written approval of seventy-five (75%) percent of the Owners and of all first mortgagees (based upon one vote for each first Mortgage owned); provided that such prior consent shall not be required to change from one professional manager to another professional manager.

18.3 Abandonment of Condominium Status

Except when acting pursuant to the provisions of the Act involving damage, destruction, or condemnation, the Association shall not;⁴⁰ without prior written approval of one hundred (100%) percent of all first Mortgagees (based upon one vote for each first Mortgage owned) and Owners (other than the sponsor, developer or builder) of record of the Apartments, seek by act or omission to abandon or terminate the condominium status of the project; or without seventy-five (75%) percent of all first Mortgagees (based upon one vote for each first mortgage owned) and Owners (other than the sponsor, developer or builder) of record of the Apartments, seek by act or omission to abandon, encumber, sell or transfer any of the Common Areas.

18.4 Partitions and Subdivision

The Association shall not combine nor subdivide any Apartment or the appurtenant Limited Common Areas, nor abandon, partition, subdivide, encumber or sell any Common Areas, or accept any proposal so to do, without the prior written approval of seventy-five (75%) percent of all first Mortgagees (based upon one vote for each first Mortgage owned) or Owners (other than the sponsor, developer or builder) of record of the Apartments, and without unanimous approval of the first Mortgagee(s) and Owner(s) of the Apartments so affected.

18.5 Change In Percentages ⁴¹

The Association shall not make any Material Amendment (as defined in Section 21.1) to the Declaration or Bylaws (including changes in the percentages of interest in the Common Areas) without prior written approval of fifty-one (51%) of all eligible First Mortgagees (based upon one vote for each first Mortgage owned) and sixty-seven (67%) of the owners of record of the Apartments, and without unanimous approval of the Mortgagee(s) and Owner(s) of the Apartment(s) for which the percentage(s) would be changed.

18.6 Copies of Notices

Written notice that an Owner/mortgagor of an Apartment has for more than sixty (60) days failed to meet any obligation under the Condominium documents shall be given by the Association to the first Mortgagee of such Apartment. Any first Mortgagee shall, upon request, be entitled to receive written notice of: all meetings of the Association and be permitted to designate a representative to attend all such meetings; any condemnation loss

⁴⁰ Sic.

⁴¹ Changed by the Twelfth Amendment.

or casualty loss affecting a material portion of the Property or the Apartment on which it holds a Mortgage; any lapse, cancellation or material modification of insurance policies or fidelity bonds maintained by the Association.

18.7 Effect of Declaration Amendments

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

18.8 Insurance

18.8.1 With respect to a first Mortgagee of an Apartment, the Board shall:

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

(b) Require any Insurance carrier to give the Board and any and all insureds (including such Mortgagees) at least thirty (30) days' written notice before cancelling⁴², reducing the coverage or limits, or otherwise substantially modifying any insurance with respect to the Property on which the Mortgagee has a lien (including cancellation for a premium nonpayment);

(c) Not make any settlement of any insurance claims for loss or damage to any such Apartment, common or Limited Common Area exceeding Five Thousand (\$5,000.00) Dollars 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;

(d) Give such Mortgagee written notice of any loss or taking affecting Common Areas, if such loss or taking exceeds Ten Thousand (\$10,000.00) Dollars;

(e) Give such Mortgagee written notice of any loss, damage or taking affecting any Apartment or Limited Common Areas in which it has an interest, if such loss, damage or taking exceeds One Thousand (\$1,000.00) Dollars;

18.8.2 In addition, the insurance policy acquired shall:

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

⁴² Sic.

(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 Apartment 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; and requirement that the Mortgagee pay any premium thereon; and any contribution clause.

18.9 Inspection of Books

Owners, first Mortgagees, insurers and guarantors of the first Mortgage on any Apartment shall be entitled by the Owners' Association: to inspect at all reasonable hours of week days (or under other reasonable circumstances) all of the books and records of the Association including current copies of the Declaration, Bylaws and other rules governing the Condominium, and other books, records and financial statements of the Owners' Association (with a reasonable time following request); and, upon written request of any holder, insurer or guarantor of a first Mortgage at no cost to the party so requesting (or if this project contains less than fifty (50) Apartments, upon the written request of the holders of fifty-one (51%) percent or more of first Mortgages at their expense if an audited statement is not otherwise available), to receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association. The Owners' Association shall also make available to prospective purchasers current copies of the Declaration, Bylaws, and other rules governing the Condominium, and the most recent annual audited financial statement, if such is prepared.

18.10 Obtaining Declarant's Powers

In the event the Mortgagee of the Condominium becomes bound by this Declaration by granting one or more partial releases or otherwise, and forecloses its Mortgage or acquires a deed in lieu of foreclosure and obtains possessory rights, legal title, or certificates of sale of the unsold Apartment or Apartments and appurtenant Common Areas covered by the respective deed of trust or mortgage liens, then the Mortgagee of the Condominium may succeed to and assume, to the exclusion of the Declarant, the powers of the Declarant as set forth in this Declaration.

18.11 Receiver Appointed by Condominium Mortgagee

The Mortgage⁴³ of the Condominium shall be entitled to appoint a receiver during the pendency of any foreclosure and said receiver shall immediately, upon appointment, succeed to and assume the rights and powers of the Declarant as set forth in this Declaration, and the receiver shall be entitled to sell unsold Condominium Apartments.

⁴³ Probably should be "Mortgagee" instead of "Mortgage".

ARTICLE 19

EASEMENTS

19.1 General

It is intended that in addition to rights under the Act, each Apartment has an easement in and through each other Apartment and the Common and Limited Common Areas 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 Apartment and all Common and Limited Common Area is specifically subject to an easement for the benefit of each of the other Apartments in the Building for all duct work for the several Apartments, and for heating, ventilation, air conditioning and fireplaces and associated flues or chimneys. In addition, each Apartment and all the Common and Limited Common Area is specifically subject to easements as required for the intercom and electrical entry system, if any, for the electrical wiring and plumbing, for the air conditioning lines and equipment, if any, for the electrical wiring and plumbing, for the air conditioning lines and equipment, if any, for each Apartment, for the vacuum system roughed-in in each Apartment, if any, and for the master antenna cable system, if any. Finally, each Apartment as it is constructed is granted an easement to which each other Apartment and all Common and Limited Common Area is subject to the location and maintenance of all the original equipment and facilities and utilities for such Apartment. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for Common Areas reserved by law.

19.2 Utility, etc., Easements

The Board, on behalf of the Association and all members thereof, shall have authority to grant utility, road and similar easements, licenses and permits, under, through or over the Common Area, which easements the Board determines are reasonably necessary to the ongoing development and operation of the Property.

19.3 Association Functions

There is hereby reserved to Declarant and the Association, or their duly authorized agents and representatives, such easements as are necessary, for emergency repairs and/or to perform the duties and obligations of the Association as are set forth in the Declaration, or in the Bylaws, and the Association Rules.

19.4 Encroachments

Each Apartment and all Common and Limited Common Area is hereby declared to have an easement over all adjoining Apartments and Common and

Limited common Area, for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, reconstruction, repair, settlement or shifting or movement of any portion of the Building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said Owner or Owners. In the event an Apartment or Common or Limited Common Area is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Apartments and Common and Limited Common Areas shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any Apartment.

ARTICLE 20

PROCEDURES FOR SUBDIVIDING OR COMBINING

20.1 Procedure

Subdivision and/or combining of any Apartment or Apartments, Common Areas or Limited Common Areas are authorized only as follows:

20.1.1 Any Owner of any Apartment or Apartments may propose any subdividing or combining of an Apartment or Apartments, and appurtenant Common Areas or Limited Common Areas in writing, together with complete plans and specifications for accomplishing the same and a proposed amendment to the Declaration, Survey Map and Plans covering such subdividing or combining, to the Board, which shall then notify all other Apartment Owners of the requested subdivision or combination.

