

AFTER RECORDING RETURN TO:  
GEONERCO MANAGEMENT, LLC  
ATTN: LEGAL DEPARTMENT  
400 NORTH 34TH STREET, SUITE 300  
SEATTLE, WASHINGTON 98103

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
[THOMAS NOLF]

Grantor: Harbour Homes, LLC

Grantee: [THOMAS NOLF]  
Chicago Title Insurance Company of Washington (Trustee)

Abbr. Legal Description: [ ]  
(Full Legal on Schedule A)

Assessor's Parcel No.: 7325800080 and 7325800090

THE PLAT FOR THIS COMMUNITY WAS FILED WITH THE AUDITOR OF KING COUNTY,  
WASHINGTON UNDER AUDITOR'S FILE NO. \_\_\_\_\_.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
[THOMAS NOLF]

ARTICLE 1 CONSTRUCTION AND VALIDITY OF DECLARATION

Section 1.1 Purpose. The Declarant has recorded this Declaration to create a single-family residential community of the real estate described in Schedule A, to enhance the value of the Community, to establish a system for governance of the Community, and to protect the interests of Persons having any right, title or interest to real estate in the Community, pursuant to the CIC Act. This Declaration shall be effective as of the date that it is recorded.

Section 1.2 Construction. The creation and operation of the Community are governed by this Declaration, the Map and the CIC Act. In the event a provision of the Declaration is inconsistent with a provision of the CIC Act, the provisions of the CIC Act will prevail. In the event of a conflict between a provision of this Declaration and the Bylaws, the Declaration will prevail except to the extent the Declaration is inconsistent with the CIC Act. An insignificant failure of the Declaration or the Map, or any amendment thereto, to comply with the CIC Act will not, however, invalidate the creation of the Community, nor will it make unmarketable or otherwise affect the title to a Unit and its Common Ownership Interest.

Section 1.3 Covenant Running with Land. This Declaration shall operate as servitude and shall bind the Declarant, the Association, all Owners and any other Persons having any right, title or interest in the real estate subjected to this Declaration, or any portion thereof, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

Section 1.4 Severability. The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision if the remaining provision or provisions comply with the CIC Act.

Section 1.5 Percentage of Owners or Mortgagees. For purposes of determining the percentage of Owners, Mortgagees or voting power necessary to approve a proposed decision or course of action where an Owner owns, or a Mortgagee holds Mortgages on, more than one Unit, an Owner shall be deemed a separate Owner for each Unit so owned and a Mortgagee shall be deemed a separate Mortgagee for each first Mortgage so held.

Section 1.6 Inflationary Increase in Dollar Limits. Any dollar amounts specified in this Declaration in connection with any proposed action or decision of the Board or Association shall be proportionately increased on July 1 of each year by the percentage change in the consumer price index specified in Section 114(1) of the CIC Act, as if Section 114 applied to such amounts.

ARTICLE 2 DEFINITIONS

Section 2.1 Words Defined. For the purposes of this Declaration and any amendments hereto, the following definitions shall apply. The singular form of words includes the plural and the plural includes the singular. Masculine, feminine and neutral pronouns are used interchangeably.

“Allocated Interests” means the Common Ownership Interest, if any, as to any Common Elements owned in common by the Unit Owners, the Common Expense Liability and the Voting Interest allocated to each of the Units in the Community. The formulas used to determine the Allocated Interests are set forth in ARTICLE 6. The actual Allocated Interests are set forth in Schedule B.

“Arbitration Demand” is defined in Section 28.1.

“Architectural Control Committee” or “ACC” means any committee established or designated by the Board for the purpose of carrying out some or all of the Board functions set forth in this Declaration.

“Articles” means Articles of Incorporation for the Association.

“Assessments” means all sums chargeable by the Association against a Unit, including, without limitation: (a) general and special assessments for Common Expenses; (b) charges and fines imposed by the Association; (c) interest and late charges on any delinquent account; and (d) costs of collection, including reasonable attorneys’ fees, incurred by the Association in connection with the collection of a delinquent Owner’s account.

“Association” is defined in Section 13.1.

“Authorized Users” means the agents, servants, Tenants, family members, invitees, and licensees of an Owner who are accorded rights, directly or indirectly, by that Owner to use or access all or a portion of that Owner’s Unit and its appurtenant interest in the Common Elements.

“Board” means the board of directors of the Association, as described in this Declaration and in the Articles and the Bylaws.

“Books and Records of the Association” means the books and records that the Association is required to maintain pursuant to Section 320 of the CIC Act.

“Bylaws” means the bylaws of the Association as they may from time to time be amended.

“CIC Act” means the Washington Uniform Common Interest Ownership Act, RCW Chapter 64.90 et seq., as it may be from time to time amended.

“Common Elements” means (i) any real estate, other than a Unit, within the Community that is owned or leased by either (A) by the Association or, (B) in common by the Unit Owners, and (ii) any other interests in real estate for the benefit of any Unit Owners that are subject to this Declaration. The term includes the Limited Common Elements.

“Common Expenses” means expenditures made by or financial liabilities of the Association, including expenses related to the maintenance, repair and replacement of the Common Elements, allocations to reserves, and expenses related to any utility services provided by or billed through the Association to the Unit Owners. Some Common Expenses are allocated to the Units according to the Common Expense Liability of the Unit. Other Common Expenses are Specially Allocated Expenses.

“Community” means the Units and Common Elements created by this Declaration and the Map, as they may be amended.

“Community-Wide Standard” means the standard of conduct, maintenance, or other activity generally prevailing in the Community, or the minimum standards established by the Board pursuant to any Rules adopted by the Board, whichever is the higher standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within the Community change.

“Control Termination Date” means the date that is the earlier of (i) 60 days after Conveyance of 75% of the Units that may be created in the Community, including Units later created, to Owners other than the Declarant, (ii) two years after the last Conveyance or transfer of record of a Unit except as security for a debt, (iii) two years after any Development Right to create Units was last exercised, or (iv) the date on which Declarant records a Record terminating all rights to appoint or remove any officer or Board member of any Association or any master association or to veto or approve a proposed action of any Board or Association.

“Conveyance” means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract and, with respect to a Unit created from a leasehold estate, a transfer by lease or assignment thereof. Conveyance does not mean a transfer solely as security for a debt or other obligation.

“Declarant” means [Harbour Homes, LLC](#), and its successors and assigns.

“Declaration” means this Declaration of Covenants, Conditions and Restrictions as it may from time to time be amended.

“Development Right” means any right or combination of rights reserved in this Declaration, or an amendment thereto, for the benefit of the Declarant, or its successors or assigns to: (a) add real estate or improvements to the Community; (b) create Units, Common Elements or Limited Common Elements within any real estate initially included or subsequently added to the Community; (c) subdivide or combine Units or convert Units into Common Elements; (d) withdraw real estate from the Community; or (e) reallocate Limited Common Elements with respect to Units that have not been conveyed by the Declarant.

“Electronic Transmission” or “electronically transmitted” means any electronic communication (a) not directly involving the physical transfer of a Record in a Tangible Medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient of the communication, and that may be directly reproduced in a Tangible Medium by a sender and recipient.

“Eligible Mortgagee” means an “eligible mortgagee” as defined in the CIC Act.

“Entry Monuments” means any entry monuments, signs, landscaping, lighting and other improvements, including water and electricity, installed by the Declarant or Association to mark an entry to the Community.

“Fannie Mae” means the Federal National Mortgage Association, a federally chartered corporation.

“Fire Lanes” means any areas within any public right-of-way, easement or on private property that is designated for the use, travel and parking of fire trucks and other fire fighting or emergency equipment.

“Foreclosure” means a forfeiture or judicial or non-judicial foreclosure of a Mortgage or a deed in lieu thereof.

“Freddie Mac” means the Federal Home Loan Mortgage Corporation, a federally chartered corporation.

“Governing Documents” means this Declaration, the Map, and the Articles, Bylaws, and any Rules adopted by the Association, as they may be amended from time to time.

“Home” means a single family residence, and its associated improvements, located on a Unit.

“HUD” means the United States Department of Housing and Urban Development.

“Managing Agent” means the Person, if any, designated by the Board under Section 15.3.

“Map” means the plat for the Community recorded under King County File Number \_\_\_\_\_. The Map includes any recorded amendments, corrections, and addenda thereto.

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

“Mortgagee” means any holder, insurer or guarantor of a Mortgage on a Unit.

“Notice and Opportunity to Be Heard” means the procedure described in Section 18.5.

“Owner” or “Unit Owner” means the Declarant or other Person who owns a Unit, but does not include any Person who (i) has an interest in a Unit solely as security for an obligation, monetary or regulatory, (ii) is the beneficiary of rights under easements and/or covenants granted by an Owner, or (iii) is an Authorized User.

“Person” means a natural person, corporation, partnership, limited partnership, trust, governmental agency or other legal entity.

“Qualified Financial Institution” means a bank, savings association, or credit union whose deposits are insured by the federal government.

“RCW” means Revised Code of Washington.

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

“Rules” means any rules or regulations that may be adopted by the Association, as they may be amended from time to time.

“Special Declarant Rights” means any right or combination of rights reserved in this Declaration for the benefit of the Declarant to: (a) complete improvements indicated on the Map, described in the Declaration or the public offering statements pursuant to the CIC Act; (b) exercise any Development Rights; (c) maintain sales offices, management offices, signs advertising the Community and models; (d) use easements through the Common Elements for the purpose of making improvements within the Community or within real estate that may be added to the Community; (e) make the Community subject to a master association; (f) merge or consolidate the Community with any other community of the same type; (g) appoint or remove any officer or Board member of the Association or any master association, or veto or approve a proposed action of any Board or Association pursuant to the CIC Act; (h) control any construction, design review, or aesthetic standards committee or process; (i) attend meetings of the Units Owners and, except during an executive session, the Board; or (j) have access to the records of the Association to the same extent as a Unit Owner.

“Specially Allocated Expenses” means those Common Expenses described in this Declaration.

“Street Landscaping” means the street trees, grass, landscaping and vegetation located within or along the streets in the Community.

“Street Lighting” means the lighting for streets within or adjacent to the Community.

“Structure” means any improvement on any Unit, including without limitation, any Home, building, garage, carport, porch, shed, greenhouse, deck, pool, pool cover, curbing, fence, wall, rockery, antenna, dish or other receiving device.

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

“Tenant” means an occupant of Unit other than the Unit Owner, or its personal guests, family members, care givers or roommates. The term includes renters, lessees, tenants and subtenants.

“Tract” means any of Tracts A, B, C, D and E identified on the Map.

“Transition Date” means the date that is (i) 30 days after the Control Termination Date, or (ii) in the absence of a Special Declarant Right to appoint or remove directors and officers or veto or approve Board or Association actions, 60 days after the Conveyance of 75% of the Units that may be created to Unit Owners other than a Declarant.

“Transition Meeting” means the Association meeting called after the Transition Date to elect a new Board pursuant to the CIC Act.

“Unit” means a physical portion of the Community designated for separate ownership, the boundaries of which are shown on the Map. Each lot shown on the Map is a Unit.

“VA” means the United States Veterans Administration.

“Voting Interest” means the proportionate number of votes in the Association allocated to each Unit, as described in this Declaration. The Voting Interest may change if additional Units are added to the Community.

“Yard” means the outdoor area within the Unit and includes any fences installed by Declarant or an Owner therein.

Section 2.2 Statutory Definitions. Some of the terms defined above are also defined in the CIC Act. The definitions in the Declaration are not intended to limit or contradict the definitions in the CIC Act. If there is any inconsistency or conflict, the definition in the CIC Act will prevail.

### ARTICLE 3 NAME OF COMMUNITY

The name of the Community is [THOMAS NOLF]. The Community is a plat community, as that term is defined in the CIC Act.

ARTICLE 4      DESCRIPTION OF REAL ESTATE AND BUILDINGS

Section 4.1      Description of Real Estate. The real estate subject to this Declaration is described in Schedule A.

ARTICLE 5      DESCRIPTION OF UNITS

Section 5.1      Number and Identification of Units. This Declaration creates 27 Units in the Community. The location and configuration of each Unit are shown on the Map.

ARTICLE 6      ALLOCATED INTERESTS

Section 6.1      Allocated Interests.

6.1.1 This Declaration allocates certain interests in the Community to each Unit. Those interests are: a Common Ownership Interest and a Voting Interest. The formula used for allocating these interests is set forth below. The allocation of these interests to each Unit can only be changed as provided in this Declaration. The Allocated Interests and the title to a Unit may not be separated or separately conveyed, whether voluntarily or involuntarily, except in conformity with this Declaration. The Allocated Interests shall be deemed to be conveyed with the Unit to which they are allocated even though the description in the instrument of Conveyance may refer only to the title to the Unit.

6.1.2 The Declarant shall have the right to recalculate the Allocated Interests and amend the Declaration and the Map if the Allocated Interests are incorrect for any reason, including changes in the data used to calculate the Allocated Interests, changes in Unit boundaries, or clerical errors in the Map or Declaration.

Section 6.2      Voting Interest. The Voting Interest of each Unit is equally among the Units.

ARTICLE 7      COMMON ELEMENTS

Section 7.1      Description. The Common Elements include, without limitation, the following portions of the Community: Tracts A, B, C, D & E, private roads, curbs, planter strips and street lights, sidewalks, Street Landscaping, Entry Monuments, recreational facilities, tot lots, parks, open spaces, trails, mail kiosks, storm water detention and treatment facilities, and common utility systems.

Section 7.2      Use of Common Elements. Except as otherwise stated in this Declaration, no Owner may alter any Common Element or construct or remove anything in or from any Common Element except upon the prior written consent of the Board. The right to use the Common Elements, including the Limited Common Elements, shall be governed by the provisions of the CIC Act and the Governing Documents.

Section 7.3      Conveyance or Encumbrance of Common Elements. Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) by a Unit Owner of its interest in the Common Elements shall be void unless the Unit to which that interest is allocated is also transferred. The Association may not convey or subject to a security interest any portion of the Common Elements unless Owners of Units to which at least 80% of the Voting Interests in the Association are allocated, including 80% of the votes allocated to Units not owned by the Declarant, agree to that action. Any agreement to convey Common Elements or subject them to a

security interest must be evidenced by the execution of an agreement, or ratifications of an agreement, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which it will be void unless recorded before that date. The agreement and all ratifications of the agreement must be recorded in every county in which a portion of the Community is located and will only be effective upon recordation.

## ARTICLE 8 LIMITED COMMON ELEMENTS

Section 8.1 Description and Allocation of Limited Common Elements. There are no Limited Common Elements in the Declaration.

## ARTICLE 9 EASEMENTS

Section 9.1 Unit Owners. Subject to the Governing Documents and to the Association's rights to regulate the use, maintenance, repair, replacement and modification of the Common Elements, and convey or encumber the Common Elements, each Unit Owner has (i) an easement in and through the Common Elements for access to its Units, and (ii) a right to use the Common Elements for the purposes for which the Common Elements were intended. The foregoing easement shall terminate upon the termination of this Community pursuant to ARTICLE 25 of this Declaration.

Section 9.2 Driveway Maintenance Easements. N/A

Section 9.3 Easement for Encroachments. To the extent not provided by the definition of "Unit" in the Declaration and in the CIC Act, each Unit and all Common Elements have an easement over all adjoining Units and Common Elements for the purpose of accommodating any present or future encroachment overhang or intrusion of (i) eaves, bay windows, gutters, downspouts, utility meters, vents and other similar portions of the Owner's Home, or (ii) any encroachment caused by the construction, reconstruction or repair of the improvements, or the settlement, shifting, or movement of the improvements or land. Such easements shall exist so long as the encroachments shall exist or the Unit Owner has the right to cause them to be replaced, provided, however, that no valid easement shall exist if the encroachment was caused willfully by the Owner. Such encroachments shall not be construed to affect the marketability of title to any Unit, nor shall they alter the rights and obligations of the Owners.

Section 9.4 Association Functions Easement. The Association has such easements throughout the Community as are necessary to perform the duties and obligations of the Association as are set forth in the Governing Documents.

Section 9.5 Entry Monument Easement. The Association has an easement on, under, over and across Units 1 and 17 for the purpose of installing, modifying, maintaining, repairing and replacing, entry monuments or signs and associated landscaping and utilities, together with a non-exclusive right of ingress and egress thereto.

Section 9.6 Signage Easement. The Association has an easement on, under, over and across the exterior 10 feet parallel with and abutting all streets and alleys in the Community in which to install and maintain address columns or monuments.

Section 9.7 Easement for Entry by Security Patrol. If the Board contracts for security patrol service, said service, and its employees, shall in have the right to enter onto any of the Lots and the Common Element in order to carry out their duties under such security patrol agreement;



provided, however, that, said patrol service can enter a Lot only if it is either (i) doing so with reasonable cause; or (ii) acting with the consent of the Owner or tenant of such Lot.

Section 9.8 Public Utility Easements. The Plat creates various easements within the Community for the installation, maintenance, repair and replacement of utilities. No structure, planting, or other material that may damage the utilities or interfere with the use of the easement may be placed within these easement areas. The Owners of the Units subject to utility easements shall not use or alter their Units in any way that would interfere with the proper operation of the storm drainage system. The Association may adopt Rules regarding use of the portions of the Units subject to these easements.

Section 9.9 Private Storm Drainage Easements. The Plat creates various private storm drainage easements and drainage tracts as part of the overall storm water drainage system in the Community. No structure, planting, or other material that may damage the utilities or interfere with the use of the easement may be placed within these easement areas. The Owners of the Units subject to private storm drainage easements shall not use or alter their Units in any way that would interfere with the proper operation of the storm drainage system. Vegetation within the Tracts and Easements shall be routinely maintained and replaced as needed. The Association shall have an easement for the maintenance, repair and replacement of any portion of the private storm drainage system. The Association may adopt Rules regarding use of the portions of the Units subject to these easements.

Section 9.10 Private Fence Easements. Declarant has constructed certain rockeries, walls and fences between certain Units and Common Elements. The intention of the Declarant is that each fence, when constructed, shall be located wholly within one Unit or another and not on the property line between Units or Common Elements. Due to obstructions or topography, however, a fence may not be wholly within a Unit or Common Element or immediately adjacent to the property line. Therefore, Declarant reserves an easement on each side of each boundary line, for the Association and each Unit Owner for the installation, maintenance, repair and replacement of walls and fences installed by the Declarant for as long as the wall or fence exists. The owner of such a fence shall have the right to maintain, repair and replace any portion of such fence and shall have reasonable access over the adjoining Unit or Common Element for such purposes. Neither the location of any fence or wall installed by Declarant, nor any conduct of the fence owner in maintaining the land between a neighboring fence and the property line shall be construed as modifying the property line. The owner of a fence shall be responsible for keeping the fence in good condition and repair.

Section 9.11 Declarant. The Declarant has an easement through the Common Elements as is reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, and as is necessary to conduct inspections and tests from time to time of all or any parts of the Units or Common Elements, and to determine whether maintenance, repairs or replacements of any such improvements are indicated. The Declarant shall restore the affected portion of the property to substantially the condition immediately prior thereto, and shall indemnify the Association and Owners of any affected Units from any damage resulting therefrom.

Section 9.12 Utility and Municipal Easements Granted by the Declarant. The Declarant reserves the right to grant and record easements to any utility provider or municipality (i) for the installation, construction, maintenance, repair and reconstruction of all utilities serving the any portion of the Community, including, without limitation, such utility services as water, sanitary sewer, storm sewer, electricity, cable television, internet access and telecommunications; (ii) for access through the Common Elements to the utility installations; and (iii) for rights of way, slopes,

cuts, fills, environmentally critical areas, native growth protection areas, public facilities or any other purpose or improvement as may be required for the development, construction or sale of the Community.

Section 9.13 Easement for Maintenance. Each Owner shall have a right to enter upon the Common Elements and the Yard of an adjacent Unit, as necessary to perform maintenance, repair or replacement of the Owner's Unit and improvements and to read utility meters. The Owner shall give the Owner of an adjacent Unit reasonable advance notice (except in an emergency), shall only enter the adjoining Unit at reasonable times and shall promptly repair any damage caused thereby and restore the property to the condition it was in prior to the entry and shall otherwise indemnify the Association and Owner of the adjacent Unit from any damage caused by such entry.] [Use if lots are too small to perform maintenance.

## ARTICLE 10 USE RESTRICTIONS AND CONDUCT RESTRICTIONS

Section 10.1 Use Restrictions. The following use restrictions shall apply to all Units.

10.1.1 Allowed Use. The Units are restricted to use as single-family residences and for social, recreational, or other reasonable activities normally incidental to such use. For purposes of this Declaration such use includes use as a home office, artist studio or other live-work space, as long as the use (i) does not involve the regular presence of employees, customers or clients, (ii) is not open to the trade or public, and (iii) complies with the other use restrictions in this Declaration. The Units may also be used for the purpose of operating and managing the Community. The determination of whether or not a use is incidental to residential uses shall be made by the Board and shall be binding on all Owners. The Board may, by Rule, specify the limits of residential use in general and also in particular cases. Notwithstanding the foregoing, the Units may also be used for the purpose of operating and managing the Community, and the Declarant may use any of the Units owned by Declarant as allowed by the CIC Act or this Declaration.

10.1.2 Prohibited Uses. The Units may not be used for Timesharing, as defined in chapter 64.36 RCW. The Units may not be used for hotel or transient purposes, which shall be defined as: (i) rental for a period of less than 30 days, (ii) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services, or (iii) the overnight accommodation of business invitees on a temporary or transient basis (such as a hotel, motel or corporate suites operation). The Board shall have the authority to enact Rules permitting the occasional rental of Units via Airbnb, vrbo.com or other vacation rental websites in a manner that will not violate the requirements of Fannie Mae, Freddie Mac, FHA or VA and to prohibit such use if advisable to obtain project approval from such agencies.

Section 10.2 Conduct Restrictions. The following conduct restrictions shall apply to all Owners and Authorized Users, except that they shall not apply to prohibit any conduct of Declarant authorized by the CIC Act or the Governing Documents.

10.2.1 Roads, Sidewalks, Walkways, Etc. The roads, sidewalks and walkways used for access shall be used exclusively for normal ingress and egress. No obstructions shall be placed therein unless permitted by the City of Duvall.

10.2.2 Parking on Common Elements. Parking is not allowed on any portion of the sidewalks, planter strips or any other portion of the Common Elements, except on roads and in designated parking spaces. No commercial vehicles, motor homes, trailers, campers, boats and other recreational vehicles may be parked on any Common Element except on a temporary basis

for loading or unloading. The Association may direct that any vehicle or other thing improperly parked or kept on any portion of the Common Elements be removed at the risk and cost of the Owner thereof.

10.2.3 Parking in Units. No vehicle may be parked in any Unit except in driveways and garages. No vehicle parked in any driveway may extend into the streets or sidewalks of the Community or otherwise inhibit vehicular or pedestrian traffic or access to any Unit. Owners may not use garages in their Units for storage or other purposes in a way that interferes with the daily use of the garage for parking of vehicles.