20.1.2 Upon written approval of such proposal by seventy-five (75%) percent of the Owners, and upon approval of seventy-five (75%) percent of the first Mortgagees and unanimous prior written approval of the first Mortgagee(s) and Owner(s) of the Apartment(s) to be combined or subdivided, the Owner(s) making the proposal may proceed according to such plans and specifications; provided that the Board may in its discretion (but it is not mandatory that the Board exercise this authority) require that the Board administer the work or that provisions for the protection of other Apartments or Common Areas or reasonable deadlines for completion of the work be inserted in the contracts for the work.

20.1.3 The changes in the Survey Map, if any, and the changes in the Plans and Declaration shall be placed of record as amendments to the Survey Map, Plans, and Declaration of Condominium in accordance with the provisions of Section 21.1.

ARTICLE 21

AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

21.1 Declaration Amendments

Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Owners. Amendments may be adopted at a meeting of the Owners if sixty-seven (67%) percent of the owners vote for such amendment, or without any meeting if all Owners have been duly notified and sixty-seven (67%) percent of the Owners consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the president of the Association and shall be attested by the secretary, who shall state whether the amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording in the appropriate governmental offices.

Any Amendment to a provision of the Declaration establishing, providing for, governing or regulating the following (all of which shall be deemed "Material Amendments") shall require the consent of sixty-seven (67%) percent of the Owners and fifty-one (51%) percent of the Eligible First Mortgagees: voting; assessments, assessment liens or subordination of such liens; reserves for maintenance, repair and replacement of Common Areas; insurance or bonds; use of Common Areas; responsibility for maintenance or repairs; expansion or construction of the project or the addition, annexation or withdrawal of properly to or from the project; boundaries of Apartment; converting of Apartments into Common Areas or vice versa; leasing of Apartments; provisions for benefit of first Mortgagees, or holders, insurers, or guarantors of first Mortgages; the interest in Common or Limited Common Areas; or imposition of any right of first refusal or similar restrictions on the right of an Owner to sell, transfer or otherwise convey an Apartment; provided, that 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.

Any Amendment altering the value of the Property and of each Apartment and the percentage of undivided interest in the Common Areas shall require unanimous consent of the Apartment Owners. It is specifically covenanted and understood that any amendment to this Declaration properly adopted will be completely effective to amend any or all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration or Survey Map and Plans unless otherwise specifically provided in the section being amended or the amendment itself.

21.2 Map and Plans Amendment

Except as otherwise provided herein, the Survey Map and Plans may be amended by revised versions or revised portions thereof referred to and described as to affect in an amendment to the Declaration adopted as provided for herein. Copies of any such proposed amendment to the Survey Map and Plans

shall be made available for the examination of every Owner. Such amendment to the Survey Map and Plans shall also be effective, once properly adopted, upon recordation in the appropriate county office in conjunction with the Declaration amendment.

21.3 Amendments by⁴⁴ Regarding Parking Assignments, Etc.

The Declarant, upon Declarant's sole signature, and as an attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interest, may at any time, until all Apartments have been sold by Declarant, record an amendment to the Declaration and/or Survey Map and plans: showing, correcting or revising the assignment of parking spaces or storage areas to unsold Apartments; and, during the period of Declarant's management authority provided under Section 10.1, changing the person who is to receive service of process. Any such amendment need be acknowledged only by the Declarant and need not otherwise comply with the requirements of this Article 21.

21.4 Amendment to Conform to Construction

In addition, Declarant, upon Declarant's sole signature, and as an attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interest, may at any time, until all Apartments have been sold by Declarant, file and⁴⁵ amendment to the Declaration and to the Survey Map and Plans to conform data depicted therein to improvements as actually constructed and to establish, vacate and relocate utility easements, access road easements and parking areas.

21.5 Amendments to Conform to Lending Guidelines

So long as Declarant continues to own one or more Apartments, the Declarant, on his sole signature alone, and as an attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interests, may file such amendment to the Declaration and to the Survey Map and Plans as necessary to meet the then requirements of the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veteran's Administration, Federal Housing Administration, or similar agencies, institutions, or lenders financing, or title insurance companies insuring, the purchase of an Apartment from the Declarant.

21.6 Discontinuance of Condominium

It is further specifically covenanted⁴⁶ that any decision or failure to act by the Owners under this Declaration or any applicable⁴⁷ provision of law which intends or requires discontinuance of this Condominium or removal of the Property from the provisions of the Act, shall, if such decision or failure to act is sufficient with respect to Horizontal Property Regimes under the Act, also terminate and discontinue the effect of any and all of the covenants, conditions, and restrictions set forth herein, and all provisions of the Survey Map and Plans, unless other specific provision is made by recorded amendments to the Declaration, and, if required, to the Survey Map and Plans.

⁴⁴ Sic.

⁴⁵ Sic.

⁴⁶ Sic.

⁴⁷ Probably should be "applicable" instead of "applicable".

ARTICLE 22

MISCELLANEOUS

22.1 Service of Process

The person upon whom process may be served and his address is set forth in Schedule B. After termination of Declarant's management authority under Section 10.1, service of process for the purpose provided in the Act may also be made upon the president of the Association. The Board may at any time designate a new or different person or agency for such purposes by filing an amendment to this Declaration limited to the sole purpose of making such change, and such amendment need only be signed and acknowledged by the then president of the Association. The Declarant may, at any time before the Board is organized, and as provided in Section 21.3, change such designation by amendment to the Declaration signed and acknowledged only by Declarant.

22.2 Notices for All Purposes

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

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

22.3 Mortgagee's Acceptance

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

22.3.2 Acceptance Upon First Conveyance. Unless otherwise expressly approved by the purchaser of an Apartment, Declarant shall not consummate the conveyance of title of such Apartment until said Mortgagee shall have accepted the provisions of this Declaration and made appropriate arrangements, in accordance with the Act, for partial release of Apartments with their appurtenant Limited Common Areas and percentages of interest in Common Areas

from the lien of said Mortgage. The issuance and recording of the first such partial release by said Mortgagee shall constitute its acceptance of the provisions of this Declaration and the Condominium status of the Apartments remaining subject to its Mortgage as well as its acknowledgment that such appropriate arrangements for partial release of Apartments have been made; provided, that, except as to Apartments so released, said Mortgage shall remain in full effect as to the entire Property.

22.4 Severability

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

22.5 Conveyances; Notice Required

The right of an Apartment Owner to sell, transfer, or otherwise convey the Apartment 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 an Apartment shall deliver a written notice to the Board, at least two (2) weeks before closing, specifying: the Apartment being 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 Apartment, whether or not such information is requested. It is understood however, that a violation this Section shall not invalidate a sale, transfer or other conveyance of an Apartment which is otherwise valid under applicable law.

22.6 Transfer of Declarant's Powers

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

22.7 Effective Date

The Declaration shall take effect upon recording.

22.8 Reference to Survey Map and Plans

The Survey Map and Plans of the Building referred to herein consist of 12 sheets as prepared by Weden & Associates and were filed with the Recorder of Whatcom County, Washington, simultaneously with

the recording of this Declaration under File No. 1629074
_ in Volume 7 of Condominiums, pages 11 through 22 .

ARTICLE 23

PHASED DEVELOPMENT

23.1 Development In Phases

23.1.1 This Condominium will be developed and established in more than one (1) phase. This Declaration provides a description of: the land within all phases; the general Common and Limited Common Areas for all phases; and the Apartments and Buildings in Phase 1. The Survey Map and Plans, filed simultaneously herewith, depict (certified as-built with respect to Phase 1), the following: a survey of the surface of the Phase 1 land; the location of the Phase 1 Buildings; and the plans of the Phase 1 Buildings showing as to each Apartment in Phase 1 the vertical and horizontal boundaries, the locations of all such Apartments, and the number and dimensions of all such Apartments. The provisions regarding Phase 1 shall be effective immediately to establish Phase 1 (include the Phase 1 land and all Apartments, Buildings and other improvements constructed thereon) as a Condominium under the Act. The provisions regarding subsequent phases shall not be effective to establish subsequent phases (including the land and all Apartments, Buildings and other improvements constructed thereon) as a Condominium under the Act until Declarant records an amendment to the Declaration (and an amendment to the Survey Map and Plans, if necessary) pursuant to subsection 23.1.2.

23.1.2 For such subsequent phase following Phase 1, the Declarant shall execute and record an amendment to this Declaration stating that said subsequent phase (including the subsequent phase land, and all Apartments, Buildings and other improvements thereon) is established as a Condominium under the Act. From and after the recording of said amendment, all of the land within Phase 1 and within subsequent phases for which such an amendment has been recorded, together with all Apartments, Buildings and other improvements constructed thereon, shall constitute a single Condominium pursuant to the Act and the provisions of this Declaration. In conjunction with said amendment to the Declaration, an updated or revised Survey Map, or Plans, or both, shall be filed if the previous Map and Plans filed affecting or describing said subsequent phase lack required detail, certification or other matters required under the Act.

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

23.1.4 Declarant shall complete subsequent phases in accordance with the plans and specifications prepared from time to time by Declarant's architect and as approved from time to time by governmental authorities having jurisdiction thereof and by the lender or lenders financing the construction of subsequent phases. Improvements within subsequent phases will be reasonably consistent with improvements in prior phases in terms of quality of construction. Completion of subsequent phases will be pursued by Declarant as

expeditiously as reasonably possible, subject to delays for reasons (including, but not limited to, financing availability, labor disputes, material shortages, and acts of God) reasonably beyond the contract⁴⁸ of Declarant.

23.2 Phase Percentages

It is specifically covenanted that the percentages for Phase 1 are calculated with relation to the total of the values for those Apartments within Phase 1. At such time as additional phases are made effective by the filing of he⁴⁹ above-described Declaration Amendment by Declarant, the percentages thereafter effective shall be those scheduled for each subsequent phase, which are calculated with relation to the total of values of all Apartments in Phase 1 and those added in each subsequent phase.

23.3 Assessments Based on Percentage for Phases

All assessments for the various phases shall utilize and be based on the percentage stated for that phase until the succeeding phase is activated and commenced. The Declarant or Board may upon the activation of any phase recompute the budget and the assessments, and impose the revised assessments.

23.4 Easements for Phased Development

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

23.4.2 The easements reserved under this Section 23.4 shall entitle the Declarant (and Declarant's heirs, successors, assigns) for development of each successive phase of the Condominium, or for development and utilization of the lands to have been included in any phase if such lands are utilized for other purposes under the powers reserved to Declarant, to tie into water, sewer, storm sewer, electrical, gas, telephone or other utility lines of all varieties, and to connect with roadways or utility systems developed and emplaced in the completed phases of the Condominium; provided, however, that Declarant shall bear the cost of tie-ins to said utilities and roads and will not connect with said utilities in a manner that impairs or significantly reduces the quality of the utility service to the land described in Schedule A as Phase 1 and for land in a subsequently completed phase; provided further, if said tie-ins cause an increase in the cost of delivering affected utility services to Phase 1 and for land in any subsequently completed phase, that cost shall be borne by the Declarant; and provided further, that any land,

⁴⁸ Probably should be "control" instead of "contract".

⁴⁹ Sic.

which is not developed as a subsequent phase of the Condominium and which utilizes and benefits from the utility and roadway easements reserved to Declarant hereunder, shall pursuant to an irrevocable covenant running with the land be obligated to pay a prorata share (based on relative number of living units) of the costs of subsequent repairs, maintenance and operation of said utilities and roadways. Declarant (and Declarant's heirs, successors and assigns) shall have a non-exclusive easement to construct and maintain (at any time and at Declarant's sole cost and expense and in the exercise of Declarant's sole discretion and at such locations within Phase 1 and within any subsequently completed phases of the Condominium as Declarant may determine) such signs as Declarant may deem necessary for the identification of the name, location and direction, and for the sale or renting, of Buildings and Apartments, regardless of whether such Buildings and Apartments are located on land which is within a subsequent phase of the Condominium or on land which the Declarant under powers reserve hereunder has elected not to develop as a phase of the Condominium.

23.5 Phased Amendment

It is specifically covenanted and agreed that Declarant, upon Declarant's sole signature, and as attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interest, may file the amendment to the Declaration (and to the Survey Map and Plans, if necessary) as provided under subsection 23.1.2, said amendment to contain and depict such information and data as is necessary to establish a subsequent phase as a part of the Condominium development pursuant to the Act. Such amendment will not require the consent of any other Owner other than the Declarant so long as the Property described for the phase and the values and percentages described for the phase in Schedules A and C hereto are not modified except as provided in said Schedules; provided, however, that market conditions may modify actual selling prices despite the values specified herein; and provided further, that Declarant may in its sole discretion determine the final boundaries for each and every parcel of Property comprising each subsequent phase completed. In all other respects, the proposed location and configuration of Apartments and Apartment Buildings may be changed, and information detailing such changes may be included in Declarant's amendments. Declarant shall execute and record said amendment for each subsequent phase when: (a) the Buildings, Apartments and other improvements in said phase have been substantially completed to the standards required by the lender or lenders financing construction of said phase; and (b) a sufficient number of Apartments within said phase have been pre-sold)⁵⁰that is, been made subject to a binding executory contract of sale and purchase) in accordance with the requirements of the lender or lenders financing construction of said phase.

23.6 Liens Arising in Connection with Phases

At the time the amendment incorporating a subsequent phase into the Condominium is made, no lien arising in connection with the Declarant's ownership of, and construction of improvements upon, the subsequent phase land will adversely affect the rights of existing Apartment Owners or the priority of first Mortgages on Apartments in the existing Condominium Property. All taxes, assessments, mechanics liens, and other charges affecting a subsequent

⁵⁰ Sic.

phase land will be paid or otherwise satisfactorily provided for by the Declarant.

23.7 Withdrawal of Subsequent Phases

If, despite the good faith efforts of Declarant, and for reasons (including, but not limited to, financing availability, labor disputes, material shortages and acts of God) beyond the reasonable control of Declarant, all or any of the subsequent phases are not completed and the amendment(s) provided for in Section 23.5 is not recorded, then Declarant at any time may elect not to incorporate all or some of such subsequent phases into the subject Condominium project and elect not to record the amendments provided for in Section 23.5. To effectuate the foregoing, Declarant, upon its sole signature and without further consent of any of the other Owners being required, and as an attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interest, may file such amendment to this Declaration and to the Survey Map and Plans as is necessary to withdraw the land within uncompleted phases (and improvements constructed thereon) from the provisions of this Declaration and to relinquish Declarant's rights under this Article 23. In the event Declarant should exercise its rights under this Section 23.7 to withdraw the land within uncompleted phases (and improvements thereon), from the provisions of this Declaration, then: the phases in fact completed shall thereafter continue to constitute a complete, fully operational Condominium; land within uncompleted phases (and improvements thereon) may be used for any other lawful purpose in Declarant's discretion; and the easements provided for in Section 23.4 shall continue for the benefit of land within uncompleted phases and Declarant (and its heirs, successors and assigns) for the development and utilization of land within uncompleted phases.

23.8 Binding Effect

The provisions of this Article 23 shall constitute irrevocable covenants running with all of the land described in Schedule A and shall be irrevocably binding upon Declarant (and its heirs, successors and assigns) with respect to all of said land.

23.9 Limitation of Declarant's Rights

23.9.1 The seven (7) year period referred to in Section 10.2 shall be deemed to be a seven(7) year period commencing with the first conveyance of an Apartment within Phase 1, and the one hundred (100) percent of sales referred to in Section 10.2 shall be calculated with reference to all Apartments in Phase 1 and other subsequent phases in fact completed. It is understood that the total project (if all phases are completed) shall include Condominium residential Apartments not exceeding in number 300.