10.2.4 Regulated Vehicles. No Owner may store any trailers, boats, motor homes, recreational vehicles, or trucks over two tons or any disabled or inoperable motor vehicle on its Unit unless any such vehicle is completely enclosed and hidden from view within a garage or within such other enclosure as may be allowed by the Board or the Rules. Motor homes, trailers, campers, boats and other recreational vehicles may not be kept in driveways or parking spaces except on a temporary basis for loading or unloading, subject to such rules and regulations concerning parking as may be adopted by the Board. No in-operative vehicle of any type may remain in any driveway or public road for more than 72 hours. Violations of this Section shall subject such vehicles to impound, at the expense and risk of the owner thereof. The Association may adopt rules and regulations to implement these restrictions and provide guidance to Owners

10.2.5 Further Regulation. The Board may adopt Rules further regulating conduct on roads, sidewalks, driveways, parking spaces and other Common Elements, including the parking and storage of recreational vehicles, campers, boats and the like, and safe operation of vehicles. The Board may direct that any unsightly or inoperative vehicle or anything improperly parked or kept in a parking space, garage or elsewhere in the Community be removed, and if it is not removed the Board may cause it to be removed at the risk and cost of the Owner thereof.

10.2.6 Trash and Garbage. Each Owner must store trash and garbage inside the Home and set it out for collection in such locations and receptacles as are authorized by the Board only on designated trash collection days, or as otherwise allowed by the Rules. The Board shall determine what trash and garbage removal service, if any, to provide for the Community. Each Owner is responsible for removing from the Community all trash and garbage generated by that Owner that is not required to be picked up by such service. The Board may adopt such Rules pertaining to such matters as in the judgment of the Board are necessary for the safe, sanitary and efficient operation of the Community.

10.2.7 Signs. No sign of any kind may be displayed to the public view on or from any Unit or Common Elements without the prior consent of the Board or pursuant to the Rules. The Board may erect on the Common Elements a master directory of Units and residents, including Units that are for sale or lease, and may regulate the size, appearance and location of signs advertising Units for sale or lease.

10.2.8 Pets. Domesticated animals, birds or small reptiles (herein referred to as “pets”) may be kept in the Units, subject to Rules adopted by the Board. Pets are not allowed on the Common Elements unless they are on a leash and are being walked to or from the Unit to a public street. Each Owner must pick up any waste matter left by a pet. No dog houses, kennels or dog runs are permitted outside of any Home without the prior approval of the Board. When outside a Home or fenced Yard each pet must be on a leash or under the physical control (voice command is hereby declared not to be adequate), of a person capable of physically controlling the pet. No Owner may keep a pet that unreasonably interferes with the rights of other Owners to enter a Yard under this Declaration. Pets shall not be allowed to leave waste on any Common Element. Each Owner must pick up any waste matter left by a pet. The Board may at any time require the removal

of any pet which it finds is disturbing other Owners unreasonably, and may exercise this authority for specific pets even though other pets are permitted to remain. The Board may adopt additional Rules governing the keeping of pets and the size, number, nature, conduct and impact of pets or other animals.

10.2.9 Intrusive Activity. No Owner may conduct, permit or allow any activity or the keeping of anything in the Community that may unreasonably interfere with the other residents' use or enjoyment of their Units or the Common Elements; threaten the comfort, safety or security of any Owner; or be or become a nuisance to other Owners. No use or activity that generates noise, vibration, odors or traffic that would generally be considered unacceptable to households in a single family neighborhood is allowed. The Board may adopt such Rules pertaining to such matters as in the judgment of the Board are necessary.

10.2.10 Hazardous Substances. No Owner may permit any Hazardous Substance to be generated, processed, stored, transported, handled, or disposed of on, under, in, or through the Owner's Unit or any portion of the Common Elements. Each Owner must indemnify, defend, and hold harmless the other Owners and the Association from all fines, suits, procedures, claims, and actions of any kind arising out of or in any way connected with any spills or discharges of Hazardous Substances or wastes arising from the operation or use of the Unit or the property by the Owner, Tenants or invitees of the Unit. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material which is or becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup, including without limitation any substance, waste, or material which now or hereafter is designated as a "Hazardous Substance" under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601, *et seq.*); or under any local or state rule or regulation.

10.2.11 Conveyance by Owners; Notice Required. The right of an Owner to transfer the Unit is not 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 convey a Unit must, however, deliver a written notice to the Board at least two weeks before closing specifying (a) the Unit being sold; (b) the name and address of the purchaser, the closing agent, and the title insurance company insuring the purchaser's interest; and (c) the estimated closing date. The Board has the right to notify the purchaser, the title insurance company, and the closing agent of the amount of unpaid Assessments and charges outstanding against the Unit, whether or not such information is requested. Promptly upon the Conveyance of a Unit, the new Unit Owner must notify the Association of (i) the date of the Conveyance; (ii) the Unit Owner's name and address; and (iii) the name and notice address of every first Mortgagee of the Unit. The Association must notify each insurance company that has issued an insurance policy under this Declaration of the name and address of the new Owner and request that the new Owner be made an additional insured under such policy.

## ARTICLE 11 MAINTENANCE, CONSTRUCTION AND ALTERATIONS

Section 11.1 Owner's Maintenance and Repair Responsibilities. Except for maintenance and repairs to be performed by the Association under this Declaration, each Owner must, at the Owner's sole expense, maintain, repair and replace (i) its Home and Yard, (ii) all Structures, other improvements and landscaping on its Unit, (iii) to the extent not included in the foregoing, any fences or walls on its Unit and (iv) that portion of the utility installations (including without limitation power, water, gas, telephone and data lines, sanitary sewers) and storm drainage installations that are located outside of the Unit but that serve only that Unit. Each Owner must

keep all such items in good repair and in neat, clean and sanitary condition, in compliance with applicable Laws, the Governing Documents and the Community-wide Standard.

Section 11.2 Association's Maintenance and Repair Responsibilities. The Association is responsible for the maintenance, repair, and replacement of the Common Elements, including, without limitation, (i) the Street Landscaping, (ii) the Street Lighting, (iii) the Entry Monuments, (iv) all Structures, other improvements and landscaping on the Common Elements, (v) all utility installations and storm water facilities serving the Community and not the responsibility of an Owner or a governmental entity. The Association must keep such items in good repair and in a neat, clean and sanitary condition, in compliance with applicable Laws, the Governing Documents and the Community-wide Standard.

Section 11.3 Construction and Alterations; Architectural Control. Although the Owners have the responsibility for maintenance, repair and replacement of their Units, Homes and Yards as set forth in this Article, the Board shall have the right to regulate any new Structures and any alterations to existing Structures to ensure that they (i) comply with the Governing Documents and (ii) are harmonious with the other Homes and improvements in the Community. Accordingly, except as set forth in Governing Documents, no Owner may construct or install a new Structure or alter any portion of an existing Structure, without the prior written approval of the Board.

11.3.1 Scope of Regulation and Authority. For the avoidance of doubt, the authority of the Board under this Section 11.3 includes regulation of: (i) the location, size, design and appearance of Structures, (ii) the materials and colors of exterior features and surfaces of Structures, including siding, roofing, windows and doors, (iii) the placement and appearance of ancillary items such as antennae, security devices, and hardscaping, and (iv) other factors relating to compliance with the Governing Documents or harmony with the other Homes and improvements in the Community. The Board shall not have authority to (i) regulate the maintenance, repair or reconstruction of a Structure that does not change its location, size or appearance, (ii) prohibit the installation of basketball hoops to be used in a driveway or (ii) regulate any landscaping (other than hardscaping) on a Unit. The Board shall have the authority to adopt Rules to implement and clarify the scope, standards and processes under this Section 11.3 and to appoint, pursuant to the Bylaws, an architectural control committee to exercise some or all of its authority hereunder or to advise it as to matters hereunder.

11.3.2 Particular Standards. The following standards shall apply to all Structures and alterations of Structures in the Community.

11.3.2.1 The maximum height of any Home shall be 35 feet.

11.3.2.2 The maximum height of any fence shall be 6 feet. No fence may be closer than two feet to a Common Element road, drive or sidewalk and an Owner must install a landscape buffer between the fence and any Common Element road, driveway or sidewalk.

11.3.2.3 No radio, television or satellite antenna, dish or receiving device other than a "protected antenna" (as defined in 47 C.F.R. §1.4000, as it may be amended) may be installed in a Unit.

11.3.3 Approval Process. Subject to any Rules adopted by the Board, an Owner desiring to construct or install any new Structures or the alter any existing

Structures on its Unit must apply to the Board for approval. The Board may require the submission of plans and specifications and other data relating to the proposal. The Board may require that plans and specifications be prepared by a competent professional and may establish requirements for the format and content of materials submitted to it. The Board may require evidence that the Owner has obtained all permits necessary for the proposed work. Construction, alteration or repair shall not be started until written approval thereof is given by the Board. The Board shall act promptly to process applications and render a decision. The failure of the Board to approve a proposal within 30 days after receiving a complete application, shall be deemed to constitute the Board's approval of the proposal.

11.3.4 Declarant Exempt. The Declarant (including any successor in interest to Declarant's status as Declarant) shall not be subject to the restrictions of this Section.

Section 11.4 Construction Work – Common Elements. Except as otherwise allowed by the Board, no owner may alter any portion of the Common Elements.

Section 11.5 Landscaping. The Board may require, at the Owner's expense, the trimming, topping or, removal of any tree, hedge or shrub on an Owner's Unit that it determines is interfering with travel on roads, sidewalks or trails in the Community, or presents a safety hazard related to the Common Elements.

Section 11.6 Declarant Inspections. Until the expiration of all warranties given by the Declarant and the time period for filing any claims against the Declarant, the Declarant shall have the right, but not the obligation, to conduct inspections and tests from time to time of all or any parts of the Common Elements, in order to ascertain the physical condition of the improvements in the Community and to determine whether maintenance, repairs or replacements of any such improvements are indicated. The Declarant shall pay all costs of such inspections and tests and restore the affected portion of the property to its condition immediately prior thereto, and shall indemnify the Association and Owners of any affected Units from any damage resulting therefrom. The Declarant shall have such rights of entry on, over, under, across and through the property as may be reasonably necessary to exercise the rights described in this Section.

## ARTICLE 12 SPECIAL DECLARANT RIGHTS

Section 12.1 Declarant's Right to Complete Improvements. The Declarant and its agents, employees and contractors have the right to complete any improvements and otherwise perform work that is authorized by the Declaration, indicated on the Map, authorized by building permits, provided for under any Purchase and Sale Agreement, necessary to satisfy any express or implied warranty, or otherwise authorized or required by law. The Declarant also has the right to make any modifications, improvements or changes to the Common Elements as the Declarant determines are appropriate to increase the appeal of the Community to potential buyers, to correct problems in the design or construction of the Community, or for the benefit of one or more Units. In conjunction with the foregoing rights, until construction of the Community is completed, the Declarant shall have the right to use any unassigned parking spaces and any portion of any garage or parking lot for staging, storage, parking and other construction related purposes. The foregoing rights shall terminate **five** years from the date this Declaration is recorded.

Section 12.2 Declarant's Right to Maintain Sales Facilities. The Declarant, its agents and its employees have the right to install and maintain in any Units owned by the Declarant and in

any of the Common Elements, any facilities that the Declarant deems necessary or convenient to the construction, marketing, sale or rental of Units. These facilities may include but are not limited to business offices, management offices, sales offices, construction offices, storage areas, signs, model units and parking areas for Declarant and its employees, agents and contractors, and prospective Tenants or purchasers and their agents. The Declarant may install and maintain as many of such facilities as it deems necessary or convenient in such locations as it deems necessary or convenient. The Declarant may relocate such facilities as it determines is appropriate in its sole discretion. The right to install and maintain such facilities will expire when the Declarant ceases to be a Unit Owner and has no further Development Rights in the Community. The Declarant will have a reasonable time, but in no event less than 60 days after such expiration, to remove any such facilities from the Community.

Section 12.3 Declarant's Right to Use Easements. The Declarant and its agents, employees and contractors have an easement over, across, under and through the Common Elements of the Community as reasonably necessary for the purpose of completing construction, exhibiting and preparing Units for sale, making repairs required pursuant to any contract of sale, discharging the Declarant's obligations, or exercising Special Declarant Rights within the Community or within any real estate that may be added to the Community. The foregoing rights shall terminate **five** years from the date this Declaration is recorded.

Section 12.4 Declarant's Right to Appoint, Remove and Veto. Until the Control Termination Date, the Declarant shall have the right to appoint and remove all officers and members of the Board. Notwithstanding the foregoing, not later than 60 days after Conveyance of 25% of the Units that may be created to Owners other than the Declarant, at least one member and not less than 25% of the members of the Board must be elected by Owners other than the Declarant; and not later than 60 days after Conveyance of 50% of the Units that may be created to Owners other than the Declarant, not less than one-third of the members of the Board must be elected by Owners other than the Declarant. The Declarant may at any time voluntarily terminate its right to appoint and remove officers and members of the Board by recording an amendment to the Declaration surrendering such right. If the Declarant does so, it may, for the duration of the period ending on the Control Termination Date, retain the right to veto or approve proposed actions of the Association or Board before they become effective. To exercise this right, the Declarant must execute and record an instrument that specifies the proposed actions that may be vetoed or approved by the Declarant.

Section 12.5 Declarant's Right to Control Architectural Committees. Until the Declarant no longer owns any Unit in the Community and no longer has a Development Right to create any Units in the Community or real estate added to the Community, the Declarant has the right to appoint and remove all officers and members of any construction, design review or aesthetic standards committee of the Association. In addition, during the period set forth in this Section, the Declarant shall have the right to control any construction, design review or aesthetic standards review or approval process. The Declarant may voluntarily terminate its right to appoint and remove officers and members of any such committee or control any process by recording an amendment to the Declaration surrendering the right to appoint and remove officers and members of such committee. If the Declarant does so, it may, for the duration of the period set forth in this Section, exercise the right to approve certain actions of any such committee before they become effective. The foregoing rights shall terminate **five** years from the date this Declaration is recorded.

Section 12.6 Declarant's Right to Attend Association Meetings. The Declarant has the right, whether or not it owns any Units in the Community, to attend all meetings of the Association, except during any executive session when Owners are excluded. The Association shall send the Declarant notices of all meetings and copies of all minutes of all meetings at the same time that such items are sent to Unit Owners. Notices and minutes shall be delivered to the Declarant in a

Tangible Medium at the address specified in this Declaration or in such other manner as the Declarant shall specify in a Record from time to time. The foregoing rights shall terminate **five** years from the date this Declaration is recorded.

Section 12.7 Declarant's Right to Association Records. The Declarant has the right, whether or not it owns any Units in the Community to have access to the Books and Records of the Association to the same extent as a Unit Owner, including without limitation, pursuant to this Declaration. The foregoing rights shall terminate **five** years from the date this Declaration is recorded.

Section 12.8 Exercise of Development Rights.

12.8.1 General. To exercise any Development Right reserved under this Article, the Declarant shall prepare, execute and record an amendment to the Declaration. In conjunction therewith, the Declarant shall record an amendment or supplement to the Map if the previous Map lacks the required detail, certification or other matters required under the CIC Act.

12.8.2 Creation of New Units or Limited Common Elements. An amendment creating Units will reallocate the Allocated Interests among all the Units in the Community and reallocate the Allocated Interests of all Units in the Community using the formulae set forth in the Declaration.

12.8.3 Subdivision of Units or Conversion of Common Elements. Whenever the Declarant exercises the Development Right to subdivide or convert a Unit into additional Units, Common Elements, or both, if the Declarant converts the Unit entirely to Common Elements, the amendment to the Declaration must reallocate all the Allocated Interests of that Unit among the other Units as if that Unit had been taken by condemnation under this Declaration. If the Declarant subdivides the Unit into two or more Units, whether or not any part of the Unit is converted into Common Elements, the amendment to the Declaration must reallocate all the Allocated Interests of the Unit among the Units created by the subdivision in any reasonable and equitable manner prescribed by the Declarant.

Section 12.9 Use of Property Subject to Development Rights. The Owners shall have the right to use the driveways, sidewalks, garage, parking spaces, and open spaces of the Community, subject to the Declarant's Special Declarant Rights.

Section 12.10 Responsibility for Expenses. The Declarant shall be responsible for all expenses incurred in connection with real estate subject to Development Rights. Notwithstanding the foregoing, all expenses associated with the operation, maintenance, repair and replacement of any Common Element that the Owners have a right to use (including, without limitation, amenities, parking spaces, drives, roads, sidewalks, trails and open spaces) must be paid by the Association as a Common Expense. The Declarant's responsibility shall cease upon the exercise or expiration of such Development Rights, whichever is earlier. The Declarant may pay such costs directly or through the Association. The Declarant is also entitled to all income from such portions of the property and any improvements thereon until the exercise or expiration of such Development Rights.

Section 12.11 Different Parcels; Different Times. Any Development Right may be exercised with respect to different parcels of real estate at different times. No assurances are made as to final boundaries of such parcels or as to the order in which those parcels may be subject to the exercise of each Development Right. Even though a Development Right is exercised



in any portion of the real estate subject to that right, that right need not be exercised in all or in any other portion of the remainder of that real estate.

Section 12.12 Liens. Any liens that arise in connection with the Declarant's ownership of or construction of additional improvements shall attach only to the Declarant's interest in any improvements owned by the Declarant or against the Declarant's Special Declarant Rights and shall not adversely affect the rights of other Unit Owners or the priority of Mortgages on the Units. All taxes and costs relating to improvements before the Units therein have been created shall be paid by or allocated to the Declarant.

Section 12.13 Transfer of Special Declarant Rights. The rights described in this Article shall not be transferred except by instrument evidencing the transfer executed by the Declarant or the Declarant's successor and the transferee and recorded in the county in which the Community is located. The rights and liabilities of the parties involved in such a transfer and of all Persons who succeed to any Special Declarant Right are set out in the CIC Act.

Section 12.14 Termination of Special Declarant and Development Rights. Each Special Declarant Rights and Development Rights shall terminate as set forth above. The Declarant may, however, voluntarily terminate any or all aspects of its Special Declarant Rights or Development Rights at any time by recording an amendment to the Declaration specifying which rights are thereby terminated

Section 12.15 Liability for Damage. The Declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the Community, of any portion of the Community damaged by the exercise of rights reserved by the Declarant pursuant to or created by this Declaration or the CIC Act.

## ARTICLE 13 OWNERS ASSOCIATION

Section 13.1 Form of Association. The Owners of Units shall constitute an owners association to be known as the [THOMAS NOLF] Homeowners Association (the "Association"). The Association shall be organized as a non-profit miscellaneous or mutual corporation, no later than the date the first Unit in the Community is conveyed. Except where expressly reserved to the Owners under the CIC Act or the Governing Documents, the affairs of the Association shall be managed by a Board. The rights and duties of the Board and the Association shall be governed by the provisions of the CIC Act, the Washington Miscellaneous and Mutual Corporations Act, chapter 24.06 RCW, the Declaration and the Bylaws.

Section 13.2 Bylaws. The initial directors appointed in the Articles will adopt initial Bylaws to supplement the Declaration and to provide for the administration of the Association and the property and for other purposes not inconsistent with the CIC Act or the Governing Documents. The initial Bylaws may be amended pursuant to the procedures set forth in ARTICLE 24.

Section 13.3 Qualifications for Membership. Each Owner of a Unit (including the Declarant as to Units it owns) shall be a member of the Association and shall be entitled to one membership for each Unit owned. Only Owners may be members of the Association. Ownership of a Unit shall be the sole qualification for membership in the Association. Corporations, partnerships, associations, and other legal entities, trustees under an express trust, and other fiduciaries, as well as natural persons, may be members of the Association.

Section 13.4 Transfer of Membership. The membership of an Owner in the Association is appurtenant to the Unit giving rise to the membership. The membership may not be transferred

in any way except upon the transfer of title to the Unit and then only to the transferee of title to the Unit, provided that if a Unit has been sold on contract, the contract purchaser shall, except as otherwise set forth in the Governing Documents, exercise all rights of the Owner under the Governing Documents, and shall be the voting representative unless otherwise specified. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit will automatically transfer the membership in the Association to the new Owner.

Section 13.5 Voting.

13.5.1 Number and Classes of Votes. The allocation of Voting Interests in the Association is set forth in above. Other matters concerning voting are set forth in the Bylaws.

Section 13.6 Powers of Association.

13.6.1 General Powers. Except to the extent limited by the Governing Documents, the Association shall have (i) all powers authorized under the CIC Act and the Washington Nonprofit Corporation Act; (ii) all powers necessary for the operation of the Community or governance of the Association; (iii) any other powers authorized by this Declaration; and (iv) all powers that may be exercised by any corporation of the same type as the Association.

13.6.2 Capital Improvements. The Association may cause additional improvements to be constructed within the Common Elements and may acquire, hold, encumber, convey, and dispose of, in the Association's name, any additional tangible or intangible personal property. If the estimated cost of any such improvements or personal property to the Community exceeds \$25,000, the approval of the Owners holding a majority of the votes in the Association shall be required; and if such estimated cost exceeds \$50,000, the approval of the Owners holding 67% of the votes in the Association shall be required. This Section 13.6.2 does not apply to maintenance, repair or replacement of existing Common Element improvements.

13.6.3 Rules. The Association shall have the power to adopt Rules for any purpose authorized under the CIC Act, including the power to adopt Rules to establish and enforce construction and design criteria and aesthetic standards pertaining to the improvements and alterations to the Community. In adopting, amending or rescinding Rules, the Board (i) shall give consideration to the matters brought to its attention via the Notice and Opportunity to Be Heard procedures; and (ii) shall give consideration to the interests of individual Owners and Authorized Users as well as the interests of the Association. All Rules must be reasonable. All Rules must treat similarly situated Units, Owners and Authorized Users similarly. No Rules shall be inconsistent with or violate the provisions of the Governing Documents. Before, adopting, amending or repealing any Rule, the Association must give all Owners notice of: (i) its intention to adopt, amend, or repeal a Rule and provide the text of the Rule or the proposed change; and (ii) a date on which the Board will act on the proposed Rule or amendment after considering comments from Owners. Following adoption, amendment, or repeal of a Rule, the Association must give notice to the Owners of its action and provide a copy of any new or revised Rule.

Section 13.7 Accounts, Records, Financial Statements, Audits and Funds. The Association must keep all of its funds in accounts in the name of the Association with a Qualified Financial Institution. The Association shall establish, maintain and reconcile its accounts and records in accordance with the CIC Act. The Association shall keep financial records in accordance

with accrual based accounting principles. At least annually, the Association shall prepare, or cause to be prepared, a financial statement of the Association in accordance with accrual based accounting principles. The annual financial statement shall be audited at least annually by a certified public accountant who is not a member of the Board or an Owner unless the annual Assessments for the year were less than \$50,000.00 and Owners holding a majority of the votes, excluding votes held by the Declarant, waive the audit for that year. The financial statement shall be completed in time for the Association's annual meeting and in any event within 120 days following the end of the fiscal year. Any Mortgagee of a first Mortgage, and Declarant, will be entitled to receive the audited financial statement upon written request. The Board, or Persons having 35% of the voting power of the Association, may require that an audit of the Association and management books be presented at any special meeting. An Owner or Mortgagee, or Declarant, at such Person's expense, may at any reasonable time conduct an audit of the books of the Board and Association. Upon written request of Freddie Mac, Fannie Mae, HUD or VA, if it is a Mortgagee or prospective Mortgagee, the Association shall provide within a reasonable time an audited financial statement of the Association for the preceding fiscal year.

Section 13.8 Inspection of Documents, Books and Records. The Association shall make available for inspection upon request, during normal business hours or under other reasonable circumstances to Owners, Mortgagees, prospective purchasers and their prospective Mortgagees, and Declarant, and the agents or attorneys of any of them, current copies of the Books and Records of the Association. The Association may require the requesting party to pay a reasonable charge to cover the cost of making the copies.