23.9.2 At the time of recording this Declaration, Declarant may not have acquired title to or an interest in the land for some or all of the land for phases subsequent to Phase 1. Declarant shall not be entitled to exercise its right to include the land for phases subsequent to Phase 1 (and improvements thereon) as a part of this Condominium until such time as Declarant has acquired title to or an interest in the land necessary for such subsequent phase. Declarant, upon its sole signature and without further

consent of any of the other Owners being required, and as attorney-in-fact for all Apartment Owners with an irrevocable power coupled with an interest, may file (at any time prior to including each of the subsequent phases in this Condominium) such amendment to this Declaration and to the Survey Map and Plans as is necessary to withdraw the land for phases not completed from the provisions of this Declaration and to relinquish Declarant's rights under this Article 23.

23.9.3 If the United States Veteran's Administration, Federal Housing Administration and/or Federal National Mortgage Association is involved in the financing of the construction of the Condominium project or the purchase of an Apartment located therein, the Declarant covenants to build each phase in accordance with plans approved by said Administration and/or Association office having jurisdiction over the geographical area in which the Condominium project is located, provided such approval is not unreasonably withheld or delayed.

23.9.4 If the United States Veteran's Administration, Federal Housing Administration and/or Federal National Mortgage Association is involved in the financing of the construction of the Condominium project or the purchase of an Apartment located therein, the Declarant covenants not to record the Declaration Amendment referred to in Section 23.5 without the prior written approval of said Administration and/or Association office, provided such approval is not unreasonably withheld or delayed.

23.9.5 Declarant's right to add phases by amendments under Section 23.5 shall expire seven (7) years after initial Declaration recording.

DATED this 24 day of February , 1989

DECLARANT:

TULIP FINANCIAL SERVICES, INC.



By: _____ /ss/ _____
James A. Wynstra, President

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 24th day of February, 1989, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared JAMES A. WYNSTRA, to me known to be the President of TULIP FINANCIAL SERVICES, INC., the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument and that the seal affixed (if any) is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

/ss/

NOTARY PUBLIC in and for the State of
Washington, residing at Lynden.
My Commission Expires: 3/16/90

DECLARATION

SCHEDULE A⁵¹

Division 1 -- Phase 1 (Completed and part of the Condominium per Article 23):

THAT PORTION OF PARCEL 3, "CORDATA SPECIFIC BINDING SITE PLAN NO. 1" AS PER THE MAP THEREOF RECORDED IN VOLUME 1 OF BINDING SITE PLANS, PAGES 13 TO 15, INCLUSIVE, UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1598964, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 2 OF SAID SITE PLAN: THENCE NORTH 01 DEGREE 00'19" EAST ALONG THE WEST LINE OF SAID PARCEL 2 AND SAID PARCEL 3, 1238.26 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3, BEING A POINT ON THE SOUTHERLY MARGIN OF JUNE ROAD: THENCE SOUTH 89 DEGREES 40'24" EAST ALONG THE NORTH LINE THEREOF AND SAID SOUTHERLY MARGIN, 347.29 FEET TO THE POINT OF BEGINNING OF THIS LEGAL DESCRIPTION; THENCE CONTINUING SOUTH 89 DEGREES 40'24" EAST ALONG SAID NORTH LINE AND SAID SOUTHERLY MARGIN, 208.07 FEET TO A POINT OF CURVATURE TO THE RIGHT AT THE INTERSECTION OF SAID JUNE ROAD AND KELLOGG ROAD, THE CENTER OF WHICH BEARS SOUTH 00 DEGREES 19'36" WEST; THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET THROUGH A CENTRAL ANGLE OF 90 DEGREES 00'00" AN ARC DISTANCE OF 39.27 FEET TO A POINT OF TANGENCY ON THE EAST LINE OF SAID PARCEL 3 AND THE WESTERLY MARGIN OF SAID KELLOGG ROAD; THENCE SOUTH 00 DEGREES 19'36" WEST ALONG SAID EAST LINE AND SAID WESTERLY MARGIN, 357.02 FEET; THENCE NORTH 87 DEGREES 30'00" WEST, 232.89 FEET; THENCE NORTH 00 DEGREES 19'36" EAST, 114.00 FEET; THENCE SOUTH 89 DEGREES 40'24" EAST

⁵¹ The February 1989 Schedule A is not reproduced here since it was replaced by the Schedule A in the First through the Fifth amendments.

27.36 FEET, THENCE NORTH 19 DEGREES 27'56" WEST, 40.15 FEET; THENCE NORTH 10 DEGREES 23'43" EAST, 115.73 FEET TO A POINT OF CURVATURE TO THE LEFT, THE CENTER OF WHICH BEARS SOUTH 16 DEGREES 06'11" WEST; THENCE ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 133.00 FEET THROUGH A CENTRAL ANGLE OF 14 DEGREES 59'44" AN ARC DISTANCE OF 34.81 FEET TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 19'36" EAST, 102.47 FEET TO A POINT ON THE SOUTHERLY MARGIN OF JUNE ROAD AND THE POINT OF BEGINNING.

Division 1 - Phase 2 (Completed and part of the Condominium per Article 23.)

LEGAL DESCRIPTION

THAT PORTION OF PARCEL 3, "CORDATA SPECIFIC BINDING SITE PLAN NO. 1" AS PER THE MAP THEREOF RECORDED IN VOLUME 1 OF BINDING SITE PLANS, PAGES 13 TO 15, INCLUSIVE, UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1598964, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 2 OF SAID SITE PLAN; THENCE NORTH 01 DEGREE 00'19" EAST ALONG THE WEST LINE OF SAID PARCEL 2 AND SAID PARCEL 3, 1238.26 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3, SAID POINT ALSO BEING ON THE SOUTHERLY MARGIN OF JUNE ROAD AND THE POINT OF BEGINNING OF THIS LEGAL DESCRIPTION; THENCE SOUTH 89 DEGREES 40'24" EAST ALONG THE NORTH LINE OF SAID PARCEL 3 AND SAID SOUTHERLY MARGIN, 347.29 FEET; THENCE SOUTH 00 DEGREES 19'36" WEST, 102.47 FEET TO A POINT ON A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS SOUTH 01 DEGREES 06'27" WEST; THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 133.00 FEET, THROUGH A CENTRAL ANGLE OF 14 DEGREES 59'44" AN ARC DISTANCE OF 34.01 FEET; THENCE SOUTH 10 DEGREES 23'43" WEST, 115.73 FEET; THENCE SOUTH 10 DEGREES 27'56" EAST, 40.15 FEET, THENCE NORTH 89 DEGREES 40'24" WEST, 27.36 FEET; THENCE SOUTH 00 DEGREES 19'36" WEST, 114.00 FEET; THENCE NORTH 87 DEGREES 30'00" WEST, 3.92 FEET TO A POINT OF CURVATURE TO THE LEFT, THE CENTER OF WHICH BEARS SOUTH 02 DEGREES 30'00" WEST; THENCE ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 78.00 FEET, THROUGH A CENTRAL ANGLE OF 50 DEGREES 19'36" AN ARC DISTANCE OF 68.51 FEET; THENCE NORTH 47 DEGREES 49'36" WEST, RADIALY, 53.25 FEET; THENCE NORTH 08 DEGREES 16'33" EAST, 90.31 FEET; THENCE NORTH 80 DEGREES 00'11" WEST, 261.94 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL 3; THENCE NORTH 01 DEGREES 00'19" EAST ALONG SAID WEST LINE, 230.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3 AND THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Division 1 - Phase 3 (Completed and part of the Condominium per Article 23.)