#### ARTICLE 14 TRANSITION TO OWNER CONTROL

Section 14.1 Election of New Board. No later than the Transition Date, the Board shall call a Transition Meeting to elect a new Board. The Persons elected to the Board at the Transition Meeting shall take office upon such election. Nothing shall prevent previously elected or appointed directors from being elected at such election.

Section 14.2 Transfer of Association Property. No later than 30 days after the Transition Meeting, the Declarant shall deliver to the Board elected at the Transition Meeting, or the management agent of the Association, all property of the Owners and of the Association held or controlled by the Declarant pursuant to the CIC Act.

Section 14.3 Audit of Association Records. No later than 60 days after the Transition Meeting, the Board shall engage an independent certified public accountant to audit the records of the Association in accordance with generally accepted auditing standards, unless the Owners, other than the Declarant, by majority vote, elect to waive the audit. The cost of the audit shall be a Common Expense.

Section 14.4 Termination of Contracts and Leases Made by the Declarant. Within two years after the Transition Meeting, the Association may terminate, without penalty, upon not less than 90 days' notice to the other party, any of the following if it was entered into before the Transition Meeting: (a) any management, maintenance, operations or employment contract, or lease of recreational or parking areas or facilities or (b) any other contract or lease between the Association and the Declarant or an affiliate of the Declarant, as defined in Section 102(1) of the CIC Act. The Association may terminate, without penalty, at any time after the board elected at the Transition Meeting takes office, upon not less than 90 days' notice to the other party any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into. This Section does not apply to any lease, the termination of which would terminate the Community

or reduce its size, unless the real estate subject to that lease was included in the Community for the purpose of avoiding the right of the Association to terminate a lease under this Section.

## ARTICLE 15 THE BOARD OF DIRECTORS

Section 15.1 Qualifications of Directors and Officers. The qualifications, number, method of election, removal and terms of service of the directors and officers shall be as specified in the Bylaws

Section 15.2 Powers of the Board. Except where expressly reserved to the Owners under the CIC Act or the Governing Documents, the affairs of the Association shall be managed by the Board. The Board may exercise all powers of the Association, except as otherwise provided in the CIC Act, or the Governing Documents. The Board shall arrange for, and shall have the exclusive right to contract for, goods and services necessary for the proper functioning of the Community. Those goods and services may include, but are not limited to, the following:

15.2.1 Utilities. All necessary utility services for the Common Elements and the Units.

15.2.2 Additions to Common Elements. The addition of improvements or personal property to the Common Elements.

15.2.3 Professional Services. Legal and accounting services necessary or proper for the operation of the Community or enforcement of Governing Documents; services of a hearing officer for quasi-judicial disputes; or services of an architect or other professional to assist with applications for changes to the Community.

15.2.4 Maintenance. The maintenance, repair and replacement of the Common Elements.

15.2.5 Other Necessary Expenditures. Any other materials, supplies, furniture, labor, services, insurance, taxes or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or the Bylaws, or under law, or which, in its opinion, is necessary or proper for the operation of the Community, or for the enforcement of this Declaration or the Bylaws.

15.2.6 Liens. The Board may also pay any amount necessary to discharge any lien or encumbrance levied against the entire property or any part thereof which may or is claimed to, in the opinion of the Board, constitute a lien against the property or against the Common Elements, rather than merely against the interest therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expense incurred by the Board by reason of such lien or liens shall be assessed against the Owners and the Units responsible to the extent of their responsibility and shall be immediately due and payable to the Association.

Section 15.3 Managing Agent. The Declarant or Board may contract with an experienced professional Managing Agent to assist the Board in the management and operation of the Community and may delegate such of its powers and duties to the Managing Agent as it deems to be appropriate, except as limited herein. Any contract with a Managing Agent shall have a term no longer than **one** year (but may be renewable by agreement of the parties for successive **one**-year periods) and shall be terminable by the Board without payment of a termination fee, either

(a) for cause, on 30 days' written notice; or (b) without cause, on not more than 90 days' written notice.

Section 15.4 Authority to Borrow. If the Board determines that the funds of the Association are or will be insufficient to pay the expenses of the Association, the Association may borrow funds to pay such expenses. To secure the repayment thereof, the Association may encumber (subject to the limitations set forth in this Declaration) any portion of the Common Elements. Proceeds of the conveyance or financing are an asset of the Association. In addition, to secure the repayment thereof, the Association may assign (subject to the limitations set forth in this Declaration) its right to receive future income of the Association, including any receivable, right to payment, and special and general Assessments from the Unit Owners. Prior to making such an assignment, the Board shall provide a notice of intent to borrow to all the Owners. The notice must include the purpose and maximum amount of the loan, the estimated amount and term of any assessments required to repay the loan, a reasonably detailed projection of how the money will be expended, and the interest rate and term of the loan and must set a date for a meeting of the Owners to consider ratification of the borrowing not fewer than 14 or more than 60 days after mailing of the notice. Unless at that meeting, whether or not a quorum is present, the Owners to which a majority of the votes in the Association are allocated reject the proposal to borrow funds, the Association may proceed to borrow the funds in substantial accordance with the terms contained in the notice. In connection with the encumbrance of future income of the Association, the Association may execute such loan documents and undertake such obligations as the lender may require to realize on the encumbrance including powers of attorney, control over deposit accounts, the right to file or foreclose Assessment liens, and the right to contact account debtors (including the Unit Owners) and require that payment be made directly to the lender.

Section 15.5 Standard of Conduct. In the performance of their duties, the officers and directors are required to exercise the degree of care and loyalty to the Association required of an officer or a director of a corporation organized, and are subject to the conflict of interest rules governing directors and officers, under chapter 24.06 RCW. The standards of care and loyalty described in this Section apply regardless of the form in which the association is organized.

Section 15.6 Limitations on Board Authority. The Board shall act reasonably, in light of the facts determined by the Board, in making all determinations, exercising its discretion, granting or withholding consent, or taking any action on behalf of the Association. The Board shall not, without the vote or agreement of the Unit Owners, (i) amend the Declaration except as set forth in ARTICLE 24, (ii) amend the organizational documents of the Association, (iii) terminate the Community, (iv) elect members of the Board, or (v) determine the qualifications, powers, duties, or terms of office of members of the Board. The Board may, in accordance with the Bylaws, fill vacancies in its membership for the unexpired portion of any term.

Section 15.7 Limitation of Liability; Indemnification. The liability of each Board member, officer and committee member, including the Declarant when acting in any such capacity, shall be limited as set forth in the Association's Articles. Each Board member, officer and committee member, including the Declarant when acting in any such capacity, shall be entitled to indemnity, reimbursement of expenses and advances of expenses as set forth in the Association's Articles.

Section 15.8 Lawsuits or Arbitration Proceedings.

15.8.1 General. The Association may institute, defend, or intervene in litigation or in arbitration, mediation, or administrative proceedings or any other legal proceeding ("Proceedings") in its own name on behalf of itself or on behalf of two or more Unit Owners, in a representative capacity, on matters affecting the Community, but any

action on behalf of Unit Owners shall not convert any individual claims or legal rights that the Unit Owners may have into claims or rights of the Association.

15.8.2 Notice. The Board must carefully evaluate the potential costs and risks to the Unit Owners before committing the Unit Owners to a course of action in any Proceedings. The Board shall evaluate those matters and promptly provide notice in a Record to the Units Owners about any legal proceedings in which the Association is a party other than Proceedings involving the enforcement of Rules or to recover unpaid Assessments due to the Association. The notice shall describe: (i) the principal amount sought to be recovered; (ii) the estimated attorneys' fees which will be chargeable to the Association; (iii) the basis on which the attorneys' fees will be paid (for example, hourly, flat fee or contingent); (iv) the estimated cost of all witnesses or investigators including bookkeepers, accountants, consultants, investigators, contractors, and experts; (v) the nature of the Association's claims and defenses and the amount at issue; and (vi) the negative consequences the Unit Owners could suffer by reason of the proposed Proceedings, including the likelihood of special Assessments and the impact of the litigation on Unit sales or refinancings while the Proceedings are pending.

## ARTICLE 16 BUDGET AND ASSESSMENTS

Section 16.1 Fiscal Year. The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year.

Section 16.2 Preparation of Budget. Not less than 30 days before the end of the fiscal year in which Assessments are collected, the Board shall prepare a budget for the Association for the coming year. The budget must include: (i) the projected income to the Association by category, (ii) the projected Common Expenses and those Specially Allocated Expenses that are subject to being budgeted, both by category, (iii) the amount of Assessments per Unit and the date the Assessments are due, (iv) the amount of regular Assessments budgeted for contribution to the reserve account, (v) a statement of whether the Association has a reserve study that meets the requirements of Section 331 of the CIC Act and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study, and (vi) the current deficiency or surplus in reserve funding expressed on a per unit basis. The Budget shall also take into account any surplus or deficit carried over from the preceding year, and make provision for reasonable reserves for contingencies. The Board need not reserve for items that can reasonably be funded from cash flow or borrowing, and need not adopt a "fully funded" plan or contribution and may adopt such plan and contribution rate as it deems appropriate in its reasonable discretion. The Board may at any suitable time require the commencement of contributions to such reserve accounts. The Board need not adopt a new budget prior to the Transition Date, and any budget adopted during such period may be based on the actual expenses for the Association and need not provide for accumulation of reserves.

Section 16.3 Ratification of Budget. Within 30 days after adoption of any proposed budget for the Community, the Board shall provide a copy of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not fewer than 14 or more than 50 days after mailing of the summary. Unless at that meeting the Owners to which a majority of the votes in the Association are allocated reject the budget, the budget and the Assessments against the Units included in the Budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board. If the Board proposes a supplemental

budget during any fiscal year, such budget shall not take effect unless ratified by the Unit Owners in accordance with this Section.

Section 16.4 Revisions to Budget. The Board may revise the budget and any Assessments based thereon, from time to time for any reason, including non-payment of any Owner's Assessments. Any revision to the budget is, however, subject to the notice requirements and the right of Owners to ratify the revised budget set forth in Section 16.3.

Section 16.5 Assessments for Common Expenses. The sums required by the Association for Common Expenses as reflected in the annual budget and any supplemental budget shall be divided into installments to be paid each month over the period to be covered by the budget or supplemental budget. The monthly Assessment for Common Expenses for each Unit shall be the sum of (a) the Common Expense Liability of that Unit multiplied by the total monthly installment for Common Expenses (except Specially Allocated Expenses) for all Units; and (b) any Specially Allocated Expenses of that Unit. Monthly Assessments shall commence against all Units that have been created by this Declaration no later than the date of the first Conveyance of a Unit to an Owner other than Declarant. Notwithstanding the foregoing, the Declarant may delay the commencement of monthly Assessments for some or all Common Expenses or Specially Allocated Expenses beyond such date, in which event the Declarant must pay all of the Common Expenses or Specially Allocated Expenses that have been delayed during the period of delay. The Declarant may exercise the right to delay Assessments for any Units whether initially created or subsequently created pursuant to a Development Right to create Units. If Declarant has paid insurance premiums prior to the commencement of Assessments, it shall be entitled to a refund from the Association of any unearned premium for the period after commencement of Assessments. If the Association does not have adequate working capital at the commencement of Assessments to reimburse the Declarant for the unearned premiums, it may deliver a promissory note to the Declarant and pay the balance due over time.

Section 16.6 Specially Allocated Expenses. Not applicable.

Section 16.7 Misconduct. To the extent that any Common Expense is caused by the negligence of any Owner or Authorized User of any Unit, the Association may assess that expense against the Owner's Unit to the extent set forth herein.

Section 16.8 Special Assessments. For those Common Expenses which cannot reasonably be calculated and paid on a monthly basis, the Board may levy special Assessments for such expenses against the Units, subject to ratification by the Owners.

Section 16.9 Reserve Studies. The Association shall obtain reserve studies and updated reserve studies as required by the CIC Act. An initial reserve study must be prepared by a reserve study professional and based upon either a reserve study professional's visual site inspection of completed improvements or a review of plans and specifications of or for unbuilt improvements, or both when construction of some but not all of the improvements is complete. An updated reserve study must be prepared annually. An updated reserve study must be prepared at least every third year by a reserve study professional and based upon a visual site inspection conducted by the reserve study professional. Until the expiration of all warranties given by or imposed upon the Declarant, and the time period for filing any claims against the Declarant, the Board shall contemporaneously send a copy of each reserve study to the Declarant at the address specified herein, or such other address as the Declarant may specify in a Record to the Association from time to time.

Section 16.10 Creation of Reserve Account. Once Assessments for replacement reserves are collected, the Board shall establish one or more accounts for the deposit of reserve contributions. Any reserve account must be an income-earning account maintained under the direct control of the Board, and the Board is responsible for administering the reserve account. The operation of the reserve account and any Assessments for contribution to the reserve account shall be further governed by this Declaration and the Bylaws.

Section 16.11 Withdrawals from Reserve Accounts. The Board may withdraw funds from the Association's reserve accounts to pay for unforeseen or unbudgeted costs that are unrelated to replacement costs of the reserve components. Any such withdrawal must be recorded in the minute books of the Association. The Board must give notice of any such withdrawal to each Unit Owner and adopt a repayment schedule not to exceed twenty-four months unless the Board determines that repayment within twenty-four months would impose an unreasonable burden on the Unit Owners. The Board must provide to Unit Owners along with the annual budget adopted in accordance with this Declaration (a) notice of any such withdrawal, (b) a statement of the current deficiency in reserve funding expressed on a per Unit basis, and (c) the repayment plan. The Board may withdraw funds from the reserve account without satisfying the notification of repayment requirements under this Section to pay for replacement costs of reserve components not included in the reserve study.

Section 16.12 Payment of Monthly Assessments. On or before the first day of each calendar month, or such other date as the Board may establish by Rule, each Owner shall pay or cause to be paid to the treasurer or designated agent of the Association all Assessments against the Unit for that month. Any Assessment that is not paid when due will be subject to late charges, interest charges and collection adopted by the Board.

Section 16.13 Proceeds Belong to Association. All Assessments and other receipts received by the Association on behalf of the Community shall belong to the Association.

Section 16.14 Failure to Assess. Any failure by the Board or the Association to make the budgets and Assessments hereunder before the expiration of any year for the ensuing year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owner from the obligation to pay Assessments during that or any subsequent year, and the monthly Assessments amounts established for the preceding year shall continue until new Assessments are established.

Section 16.15 Certificate of Unpaid Assessments. Upon the request of any Owner or Mortgagee of the Owner's Unit, the Board must furnish a statement signed by an officer or authorized agent of the Association stating the amount of unpaid Assessments against that Unit. The Association must furnish the statement within 15 days after receiving the request. The statement shall be binding on the Association, the Board and every Unit Owner, unless and to the extent known by the recipient to be false. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the statement.

Section 16.16 Recalculation of Assessments. If Common Expense Liabilities are reallocated, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated liabilities. The Board shall have the discretion to determine when to impose the recalculated Assessments, but in no event shall the Board delay imposition beyond the fiscal year during which the Common Expense Liabilities were reallocated.

Section 16.17 Initial Contribution to Working Capital. The first purchaser of any Unit shall, at the time of closing, pay to the Association (or the Declarant as set forth below), in addition



to other amounts due, an amount equal to **two** times the initial monthly Assessment against the Unit as a non-refundable initial contribution to the Association's working capital. The Declarant shall not use any such contributions to defray expenses that are the obligation of Declarant.

## ARTICLE 17 LIEN AND COLLECTION OF ASSESSMENTS

### Section 17.1 Assessments Are a Lien; Priority.

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

17.1.2 A lien under this Article shall be prior to all other liens and encumbrances on a Unit except: (i) liens and encumbrances recorded before the recording of this Declaration; (ii) a Mortgage on the Unit recorded before the date on which the unpaid Assessment became due; and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit.

17.1.3 Except as provided in this Section, the lien shall also be prior to the Mortgages described in below to the extent of an amount equal to:

17.1.3.1 Assessments (whether specially allocated or not) for Common Expenses, excluding any amounts for capital improvements, based on the periodic budgets adopted by the Association pursuant to ARTICLE 16, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the Association's lien or a Mortgage described below; plus

17.1.3.2 The Association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in below; provided, however, that the costs and reasonable attorneys' fees that will have priority under this Section shall not exceed \$2,000 or an amount equal to the amounts described above, whichever is less

17.1.3.3 The notice must satisfy the requirements of the CIC Act.

17.1.4 Recording of this Declaration constitutes recorded notice and perfection of the lien for Assessments; however, the Association may record a notice of claim of lien for Assessments in the real estate records of the county in which the Community is located. Such recording shall not constitute the notice referred to above.

Section 17.2 Lien May Be Foreclosed; Judicial Foreclosure. The lien arising under this Article may be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW, or non-judicially in the manner set forth in herein below. The Association or its authorized representative shall have the power to purchase the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this Section shall prohibit the Association from taking a deed in lieu of foreclosure. Except as provided in above, the holder of a Mortgage or other purchaser of a Unit who obtains the right of possession of a Unit through foreclosure shall not be liable for any Assessments or installments thereof that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the Owners, including such Mortgagee or other purchaser of the Unit. Foreclosure of a

Mortgage does not relieve the prior Owner of personal liability for Assessments accruing against the Unit prior to the date of such sale.

Section 17.3 Non-Judicial Foreclosure. A lien arising under this Article may be foreclosed non-judicially in the manner set forth in chapter 61.24 RCW for non-judicial foreclosure of deeds of trust. For the purpose of preserving the Association's non-judicial foreclosure option, this Declaration shall be considered to create a grant of each Unit in trust to Chicago Title Insurance Company of Washington or its successors or assigns ("Trustee"), to secure the obligations of each Unit Owner to the Association for the payment of Assessments. Each Unit Owner shall retain the right to possession of its Unit so long as Grantor is not in default of an obligation to pay Assessments. The Trustee shall have a power of sale with respect to each Unit, which becomes operative in the case of a default in a Unit Owner's obligation to pay Assessments. The Units are not used principally for agricultural or farming purposes. If the Association forecloses its lien non-judicially pursuant to this Section, it shall not be entitled to the lien priority over Mortgages as provided above.

Section 17.4 Receiver During Foreclosure. In an action to collect Assessments or to foreclose on a lien on a Unit, the Association shall be entitled to the appointment of a receiver to collect all sums due and owing to the Unit Owner before commencement of the action or during the pendency of the action. The receivership shall be governed by chapter 7.60 RCW. During the pendency of the action, the court may order the receiver to pay sums held by the receiver to the Association for any Assessments against the Unit. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

Section 17.5 Assessments Are Personal Obligations. In addition to constituting a lien on the Unit, all sums assessed by the Association chargeable to any Unit, including all charges in this Article, shall be the personal obligation of the Owner of the Unit when the Assessments are made. Suit to recover personal judgment for any delinquent Assessments shall be maintainable without foreclosing or waiving the liens securing them.

Section 17.6 Extinguishment of Lien and Personal Liability. A lien for unpaid Assessments and the personal liability for payment of Assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the Assessments sought to be recovered becomes due.

Section 17.7 Joint and Several Liability. In addition to constituting a lien on the Unit, each Assessment shall be the joint and several obligation of the Owner or Owners of the Unit to which the same is assessed as of the time the Assessment is due. In a voluntary conveyance, other than by foreclosure, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waving the lien securing such sums.

Section 17.8 Late Charges and Interest on Delinquent Assessments. The Association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020 on all subsequent delinquent Assessments or installments thereof. If the Association does not establish such a rate, delinquent Assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

Section 17.9 Recovery of Attorneys' Fees and Costs. The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. In addition, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

Section 17.10 Limitations on Foreclosure Proceedings. The Association may not commence an action to foreclose a lien on a Unit under this Article unless: (i) the Unit Owner, at the time the action is commenced, owes a sum equal to at least three months of Assessments, and (ii) the Board approves commencement of a foreclosure action specifically against that Unit. Every aspect of a collection, foreclosure, sale or other conveyance under this Article, including the method, advertising, time, date, place and terms must be commercially reasonable.

Section 17.11 Security Deposit. An Owner who has been chronically delinquent in paying its monthly Assessments may be required by the Board, from time to time, to make and maintain a security deposit not in excess of three months' estimated monthly Assessments, which shall be collected and shall be subject to penalties for non-payment as are other Assessments. The deposit shall be held in a separate fund, credited to such Owner, and may be resorted to at any time when such Owner is 10 days or more delinquent in paying Assessments.

Section 17.12 Remedies Cumulative. The remedies provided herein are cumulative, and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

## ARTICLE 18 ENFORCEMENT OF GOVERNING DOCUMENTS

Section 18.1 Rights of Action. Each Owner and its Authorized Users and the Association shall comply with the Governing Documents and the proper decisions of the Board. The Declarant shall enjoy all the rights and assume all the obligations of an Owner as to each unsold Unit in the Community owned by the Declarant. The Association acting on behalf of the Owners or any Owner acting on its own behalf may bring an action to recover sums due or damages, or for injunctive relief, or any or all of them, against any party who fails to comply with the Governing Documents and the proper decisions of the Board.

Section 18.2 Additional Rights. In addition to any rights authorized by the CIC Act, the Board may, after Notice and Opportunity to Be Heard, take any of the following actions against any party who fails to comply with the Governing Documents and the proper decisions of the Board:

18.2.1 Require an Owner, at its own expense, to stop work on, and remove, any improvement from such Owner's Unit or other areas of the Community in violation of the Governing Documents and to restore the property to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

18.2.2 Levy Assessments to cover costs incurred by the Association to cure a violation of the Governing Documents;

18.2.3 Apply a security deposit posted by an Owner to any unpaid charges or Assessments;

18.2.4 Suspend any right or privilege of a Unit Owner who fails to pay an Assessment, but the Association may not (i) deny a Unit Owner or other occupant access to the Owner's Unit, (ii) suspend a Unit Owner's right to vote, or (iii) withhold services provided to a Unit or a Unit Owner by the Association if the effect of withholding the service would be to endanger the health, safety, or property of any Person; and

18.2.5 Exercise self-help or take action to abate any violation of the Governing Documents.

Notice and Opportunity to Be Heard shall not be required in an emergency situation or in regard to the removal of vehicles or items that are in violation of parking Rules.

Section 18.3 Remedies Cumulative; Attorneys' Fees. All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association or Owner prevails, it shall be entitled to recover all costs, including, without limitation, its attorneys' fees and court costs, reasonably incurred in such action.

Section 18.4 Enforcement Discretion; No Waiver. The decision to pursue enforcement action in any particular case shall be left to the judgment of the Board, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

18.4.1 The Association's position does not justify taking action or further action;

18.4.2 The covenant, restriction or Rule being enforced is, or is likely to be, construed as inconsistent with applicable law;

18.4.3 Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable Person or to justify expending the Association's resources; or

18.4.4 It is not in the Association's best interests to pursue enforcement action.

Such a decision shall not be construed to be a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or Rule. The receipt by the Board of payment of an Assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in a Record and signed for by the Board. This Section also extends and applies to the Declarant.

Section 18.5 Notice and Opportunity to Be Heard. Whenever this Declaration requires that an action of the Board be taken after Notice and Opportunity to Be Heard, the following procedure shall be observed: The Board shall give written notice of the proposed action to all Owners, Tenants or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing, which shall be not less than five days from the date notice is delivered by the Board. At the hearing, the affected Person shall have the right, personally or by a representative, to give testimony orally, in a Record or both (as specified in the notice), subject to reasonable Rules of procedure established by the Board to ensure a prompt and orderly resolution

of the issues. Such evidence shall be considered in making the decision but shall not bind the Board. The affected Person shall be notified of the decision in the same manner in which notice of the meeting was given.