LEGAL DESCRIPTION

THAT PORTION OF PARCEL 3, "CORDATA SPECIFIC BINDING SITE PLAN NO. 1" AS PER THE MAP THEREOF RECORDED IN VOLUME 1 OF BINDING SITE PLANS, PAGES 13 TO 15, INCLUSIVE, UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1598964, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 3 OF SAID SITE PLAN; THENCE NORTH 01 I)DEGREE 00'19" EAST ALONG THE WEST LINE OF SAID PARCEL 3, 678.26 FEET; THENCE SOUTH 80 DEGREES 00'11" EAST, 261.94 FEET; THENCE SOUTH 08 DEGREES 16'33" WEST, 90.31 FEET; THENCE SOUTH 47 DEGREES 49'36" EAST RADIAL, 53.24 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 78.00 FEET THROUGH A CENTRAL ANGLE OF 48 DEGREES 29'56" AN ARC DISTANCE OF 66.02 FEET; THENCE SOUTH 03 DEGREES 22'33" WEST, 173.35 FEET; THENCE SOUTH 12 DEGREES 04'53" WEST, 64.38 FEET; THENCE NORTH 86 DEGREES 37'25" WEST, 54.38 FEET TO A POINT ON A CURVE TO THE LEFT, THE CENTER OF WHICH BEARS NORTH 83 DEGREES 30'48" EAST; THENCE ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 633.00 FEET THROUGH A CENTRAL ANGLE OF 2 DEGREES 30'48" AN ARC DISTANCE OF 27.77 FEET TO A POINT OF TANGENCY; THENCE SOUTH 09 DEGREES 00'00" EAST 46.00 FEET; THENCE SOUTH 81 DEGREES 00'00" WEST, 44.00 FEET; THENCE SOUTH 42 DEGREES 48'45" WEST, 264.52 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARCEL 3 OF SAID SITE PLAN; THENCE SOUTH 67 DEGREES 44'08" WEST ALONG SAID SOUTHERLY BOUNDARY, 70.00 FEET TO THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Division 2 - Phase 1 (Completed and part of the Condominium per Article 23.)

LEGAL DESCRIPTION

THAT PORTION OF PARCEL 2 AND 3, "CORDATA SPECIFIC BINDING SITE PLAN NO. 1", AS PER THE MAP THEREOF RECORDED IN VOLUME 1 OF BINDING SITE PLANS, PAGES 13 TO 15, INCLUSIVE, UNDER AUDITOR'S FILE NO. 1598964, RECORDS OF WHATCOM COUNTY, WASHINGTON, BEING MORE PARTICULARLY DE- SCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SITE PLAN BEING A POINT ON THE NORTHERLY MARGIN OF DIVISION ROAD; THENCE NORTH 01 DEGREES 00'19" EAST ALONG THE WESTERLY BOUNDARY THEREOF, 330.00 FEET; THENCE NORTH 67 DEGREES 44'08" EAST, 70.00 FEET; THENCE NORTH 42 DEGREES 48'45" EAST, 264.52 FEET; THENCE NORTH 81 DEGREES 00'00"

EAST, 112.65 FEET; THENCE SOUTH 13 DEGREES 56'39" EAST, 105.96 FEET; THENCE SOUTH 24 DEGREES 22'29" EAST, 261.03 FEET; THENCE SOUTH 00 DEGREES 35'47" WEST, 91.01 FEET; THENCE NORTH 89 DEGREES 26'54" WEST, 8.15 FEET; THENCE SOUTH 00 DEGREES 37'04" WEST, 141.28 FEET TO THE SOUTHERLY BOUNDARY OF SAID BINDING SITE PLAN AND THE NORTHERLY MARGIN OF DIVISION ROAD; THENCE NORTH 89 DEGREES 26'54" WEST ALONG SAID SOUTHERLY BOUNDARY AND SAID NORTHERLY MARGIN, 484.26 FEET TO THE POINT OF BEGINNING.

SUBJECT TO ALL RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Division II, Phase II (Completed and part of the Condominium per Article 23.)

LEGAL DESCRIPTION

THAT PORTION OF PARCEL 2, "CORDATA SPECIFIC BINDING SITE PLAN NO. 1" AS PER THE MAP THEREOF RECORDED IN VOLUME 1 OF BINDING SITE PLANS, PAGES 13 TO 15, INCLUSIVE, UNDER AUDITORS FILE NO. 1598964, RECORDS OF WHATCOM COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SITE PLAN WHICH IS A 3/4 INCH IRON PIPE ON THE NORTH MARGIN OF DIVISION ROAD; THENCE ALONG THE SOUTH BOUNDARY OF SAID SITE PLAN AND SAID NORTH MARGIN SOUTH 89 DEGREES 26'54" EAST, 484.26 FEET, TO THE POINT OF BEGINNING WHICH IS A 1/2 INCH REBAR; THENCE ALONG THE EAST BOUNDARY OF "THE VILLAGE CONDOMINIUMS AT CORDATA, DIV. II, PHASE I" NORTH 0 DEGREES 37'04" EAST, 141.24 FEET, TO THE NORTH MARGIN OF VILLAGE DRIVE; THENCE ALONG SAID NORTH MARGIN SOUTH 89 DEGREES 26' 54" EAST, 8.15 FEET; THENCE ALONG SAID EASTERLY BOUNDARY NORTH 0 DEGREES 35' 47" EAST, 91.01 FEET; THENCE SOUTH 83 DEGREES 11' 17" EAST, 147.47 FEET; THENCE NORTH 14 DEGREES 42' 53' EAST, 99.97 FEET, TO THE SOUTHERLY MARGIN OF EAST VILLAGE LANE; THENCE NORTH 23 DEGREES 05' 26" EAST, 36.00 FEET TO THE NORTHERLY MARGIN OF EAST VILLAGE LANE; THENCE NORTH 12 DEGREES 55"⁵² 00" EAST, 70.14 FEET; THENCE NORTH 38 DEGREES 58' 02" EAST, 48.81 FEET, TO A POINT ON A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 340.00 FEET, SAID POINT BEING ON THE SOUTHWESTERLY MARGIN OF KELLOGG ROAD; THENCE SOUTHEASTERLY 132.37 FEET ALONG SAID MARGIN AND SAID CURVE THROUGH A CENTRAL ANGLE OF 22 DEGREES 18' 24" TO THE CENTERLINE OF VILLAGE DRIVE; THENCE CONTINUING EASTERLY 90.34 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15 DEGREES 13' 26"; THENCE CONTINUING ALONG SAID SOUTHERLY MARGIN SOUTH 88 DEGREES 58' 26" EAST, 21.00 FEET; THENCE ALONG THE EAST BOUNDARY OF SAID SITE PLAN SOUTH 1 DEGREE 01' 34" WEST, 380.91 FEET; THENCE NORTH 89 DEGREES 26' 54" WEST, 462.97 FEET TO THE POINT OF BEGINNING.

SUBJECT TO ALL RESTRICTIONS, COVENANTS, AND EASEMENTS OF RECORD.

⁵² Sic.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON.

FIFTH AMENDMENT

Page 4-A.

Division II, Phase III (Completed and part of the Condominium per Article 23.