## ARTICLE 19 TORT AND CONTRACT LIABILITY

Section 19.1 Declarant Liability. An Owner is not liable, solely by reason of being an Owner, for an injury or damage arising out of the condition or use of the Common Elements. Neither the Association nor any Owner except the Declarant is liable for the Declarant's torts in connection with any part of the Community which the Declarant has the responsibility to maintain. An action alleging a wrong done by the Association must be brought against the Association and not against any Owner. An Owner is not precluded from bringing an action contemplated by this Section because it is a Unit Owner or a Board member or officer of the Association.

Section 19.2 Limitation of Liability for Utility Failure. Except to the extent covered by insurance obtained by the Association, neither the Association, the Board, the Managing Agent nor the Declarant shall be liable to any Unit Owner for:

19.2.1 the failure of any utility or other service to be obtained and paid for by the Board;

19.2.2 injury or damage to Person or property caused by the elements, or resulting from electricity, water, rain, dust, mold or mildew which may leak, travel or flow from outside of any building; from any Unit, Common Element or part of the building; from any pipes, drains, conduits, appliances, or equipment; or from any other place; or

19.2.3 inconvenience or discomfort resulting from any action taken to comply with the Governing Documents or any law, ordinance or orders of a governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

Section 19.3 Limitation of Personal Liability; Indemnification. Each Board member and officer of the Association shall be insulated from liability for its conduct as a Board member or Association officer to the extent set forth in ARTICLE 8 and shall be entitled to indemnification to the extent set forth in ARTICLE 9.

## ARTICLE 20 INSURANCE

Section 20.1 Required Insurance. Commencing not later than the time of the first Conveyance of a Unit to a Person other than the Declarant, the Association shall maintain in its own name, to the extent reasonably available and subject to reasonable deductibles, insurance meeting the requirements of this Article. The Association may, however, delay procurement of fidelity insurance until the election of the Board at the Transition Meeting. All insurance must be obtained from insurance carriers who are generally acceptable for similar projects, are authorized to do business in the State of Washington and meet the acceptability criteria of Fannie Mae, Freddie Mac, HUD and VA. The Board shall review at least annually the adequacy of the Association's insurance coverage. The Board shall promptly notify the Unit Owners if the required property or liability insurance is not reasonably available.

Section 20.2 Property Insurance Requirements. The Association shall maintain property insurance written on a “special form” of coverage. The property insurance shall cover (i) all Common Elements and all real estate that must become Common Elements (ii) to the extent not described in the foregoing clause, all installed machinery and equipment and personal property owned by the Association and located outside of a Unit (including but not limited to furniture, media equipment, and appliances used for refrigerating, ventilating, cooking, dishwashing or laundering), and (iii) all other personal property of the Association. The property insurance shall insure against all risks of direct physical loss and may, but need not, include damage caused by earthquakes or terrorism. The amount of insurance shall not be less than 100% of the current replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies, To ensure adequate property insurance coverage, the Board shall periodically obtain insurance replacement cost appraisals of any buildings and personal property for which insurance is required under this Section.

Section 20.3 Liability Insurance Requirements. The Association shall maintain commercial general liability insurance, including medical payments insurance, which provides coverage for bodily injury and property damage resulting from the operation, maintenance or use of the Common Elements in an amount of at least \$1,000,000 for any single occurrence and \$2,000,000 aggregate and which contains a specific endorsement to preclude the insurer’s denial of a Unit Owner’s claim because of the negligent act of the Association or other Unit Owners.

Section 20.4 Fidelity Insurance Requirements. The Association shall maintain, or require its Managing Agent to maintain, fidelity insurance naming the Association and its officers, directors, trustees and employees, any Managing Agent, and all other Persons who handle or are responsible for handling funds held or administered by the Association, whether or not the Person receives compensation for services, as insured. The bond shall contain waivers of any defense based upon the exclusion of Persons who serve without compensation from any definitions of “employee” or similar expression. The policy must provide minimum limits at least equal to the larger of (i) the highest amount of funds, including reserve funds, that the Association is expected to hold at any time while the policy is in force, or (ii) three months of the expected aggregate Assessments for the policy term, plus reserve funds. There shall be no requirement to obtain a fidelity bond prior to the Transition Meeting.

Section 20.5 Additional Insurance Requirements. The insurance policies obtained shall:

20.5.1 Provide that the Association is the named insured, and that each Unit Owner is an insured under the policy with respect to liability arising out of the Owner’s interest in the Common Elements or membership in the Association;

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

20.5.3 Provide that no act or omission by any Unit Owner, unless acting within the scope of the Owner’s authority on behalf of the Association, or any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no direct control, will void the policy or be a condition to recovery under the policy; and

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

Section 20.6 Adjustment of Losses; Insurance Trustee; Power of Attorney. Any loss covered by the insurance described above must be adjusted with the Association, but the proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a Mortgage. The insurance trustee or the Association must hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated. Each Owner appoints the Association, or any insurance trustee or successor 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 purposes. Each Owner and the Owner's Mortgagee, if any, are beneficiaries of the policy in accordance with percentages established by the Common Ownership Interest of Owner's Unit. Certificates of insurance shall be issued to each Owner and Mortgagee upon request.

Section 20.7 Additional Insurance. The Association may maintain 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, loss of monthly maintenance fees and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for similar projects established by Fannie Mae, Freddie Mac, HUD or VA, or other governmental agencies involved in the secondary mortgage market, so long as any such agency is a Mortgagee or an Owner of a Unit within the Community or an insurer of a Mortgage encumbering a Unit, except to the extent such coverage is not reasonably available or has been waived in a Record by such agency.

Section 20.8 Use of Insurance Proceeds. Any portion of the Community, which is damaged or destroyed must be repaired or replaced promptly by the Association.

Section 20.9 Certificate. An insurer that has issued an insurance policy under this Article shall issue certificates of insurance to the Association and, upon written request, to any Unit Owner or Mortgagee. The insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with all applicable provisions of chapter 48.18 RCW 4 pertaining to the cancellation or non-renewal of contracts of insurance. The insurer shall not modify the amount or the extent of the coverage of the policy, or cancel or refuse to renew the policy, without complying with the requirements of the CIC Act.

Section 20.10 Notification of Sale of Unit. Promptly upon Conveyance of a Unit, the new Unit Owner shall notify the Association of the date of the Conveyance and the Unit Owner's name and address. The Association shall notify each insurance company that has issued an insurance policy to the Association for the benefit of the Owners of the name and address of the new Owner and request that the new Owner be made a named insured under such policy.

ARTICLE 21     DAMAGE AND REPAIR OF DAMAGE TO PROPERTY

Section 21.1     Definitions: Damage, Substantial Damage, Repair, Emergency Work. As used in this Article:

21.1.1     “Damage” shall mean all kinds of damage, whether of slight degree or total destruction, caused by casualty or an occurrence, but shall not include construction defects, deterioration or wear and tear.

21.1.2     “Substantial Damage” shall mean that in the judgment of a majority of the Board the estimated Assessment for any one Unit exceeds 3% of the full, fair market value of the Unit before the Damage occurred, as determined by the then current assessed value for the purpose of real estate taxation.

21.1.3     “Repair” shall mean restoring the damaged improvements to substantially the condition they were in before they were damaged, with the Unit and the Common Elements having substantially the same boundaries as before. “Repair” does include restoration of improvements or betterments installed after Conveyance by the Declarant if those improvements or betterments are not insured because the Owner failed to notify the Board of their installation. Modifications to conform to applicable governmental Rules or available means of construction may be made.

21.1.4     “Emergency Work” shall mean work that the Board deems reasonably necessary to avoid further Damage or substantial diminution in value to the improvements and to protect the Owners from liability from the condition of the site.

Section 21.2     Initial Board Determination. In the event of Damage to any portion of the Community that the Association is required to insure by this Declaration, the Board shall promptly take the following actions. In doing so, the Board shall obtain such advice from professionals (such as engineers, architects, contractors, insurance consultants, lenders and attorneys) as the Board deems advisable and shall consider the information then known to the Board.

21.2.1     Determine the nature and extent of the Damage to the insured property and loss to the Association, together with an inventory of the improvements and property directly affected thereby.

21.2.2     Obtain as reliable an estimate as possible of the cost and time to Repair the Damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

21.2.3     Determine the insurance proceeds and reserves, if any, which will likely be available to pay for the Damage.

21.2.4     Determine (i) the amount, if any, by which the estimated cost of Repair is likely to exceed the expected insurance proceeds, the reserves available to Repair the Damage, other available funds of the Association, and the deductibles owed by Owners; and (ii) the likely amount of the Assessments that would have to be made against each Unit if the excess cost were to be paid as a Common Expense.

Section 21.3     Notice of Damage. The Board shall provide each Owner with a written notice summarizing the initial Board determinations made above, explaining any further information needed by the Board to make a final decision on the cost and schedule for Repairs. If the Board



determines that the Damage is Substantial Damage then the notice shall also explain any further information needed by the Board to allow the Owners to make an informed decision about Repairs to the Community, and shall call a special meeting to consider whether to Repair the Damage. If the Damage affects a material portion of the Community, the Board shall also send the notice to each Mortgagee. If the Board fails to call a meeting within 30 days of the Damage, any Owner or Mortgagee may call such a meeting. The Board may, but is not required to, call such a meeting in other circumstances.

Section 21.4 Execution of Repairs.

21.4.1 The Association shall promptly Repair any damaged portion of the Community that the Association is responsible to insure and to maintain or repair unless:

21.4.1.1 The Community is terminated by vote at a special meeting called in accordance with this Declaration and taken in accordance with the termination provisions of the Declaration and CIC Act;

21.4.1.2 Repair would be illegal under any state or local health or safety statute or ordinance; or

21.4.1.3 Owners holding at least 80% of the votes in the Association, including every Owner of a Unit which will not be rebuilt, and the Declarant if the Declarant has the right to create Units in the Community, vote not to Repair the Damage.

21.4.2 The Board shall have the authority to employ architects and engineers, advertise for bids, let contracts to contractors and others and take such other action as is reasonably necessary to make the Repairs. Contracts for the Repair work shall be awarded when the Board, by means of insurance proceeds and sufficient Assessments, has provided for paying the cost. The Board may authorize the insurance carrier to make the Repairs if the Board is satisfied that the work will be done satisfactorily, and if such authorization does not contravene any insurance trust agreement or requirement of law.

21.4.3 The Board may enter into a written agreement with a reputable financial institution or trust or escrow company that the institution or company shall act as an insurance trustee to adjust and settle any claim for casualty loss in excess of \$50,000, or for the institution or company to collect the insurance proceeds and carry out the provisions of this Article.

The Board may expend so much of the insurance proceeds and Association 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 improvements and clearing, filling, and grading the land), and the remaining funds, if any, and the property shall thereafter be held and distributed as provided below. The cost of Repair or replacement in excess of insurance proceeds, reserves, and deductibles paid by Owners, is a Common Expense.

Section 21.5 Effect of Decision Not to Repair. If all of the damaged or destroyed portions of the insured property are not repaired or replaced:

21.5.1 The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Community;

21.5.2 The insurance proceeds attributable to Units that are not repaired or replaced shall be distributed to the Owners of those Units or to lien holders, as their interests may appear; and

21.5.3 The remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interests may appear, in proportion to their Common Ownership Interests.

If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned under ARTICLE 22, and the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this Section, ARTICLE 25 governs the distribution of insurance proceeds if the Community is terminated.

## ARTICLE 22 CONDEMNATION

Section 22.1 Power of Attorney. The Association shall represent the Unit Owners in any legal proceedings related to the condemnation of all or part of the Common Elements, and shall have the sole authority to control, negotiate and settle such matters on behalf of the Unit Owners. Each Owner appoints the Association as attorney-in-fact for the purpose of representing the Owners in any proceedings, negotiations, settlements or agreements regarding a condemnation of any part of the Common Elements. Any proceeds from a condemnation shall be paid to the Association for the benefit of affected Units and their Mortgagees, as set forth herein. Should the Association not act, based on their right to act pursuant to this Section, the affected Owners may individually or jointly act on their own behalf.