LEGAL DESCRIPTION⁵³

THOSE PORTIONS OF PARCELS 2 AND 3, "CORDATA SPECIFIC BINDING SITE PLAN NO. 1", AS PER THE MAP THEREOF RECORDED IN VOLUME 1 OF BINDING SITE PLANS, PAGES 13 TO 15, INCLUSIVE, UNDER AUDITOR'S FILE NO. 1598964, RECORDS OF WHATCOM COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING ON THE NORTH MARGIN OF DIVISION ROAD AT A 3/4-INCH IRON PIPE MARKING THE SOUTHWEST CORNER OF SAID SITE PLAN; THENCE ALONG THE SOUTH BOUNDARY OF SAID SITE PLAN AND SAID NORTH MARGIN SOUTH 89 DEGREES 26' 4" EAST, 484.26 FEET, TO A 1/2-INCH REBAR MARKING THE SOUTHWEST CORNER OF "THE VILLAGE CONDOMINIUMS AT CORDATA, DIVISION II, PHASE II" AS PER THE MAPS AND PLANS FILED UNDER AUDITOR'S FILE NO. 900411078, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE ALONG THE WEST BOUNDARY OF SAID "CONDOMINIUMS" NORTH 0 DEGREES 37' 04" EAST, 141.28 FEET, TO THE NORTH MARGIN OF VILLAGE DRIVE; THENCE ALONG SAID NORTH MARGIN SOUTH 89 DEGREES 6' 54" EAST, 8.15 FEET; THENCE ALONG SAID WEST BOUNDARY NORTH 0 DEGREES 5' 47" EAST, 91.01 FEET TO THE POINT OF BEGINNING WHICH IS A 1/2-INCH REBAR; THENCE ALONG THE EASTERLY BOUNDARY OF "THE VILLAGE CONDOMINIUMS AT CORDATA, DIVISION II, PHASE I" AS PER THE MAPS AND PLANS FILED UNDER AUDITORS FILE NO. 891205072, RECORDS OF WHATCOM COUNTY, WASHINGTON, NORTH 24 DEGREES 22' 29" WEST, 261.03 FEET: THENCE ALONG SAID BOUNDARY NORTH 13 DEGREES 56' 39" WEST, 105.96 FEET; THENCE ALONG SAID BOUNDARY SOUTH 81 DEGREES 00' 00" WEST, 68.65 FEET TO THE EASTERLY MARGIN OF VILLAGE DRIVE; THENCE ALONG SAID MARGIN NORTH 9 DEGREES 00' 00" WEST, 6.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE AIT HAVING A RADIUS OF 633.00 FEET; THENCE NORTHERLY 27.77 FEET ALONG SAID CURVE AND SAID MARGIN THROUGH A CENTRAL ANGLE OF 2 DEGREES 30' 48"; THENCE ALONG THE EASTERLY BOUNDARY OF "THE VILLAGE CONDOMINIUMS AT CORDATA, DIVISION I, PHASE III", AS PER THE MAPS AND PLANS FILED UNDER AUDITOR'S FILE NO. 645092, RECORDS OF WHATCOM COUNTY, WASHINGTON, SOUTH 86 DEGREES 37' 25" EAST, 54.38 FEET; THENCE ALONG SAID BOUNDARY NORTH 12 DEGREES 04' 53" EAST, 64.38 FEET; THENCE ALONG SAID BOUNDARY NORTH 3 DEGREES 22' 33" EAST, 173.35 FEET TO THE SOUTHERLY MARGIN OF VILLAGE DRIVE AND A POINT ON A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 78.00 FEET, A RADIAL LINE THROUGH SAID POINT BEARS NORTH 0 DEGREES 40' 19" EAST; THENCE EASTERLY 2.49 FEET ALONG SAID CURVE AND SAID MARGIN THROUGH A CENTRAL ANGLE OF 1 DEGREE 49' 40" TO A POINT OF TANGENCY; THENCE ALONG SAID MARGIN SOUTH 87 DEGREES 30' 00" EAST, 236.81 FEET TO THE WESTERLY MARGIN OF KELLOGG LOOP; THENCE ALONG SAID MARGIN SOUTH 0 DEGREES 19' 36" WEST, 38.75 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 340.00 FEET; THENCE SOUTHERLY AND SOUTHEASTERLY 307.21 FEET ALONG SAID CURVE AND SAID MARGIN THROUGH A CENTRAL ANGLE OF 51 DEGREES 11' 12"; THENCE ALONG THE NORTHWESTERLY BOUNDARY OF "THE VILLAGE CONDOMINIUMS AT CORDATA, DIVISION II, PHASE II" AS PER THE MAPS AND PLANS FILED UNDER AUDITOR'S FILE NO. 900411078, RECORDS OF WHATCOM COUNTY, WASHINGTON, SOUTH 38 DEGREES 58' 02" WEST, 48.81 FEET; THENCE ALONG SAID BOUNDARY SOUTH 12 DEGREES 55' 00" WEST, 70.14 FEET TO THE NORTHERLY MARGIN OF EAST VILLAGE LANE; THENCE ALONG SAID BOUNDARY SOUTH 11 DEGREES 05' 26" WEST, 36.00 FEET TO THE SOUTHERLY MARGIN OF EAST VILLAGE LANE; THENCE ALONG SAID BOUNDARY SOUTH 14 DEGREE 42' 53" WEST', 9.97 FEET; THENCE ALONG A NORTHERLY BOUNDARY OF SAID "CONDOMINIUMS" NORTH 83 DEGREES 11' 17" WEST, 147.47 TO THE POINT OF BEGINNING.

⁵³ The symbol I is used to indicate a character that was illegible on the scanned document.

SUBJECT TO ALL RESTRICTIONS, COVENANTS, AND EASEMENTS OF RECORDS. SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON.

2. Future Phases:

There are no future Phases.

SCHEDULE B

1. Service of Process (initial for association):

Name: James A. Wynstra
Address: 506 W. Grover, Suite 101
Lynden, WA 98264

2. Public Street to which project has direct access:

Kellogg Rd., Bellingham, Whatcom County, Washington

3. Building Materials:

Foundation: Concrete Pier and Wood Beam
Framing: Wood
Exterior Siding: Cedar
Roof: Cedar Shake

4. Recreational Facilities (list)-.

Clubhouse: To be built after Division 1, Phase 3, is completed or earlier, at Declarant's option.
RV Storage: To be built after Division 1, Phase 3, is completed or earlier, at Declarant's option.

5. Limited Common Areas:

Parking spaces, decks/patios, and yard area; all designated on drawings filed simultaneously with this declaration as amended from time to time.

Some of the units have gas fireplaces where others do not.

Notwithstanding anything provided in the Declaration in Article 6 to the contrary and notwithstanding anything in the Declaration in Article 10.41.1(a)⁵⁴ to the contrary, the following shall govern fireplaces and woodstoves located within apartments:

(a) A fireplace is a limited common area for the apartment in which it is located.

(b) Flues, pipes, chimneys and other equipment and apparatus associated with the use of a fireplace are also a limited common area for the apartment in which the fireplace is located.

(c) Maintenance, repair and replacements of fireplaces, flues, pipes, chimneys, and other equipment and apparatus associated with the use of a fireplace shall be governed by the provisions of Section 11.5.3 of the Declaration.

⁵⁴ Sic. This is an invalid Section number.

FIFTH AMENDMENT

Page 5.

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

{6. Street Addresses of Buildings and Apartments:}⁵⁵

DIVISION I PHASE I	<u>BUILDING</u>	<u>APARTMENT</u>	UNIT <u>TYPE</u>	<u>STREET ADDRESS</u>
	1	1	B	4850 A North Village Lane
	1	2	B	4850 B North Village Lane
	2	3	D-2	4852 North Village Lane
	3	4	D	4856 A North Village Lane
	3	5	D	4856 B North Village Lane
	4	6	C	4858 A North Village Lane
	4	7	C	4858 B North Village Lane
	5	8	A	4860 A North Village Lane
	5	9	A	4860 B North Village Lane
	6	10	B	4864 A North Village Lane
	6	11	B	4864 B North Village Lane
	7	12	A	4855 B North Village Lane
	7	13	B	4855 A North Village Lane
	8	14	D-2	4851 B North Village Lane
	8	15	D-2	4851 A North Village Lane
DIVISION I PHASE II	1	1	B	4866 A North Village Lane
	1	2	B	4866 B North Village Lane
	2	3	D-1	4868 A North Village Lane
	2	4	D-1	4868 B North Village Lane
	3	5	A	4874 A North Village Lane
	3	6	A	4874 B North Village Lane
	4	7	A	4878 A North Village Lane
	4	8	A	4878 B North Village Lane

⁵⁵ This heading is missing in the amendments.