Section 22.2 Consequences of Condemnation; Notices. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association shall promptly give notice of the proceeding or proposed acquisition to each Owner and Mortgagee and to the Declarant unless each and every Development Right and Special Declarant Right has expired.

Section 22.3 Condemnation of a Unit. If a Unit is acquired by condemnation, or if part of a Unit is acquired by condemnation leaving the Unit Owner with a remnant of a Unit that may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Unit and its Allocated Interests, whether or not any Common Elements are acquired. The award shall be distributed to the Owner or lien holder of the Unit, as their interests may appear. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, and the Association shall promptly prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this Section is thereafter a Common Element.

Section 22.4 Condemnation of Part of a Unit. Except as provided in Section 22.3, if part of a Unit is acquired by condemnation, the award must compensate the Unit Owner for the reduction in value of the Unit and its Common Ownership Interest, whether or not any Common

Elements are acquired. The award shall be distributed to the Owner or lien holders of the Unit, as their interests may appear. Upon acquisition, unless the decree otherwise provides: (a) that Unit's Common Ownership Interest and Common Expense Liability are reduced in proportion to the reduction in the size of the Unit; and (b) the portion of the Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

Section 22.5 Condemnation of Common Element. If part of the Common Elements is acquired by condemnation, the award must be distributed to the Association. If the Board determines that a particular Owner's interest in the Common Elements will be diminished with respect to other Owners by the acquisition of a Common Element, the Declaration may be amended to adjust that Owner's Common Expense Liability allocation.

Section 22.6 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified above.

Section 22.7 Taking of Special Declarant Rights. The Association will have no power to represent the Declarant in any condemnation or eminent domain proceedings relating to any Development Rights or Special Declarant Rights. The Declarant, and not the Association, will be entitled to receive all awards attributable to any Development Rights or Special Declarant Rights.

#### ARTICLE 23 PROCEDURES FOR SUBDIVIDING OR COMBINING UNITS

Section 23.1 Subdivision or Combination of Units. A Unit may not be subdivided into a greater number of Units, and two or more Units may not be combined into a lesser number of Units. This Section does not apply to the exercise of Development Rights.

#### ARTICLE 24 AMENDMENT OF DECLARATION, MAP, ARTICLES OR BYLAWS

Section 24.1 Procedures. Except in cases of amendments that may be executed by the Declarant, the Association or certain Owners under other provisions of this Declaration or under the CIC Act, the Declaration, the Map, the Articles and the Bylaws may be amended only by vote or agreement of the Owners as specified in this Article.

24.1.1 Any Owner or Owners may propose amendments to the Board. If approved by a majority of the Board, the amendment shall be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners with 20% or more of the votes in the Association, the Board shall submit the amendment to the members of the Association for their consideration at the next regular or special meeting for which timely notice can be given. The notice for any meeting at which an amendment will be considered shall include the text of the amendment.

24.1.2 Amendments may be adopted at a meeting of the members of the Association or by such alternative methods as allowed by the Bylaws, after such notice as is required by the Bylaws and this Declaration has been given to all Persons (including Mortgagees) entitled to receive notices.

24.1.3 Upon its adoption and the receipt of any necessary consent under this Article, an amendment to the Declaration or the Map will become effective when it is recorded or filed in the real estate records in the county in which the Community is located. The amendment shall be indexed in the name of the Community and shall contain

a cross-reference by recording number to the Declaration and each previously recorded amendment thereto. No action to challenge the validity of an amendment to the Declaration or Map adopted by the Association pursuant to this Article may be brought more than one year after the amendment is recorded. An amendment to the Articles shall be effective upon filing the amendment with the Secretary of State. An amendment to the Bylaws shall be effective upon adoption.

24.1.4 Amendments under this Section shall be prepared, executed, recorded and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

Section 24.2 Consent Required. Except in cases of amendments that may be executed by a Declarant, the Association or certain Owners under the CIC Act, the percentages of consent of Owners and Mortgagees required for adoption of amendments to the Declaration, the Articles and the Bylaws are as follows:

24.2.1 Except as set forth elsewhere in this Section, an amendment to the Declaration, the Map or the Articles shall require the vote or agreement of Unit Owners holding at least 67% of the Voting Interest in the Association, and an amendment to the Bylaws shall require the vote or agreement of Unit Owners holding at least 51% of the Voting Interest in the Association.

24.2.2 Except to the extent permitted or required under the CIC Act or this Declaration, an amendment to the Declaration that creates or increases Special Declarant Rights, increases the number of Units, changes the boundaries of any Unit, or changes the Allocated Interests of a Unit shall require the vote or agreement of the Owners holding at least 90% of the Voting Interest in the Association, including the consent of any Owner of a Unit, the boundaries or Allocated Interests of which will be changed by the amendment.

24.2.3 Except to the extent permitted or required under the CIC Act or this Declaration, an amendment to the Declaration that allows any use of the Units other than residential use or that prohibits the residential use of the Units, shall require the vote or agreement of the Owners holding at least 90% of the Voting Interest in the Association. Any such amendment must provide reasonable protection for a use permitted at the time the amendment is adopted.

24.2.4 No amendment may restrict, eliminate, or otherwise modify any Special Declarant Right that has not expired without the consent of the Declarant and any Mortgagee of record with a security interest in the Special Declarant Right or in any real estate subject thereto. No amendment may restrict, eliminate, or otherwise modify any right of members of the Board to indemnification for conduct that occurred prior to the amendment, without the consent of the Board member.

Section 24.3 Amendments by the Declarant. In addition to any other rights to amend the Governing Documents in the CIC Act or this Declaration, the Declarant may at any time, upon 30 days advance notice to the Association, adopt, execute and record an amendment or supplement to the Governing Documents to (i) correct a mathematical mistake, an inconsistency, or a scrivener's error, or (ii) clarify an ambiguity in the Governing Documents with respect to an objectively verifiable fact, including, without limitation, recalculating any Allocated Interest, clarifying or correcting the location, dimensions or characteristics of the constructed improvements, clarifying

or correcting the as-built boundaries or areas of the Units, or complying with the requirements of Fannie Mae, Freddie Mac, HUD, VA, lenders, or title insurers, all within five years after the recordation or adoption of the Governing Document containing or creating the mistake, inconsistency, error or ambiguity. The Declarant may execute and record any such amendment itself and need not otherwise comply with the requirements of this Article.

## ARTICLE 25 TERMINATION OF COMMUNITY

Section 25.1 Action Required. Except in the case of the taking of all Units by condemnation or a judicial termination of the Community pursuant to the CIC Act, the Community may be terminated only by (i) agreement of Owners of Units to which at least 80% of the Voting Interest in the Association is allocated, and (ii) the consent of all the holders, including Declarant, of any unexpired Development Rights or Special Declarant Rights.

Section 25.2 Limitation on Termination. The Community may not be terminated while the Declarant has any Development Right or Special Declarant Right without the consent of the Declarant and any Mortgagee of record with a security interest in the Development Right or Special Declarant Right or in any real estate subject thereto, excluding Mortgagees of Units owned by Persons other than the Declarant.

Section 25.3 CIC Act Governs. The applicable provisions of the CIC Act relating to termination of common interest communities, as it may be amended, shall govern the termination of the Community, including, but not limited to, the disposition of real estate in the Community and the distribution of proceeds from the sale of real estate.

## ARTICLE 26 NOTICES

Section 26.1 Form and Delivery of Notice. Notices to the Association, Board, any Owner or any occupant of a Unit must be provided in such manner as provided in the CIC Act. Notices to the Declarant must be provided in a Tangible Medium and must be transmitted by mail, private carrier or personal delivery to the following address, or such other address as the Declarant may specify in written notice to the Board or the Owners:

[\[Declarant Notice Address\]](#)

## ARTICLE 27 ASSIGNMENT BY DECLARANT

The Declarant reserves the right to assign, transfer, sell, lease, or rent all or a portion of the property then owned by it and reserves the right to assign all or any of its rights, duties and obligations created under this Declaration.

## ARTICLE 28 DISPUTE RESOLUTION

Section 28.1 Policy - Mediation. All disputes between or between or among any of the Association or one or more Unit Owners must be submitted to mediation and arbitration as set forth herein. If any party to a dispute determines that the dispute cannot be resolved without intervention, then that party shall give notice (the "Arbitration Demand") to all other parties to the dispute and the Association demanding that the dispute be submitted to mediation and arbitration pursuant to this Article. All parties to the dispute shall then participate in a non-binding mediation for 30 days after the Arbitration Demand. The mediator shall be chosen by the Association. If the

mediation is not successful, the dispute shall be resolved by binding arbitration conducted pursuant to this Section.

Section 28.2 Binding Arbitration. Any arbitration under this Declaration shall be conducted in the county where the Community is located and shall be conducted pursuant to the arbitration statutes of the State of Washington. Any arbitration award may be enforced by any court with jurisdiction. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statute of limitations or for purposes of filing a notice of pending action.

28.2.1 The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties. The arbitrator selected shall be neutral and unbiased, except to the extent the arbitrator's prior relationship with any party is fully disclosed and consented to by the other party or parties. If the parties are unable to agree upon the arbitrator within 30 days after a party's Arbitration Demand, upon application of any party, the Presiding Judge of the Superior Court shall designate the arbitrator.

28.2.2 Upon demand by any party, claims between or among the parties and third parties shall be submitted in a single, consolidated arbitration; provided, however, if any claim, controversy or dispute involves a claim by either party against a third party who is not required to and does not voluntarily agree to submit such claim to arbitration, then either party may elect to have the matter determined by a court of law in a consolidated proceeding, rather than by arbitration. In such case, the parties hereby waive trial by jury and agree that the matter shall be determined by a judge sitting without a jury.

28.2.3 The parties to the arbitration shall be entitled to such discovery as would be available to them in an action in Superior Court. The arbitrator shall have all of the authority of the court incidental to such discovery, including, without limitation, authority to issue orders to produce documents or other materials, to issue orders to appear and submit to deposition, and to impose appropriate sanctions, including, without limitation, awards against a party for failure to comply with any order.

28.2.4 The parties to the arbitration may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary for an understanding and determination of the dispute. The arbitrator shall determine the admissibility of the evidence offered. All evidence shall be taken in the presence of the arbitrator and all of the parties, except where any of the parties is absent, in default or has waived its right to be present.

Section 28.3 Hearing Procedure. The arbitrator(s) shall take such steps as may be necessary to hold the arbitration hearing within 90 days of the Arbitration Demand, conclude the hearing within three days, and issue a decision not later than 14 calendar days after the hearing. These time limits are intended to expedite the proceeding, but they are not jurisdictional. The arbitrator(s) may for good cause permit reasonable extensions or delays. The arbitrator(s) shall issue a written decision stating the award for each claim involved in the dispute. In making the decision and award, the arbitrator(s) shall apply applicable substantive law. Absent fraud, collusion or willful misconduct by an arbitrator, the award shall be final, and judgment on the award may be entered in any court having jurisdiction thereof. The arbitrator(s) may award injunctive relief or any other remedy available from a judge, order the joinder of parties, or consolidate the arbitration with any other proceeding involving common issues of law or fact or to promote judicial economy. The arbitrator(s) shall not have the power to award punitive or exemplary damages, or attorneys' fees and costs to any party. If the hearing is before a panel of three arbitrators, the decision of any two arbitrators shall be the decision of the panel.



SCHEDULE A  
[THOMAS NOLF]

DESCRIPTION OF REAL ESTATE SUBJECT TO DECLARATION

Lots 1 through 27 and Tracts A, B, C, D and E of \_\_\_\_\_, recorded in King County, Washington.