DIVISION I PHASE II (Continued)	<u>BUILDING</u>	<u>APARTMENT</u>	<u>UNIT TYPE</u>	<u>STREET ADDRESS</u>
	5	9	C	4881 B North Village Lane
	5	10	C	4881 A North Village Lane
	6	11	D-2	4877 B North Village Lane
	6	12	B	4877 A North Village Lane
	7	13	D-2	4871 B North Village Lane
	7	14	D-1	4871 A North Village Lane
	8	15	B	4867 North Village Lane
	9	16	D-1	4863 B North Village Lane
	9	17	D-1	4863 A North Village Lane
	10	18	F	4843 Village Drive

DIVISION I PHASE III	<u>BUILDING</u>	<u>APARTMENT</u>	<u>UNIT TYPE</u>	<u>STREET ADDRESS</u>
	1	1	B	1212 A West Village Lane
	1	2	B	1202 B West Village Lane
	2	3	C	1220 A West Village Lane
	2	4	C	1220 B West Village Lane
	3	5	A	1230 West Village Lane
	4	6	C	1229 B West Village Lane
	4	7	C	1229 A West Village Lane
	5	8	D	1217 B West Village Lane
	5	9	D	1217 A West Village Lane
	6	10	B	1205 B West Village Lane

6

11

A

1205 A West Village Lane

DIVISION I
PHASE III
(Continued)

<u>BUILDING</u>	<u>APARTMENT</u>	<u>UNIT TYPE</u>	<u>STREET ADDRESS</u>
7	12	D	4743 B Village Drive
7	13	D	4743 A Village Drive
8	14	E	4711 B Village Drive
8	15	E	4711 A Village Drive
9	16	A	4720 A Village Drive
9	17	A	4720 B Village Drive
10	18	F	4750 A Village Drive
10	19	F	4750 B Village Drive

DIVISION II
PHASE I

1	1	F	4645 B Village Drive
1	2	F	4645 A " "
2	3	E	4675 B " "
2	4	E	4675 A " "
3	5	D-2	4585 B " "
3	6	D-2	4585 A " "
4	7	E	4563 " "
5	8	E	4553 B " "
5	9	E	4553 " "
6	10	E	4425 " "
7	11	D-1	4409 B " "
7	12	B	4409 A " "
8	13	D-2	4377 B " "
8	14	D-1	4377 A " "
9	15	B	4355 B " "
9	16	B	4355 A " "
10	17	D-1	4350 A " "
10	18	D-2	4350 B " "
11	19	D-2	4380 A " "
11	20	D-2	4380 B " "

DIVISION II
PHASE I
(Continued)

<u>BUILDING</u>	<u>APARTMENT</u>	<u>UNIT TYPE</u>	<u>STREET ADDRESS</u>
12	21	D-1	4550 A Village Drive
12	22	D-1	4550 B " "
13	23	D-2	4600 A " "
13	24	D-2	4600 B " "
14	25	F	4630 A " "
14	26	F	4630 B " "
15	27	E	4650 A " "
15	28	E	4650 B " "

DIVISION II
PHASE II

1	1	D-2	4315 B " "
1	2	D-2	4315 A " "
2	3	E	4250 B " "
2	4	E	4250 A " "
3	5	B	4201 B " "
3	6	B	4201 A " "
4	7	D-1	4143 B " "
4	8	B	4143 A " "
5	9	D-2	4121 " "
6	10	E	4103 B " "
6	11	E	4103 A " "
7	12	D-1	4039 B " "
7	13	D-1	4039 A " "
8	14	D-1	4005 B " "
8	15	D-1	4005 A " "
9	16	F	1150 A East Village Lane
9	17	F	1150 B " " "
10	18	F	1153 B " " "
10	19	F	1153 A " " "
11	20	A	4220 A Village Drive
11	21	A	4220 B " "

12	22	F	4310 A	"	"
12	23	F	4310 B	"	"

DIVISION II
PHASE III

<u>BUILDING</u>	<u>APARTMENT</u>	<u>UNIT TYPE</u>	<u>STREET ADDRESS</u>			
1	1	E	1223A East Village Lane			
1	2	E	1223B " " "			
2	3	D-2	1301A " " "			
2	4	D-1	1301B " " "			
3	5	B	1339A " " "			
3	6	B	1339B " " "			
4	7	D-1	1370A " " "			
4	8	D-1	1370B " " "			
5	9	F	1427A " " "			
5	10	E	1427B " " "			
6	11	F	1495A " " "			
6	12	F	1495B " " "			
7	13	F	1498B " " "			
7	14	F	1498A " " "			
8	15	E	1430B " " "			
8	16	E	1430A " " "			
9	17	D-2	1354B " " "			
9	18	D-2	1354A " " "			
10	19	D-1	1230B " " "			
10	20	D-1	1230A " " "			

7. Parking: The project will have the following parking:

Garages: 2 spaces per unit

Other: (a) Limited common area parking:

2 spaces per unit in front of garages but only for apartments which have either side entry or whose driveway extends 15 feet or more from the apartment to the roadside nearest their apartment, projected from both sides of the garage door.

(b) Common Area Parking:

All other parking spaces are for common use by apartment occupants or guests. The board may establish rules and regulations for their use.

8. Parking and Residential Configuration:

DIVISION I
PHASE I

BUILDING NUMBER

NUMBER OF APARTMENTS

1	2
2	1
3	2
4	2
5	2
6	2
7	2
8	2

DIVISION I
PHASE II

BUILDING NUMBER

NUMBER OF APARTMENTS

1	2
2	2
3	2
4	2
5	2
6	2
7	2
8	1
9	2
10	1

DIVISION I
PHASE III

1	2
2	2
3	1
4	2
5	2
6	2
7	2
8	2
9	2
10	2

DIVISION II
PHASE I

1	2
2	2
3	2
4	1
5	2
6	1
7	2
8	2

DIVISION II
PHASE I
(Continued)

<u>BUILDING NUMBER</u>	<u>NUMBER OF APARTMENTS</u>
10	2
11	2
12	2
13	2
14	2
15	2

DIVISION II
PHASE II

1	2
2	2
3	2
4	2
5	1
6	2
7	2
8	2
9	2
10	2
11	2
12	2

DIVISION II
PHASE III

1	2
2	2
3	2
4	2
5	2
6	2
7	2
8	2
9	2
10	2

All apartments have double attached garages.

9. Description of Apartments:

<u>APARTMENT TYPE</u>	<u>NUMBER OF ROOMS</u>	<u>DESCRIPTION</u>
A	8	Kitchen, dining room, living room, two bedrooms, two bathroom, utility room, double attached garage, all on one floor.
B	8	Nook, kitchen, living room/dining room combination, two bedrooms, two bathrooms, utility room, double attached garage, all on one floor.
C	8	Nook, kitchen, living room/dining room combination, two bedrooms, two bathrooms, utility room, double attached garage, on two floors.
D ⁵⁶	8	Nook, kitchen, living room/dining room combination, two bedrooms, two bathrooms, utility room, double attached garage, all on one floor.
D-2	9	Nook, kitchen, living room/dining room combination, two bedrooms, two bathrooms, utility room, double attached garage, all on one floor with second story loft.
E	10	Nook, kitchen, living room/dining room, three bedrooms, two bathrooms, utility room, double attached garage, all on one floor.
F	10	Nook, kitchen, living room/dining room, three bedrooms, two bathrooms, utility room, double attached garage, all on one floor.

⁵⁶ Probably should be "D-1" instead of "D".

SCHEDULE C

DIVISION I

PHASE I

<u>APARTMENT NUMBER</u>	<u>BUILDING LOCATION</u>	<u>FLOOR LOCATION</u>	<u>UNIT TYPE</u>	<u>VALUE</u>	<u>PERCENTAGES</u>	<u>PARKING SPACE</u>
1	1	1	B	\$79,500.00	.676	*
2	1	1	B	79,500.00	.676	*
3	2	1 + 2	D-2	94,500.00	.804	*
4	3	3	D-1	86,500.00	.736	*
5	3	1	D-1	86,500.00	.736	*
6	4	1 + 2	C	84,500.00	.719	*
7	4	1 + 2	C	84,500.00	.719	*
8	5	1	A	76,500.00	.651	*
9	5	1	A	76,500.00	.651	*
10	6	1	B	79,500.00	.676	*
11	6	1	B	79,500.00	.676	*
12	7	1	A	76,500.00	.651	*
13	7	1	B	79,500.00	.676	*
14	8	1 + 2	D-2	94,500.00	.804	*
15	8	1 + 2	D-2	94,500 00	.804	*

DIVISION I

PHASE II

1	1	1	B	\$79,500.00	.676	*
2	1	1	B	79,500.00	.676	*
3	2	1	D-1	86,500.00	.736	*
4	2	1	D-1	86,500.00	.736	*
5	3	1	A	76,500.00	.651	*
6	3	1	A	76,500.00	.651	*
7	4	1	A	76,500.00	.651	*
8	4	1	A	76,500.00	.651	*
9	5	1 + 2	C	84,500.00	.719	*
10	5	1 + 2	C	84,500.00	.719	*
11	6	1 + 2	D-2	94,500.00	.804	*

PHASE II
(Continued)

<u>APARTMENT NUMBER</u>	<u>BUILDING LOCATION</u>	<u>FLOOR LOCATION</u>	<u>UNIT TYPE</u>	<u>VALUE</u>	<u>PERCENTAGES⁵⁷</u>	<u>PARKING SPACE</u>
12	6	1	B	\$79,500.00	.676	*
13	7	1 + 2	D-2	94,500.00	.804	*
14	7	1	D-1	86,500.00	.736	*
15	8	1	B	79,500.00	.676	*
16	9	1	D-1	86,500.00	.736	*
17	9	1	D-1	86,500.00	.736	*
18	10	1	F	125,000.00	1.068	*

DIVISION I
PHASE III

1	1	1	B	79,500.00	.676	*
2	1	1	B	79,500.00	.676	*
3	2	1 + 2	C	84,500.00	.719	*
4	2	1 + 2	C	84,500.00	.719	*
5	3	1	A	76,500.00	.651	*
6	4	1 + 2	C	84,500.00	.719	*
7	4	1 + 2	C	84,500.00	.719	*
8	5	1 + 2	D-2	94,500.00	.804	*
9	5	1	D-1	86,500.00	.736	*
10	6	1	B	79,500.00	.676	*
11	6	1	A	76,500.00	.651	*
12	7	1 + 2	D-2	94,500.00	.804	*
13	7	1 + 2	D-2	94,500.00	.804	*
14	8	1	E	115,000.00	.978	*
15	8	1	E	115,000.00	.978	*
16	9	1	A	76,500.00	.651	*
17	9	1	A	76,500.00	.651	*
18	10	1	F	125,000.00	1.068	*

⁵⁷ Percentages of "1.068" should probably be "1.064".

19	10	1	F	125,000.00	1.068	*
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DIVISION I
PHASE I

<u>APARTMENT NUMBER</u>	<u>BUILDING LOCATION</u>	<u>FLOOR LOCATION</u>	<u>UNIT TYPE</u>	<u>VALUE</u>	<u>PERCENTAGES⁵⁸</u>	<u>PARKING SPACE</u>
1	1	1	F	\$125,000.00	1.068	*
2	1	1	F	125,000.00	1.068	*
3	2	1	E	115,000.00	.978	*
4	2	1	E	115,000.00	.978	*
5	3	1 + 2	D-2	94,500.00	.804	*
6	3	1 + 2	D-2	94,500.00	.804	*
7	4	1	E	115,000.00	.978	*
8	5	1	E	115,000.00	.978	*
9	5	1	E	115,000.00	.978	*
10	6	1	E	115,000.00	.978	*
11	7	1	D-1	86,500.00	.736	*
12	7	1	B	79,500.00	.676	*
13	8	1 + 2	D-2	94,500.00	.804	*
14	8	1	D-1	86,500.00	.736	*
15	9	1	B	79,500.00	.676	*
16	9	1	B	79,500.00	.676	*
17	10	1	D-1	86,500.00	.736	*
18	10	1 + 2	D-2	94,500.00	.804	*
19	11	1 + 2	D-2	94,500.00	.804	*
20	11	1 + 2	D-2	94,500.00	.804	*
21	12	1	D-1	86,500.00	.736	*
22	12	1	D-1	86,500.00	.736	*
23	13	1 + 2	D-2	94,500.00	.804	*
24	13	1 + 2	D-2	94,500.00	.804	*
25	14	1	F	125,000.00	1.068	*
26	14	1	F	125,000.00	1.068	*
27	15	1	E	115,000.00	.978	*
28	15	1	E	115,000.00	.978	*

⁵⁸ Percentages of "1.068" should probably be "1.064".

DIVISION II
PHASE II

<u>APARTMENT NUMBER</u>	<u>BUILDING LOCATION</u>	<u>FLOOR LOCATION</u>	<u>UNIT TYPE</u>	<u>VALUE</u>	<u>PER CENTAGES⁵⁹</u>	<u>PARKING SPACE</u>
1	1	1+2	D-2	\$ 94,500.00	.804	*
2	1	1+2	D-2	94,500.00	.804	*
3	2	1	E	115,000.00	.978	*
4	2	1	E	115,000.00	.978	*
5	3	1	B	79,500.00	.676	*
6	3	1	B	79,500.00	.676	*
7	4	1	D-1	86,500.00	.736	*
8	4	1	B	79,500.00	.676	*
9	5	1+2	D-2	94,500.00	.804	*
10	6	1	E	115,000.00	.978	*
11	6	1	E	115,000.00	.978	*
12	7	1	D-1	86,500.00	.736	*
13	7	1	D-1	86,500.00	.736	*
14	8	1	D-1	86,500.00	.736	*
15	8	1	D-1	86,500 00	.736	*
16	9	1	F	125,000.00	1.068	*
17	9	1	F	125,000.00	1.068	*
18	10	1	F	125,000.00	1.068	*
19	10	1	F	125,000.00	1.068	*
20	11	1	A	76,500.00	.651	*
21	11	1	A	76,500.00	.651	*
22	12	1	F	125,000.00	1.068	*
23	12	1	F	125,000.00	1.068	*

⁵⁹ Percentages of "1.068" should probably be "1.064".

FIFTH AMENDMENT
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DIVISION II
PHASE III

<u>APARTMENT NUMBER</u>	<u>BUILDING LOCATION</u>	<u>FLOOR LOCATION</u>	<u>UNIT TYPE</u>	<u>VALUE</u>	<u>PER CENTAGES</u>	<u>PARKING SPACE</u>
1	1	1	E	\$115,000.00	.978	*
2	1	1	E	115,000.00	.978	*
3	2	1+2	D-2	94,500.00	.804	*
4	2	1	D-1	86,500.00	.736	*
5	3	1	B	79,500.00	.676	*
6	3	1	B	79,500.00	.676	*
7	4	1	D-1	86,500.00	.736	*
8	4	1	D-1	86,500.00	.736	*
9	5	1	E	115,000.00	.978	*
10	5	1	E	115,000.00	.978	*
11	6	1	F	125,000.00	1.064 ⁶⁰	*
12	6	1	F	125,000.00	1.064	*
13	7	1	F	125,000.00	1.064	*
14	7	1	F	125,000.00	1.064	*
15	8	1	E	115,000 00	.978	*
16	8	1	E	115,000.00	.978	*
17	9	1+2	D-2	94,500.00	.804	*
18	9	1+2	D-2	94,500.00	.804	*
19	10	1	D-1	86,500.00	.736	*
20	10	1	D-1	86,500.00	.736	*

TOTAL:

123

\$11,754,000.00

⁶⁰ 125,000 divided by 11,754,000 is approximately 1.064.

FIFTH AMENDMENT
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Total Division I, Phase I : 15 Apartments
Total Division I Phase II : 18 "
Total Division I, Phase III : 19 "
Total Division II, Phase I : 28 "
Total Division II, Phase II : 23 "
Total Division II, Phase III: 20 "

*Attached double garage and limited common area in front of garage, if any.

Square footages for units in Division II, Phase III, are set forth on survey plans and maps filed simultaneously herewith under Auditor File Number 900712059.

Unit building values are based on a cost of approximately \$54.54 per square foot plus and, common area and amenity packages.