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Skagit County Auditor

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LAND TITLE OF SKAGIT COUNTY

Declaration of the  
EMPIRE CONDOMINIUM  
and of Covenants, Conditions,  
Restrictions and Reservations

CREATION AND DECLARATION OF CONDOMINIUM AND OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS  
FOR THE  
EMPIRE CONDOMINIUM

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Upon recording, return to:

Alan R. Souders  
Attorney at Law  
913 Seventh Street  
Anacortes, WA 98221

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CREATION AND DECLARATION OF CONDOMINIUM AND OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS  
FOR THE  
EMPIRE CONDOMINIUM

THIS DECLARATION ("Declaration") is made and executed this 3<sup>rd</sup>  
day of August, 2007, by King Squared LLC ("Declarant"), a  
Washington Limited Liability Company, the owner of the real estate  
described herein, pursuant to the provisions of the Washington  
Condominium Act ("Condominium Act"), RCW Chapter 64.34, as amended.  
The Survey Map and Plans for this Condominium are recorded in  
Volume \_\_\_\_ at Page \_\_\_\_ Auditor's File No. 200708030174  
Skagit County, Washington, and are incorporated by reference  
herein.

WITNESSETH:

ARTICLE 1

CREATION OF CONDOMINIUM

1.1 The purpose of this Declaration is to submit the real estate to the condominium form of ownership and use pursuant to the Condominium Act and to establish for Declarant's benefit and for the mutual benefit of all future owners or occupants of the Property, or any part thereof, certain easements and rights in, over and upon the real estate and certain mutually beneficial restrictions and obligations with respect to the use, occupancy and maintenance thereof.

1.2 This Declaration shall operate as a set of covenants running with the land or equitable servitudes and shall be binding upon the Declarant, all future owners and occupants of the Condominium, and their heirs, successors and assigns.

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1.3 The name of the Condominium shall be the Empire Condominium ("Condominium").

1.4 The legal description of the real estate ("Property") included in the Condominium is as follows:

See enclosure (1).

Declarant is the fee simple owner of the Property. The street addresses for the Condominium are 701 and 705 Commercial Avenue, and 915 Seventh Street, Anacortes, Washington 98221.

1.5 The name of the owners association is the Empire Condominium Owners Association ("Association").

## ARTICLE 2

### CERTIFICATE OF SUBSTANTIAL COMPLETION

While noting that the building here submitted to Condominium was constructed in approximately 1900, Declarant hereby certifies pursuant to RCW 64.34.200 (2) that all of the structural components and mechanical systems of the building that is to form a part of the Empire Condominium are substantially completed.

## ARTICLE 3 (RESERVED)

## ARTICLE 4

### UNITS

4.1 Number of Units. This Declaration creates three (3) Units in one (1) single-story Building. The Declarant does not reserve the right to create or add additional Units or to withdraw Units.

4.2 Type of Construction. The condominium is of brick construction with a flat, built-up roof. There is no basement.

4.3 Identification of Units. The Units are numbered 701 and 705 Commercial Avenue, and 915 Seventh Street. The location of each Unit is set forth in the Survey Map and Plans. No parking for either Unit is included in the Condominium.



701 Commercial Avenue contains 2,887 square feet.

705 Commercial Avenue contains 1,519 square feet.

915 Seventh Street contains 1,133 square feet.

Each unit is for commercial use, and each has separate access to the sidewalks fronting the units.

#### 4.4 Unit Boundaries.

4.4.1 Interior Surfaces. The interior surfaces of perimeter walls, floors, and ceilings are the boundaries of a Unit. Decorative and finished surface coverings (including paint, wallpaper, paneling, carpeting, tiles and finished flooring) are a part of the Unit, and all other portions of the walls, floors, or ceilings are a part of the Common Elements. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

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

4.4.3 Limited Common Elements. Any shutters, awnings, window boxes, doorsteps, and all exterior doors and windows or other fixtures designed to serve a single Unit, but which are located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. Declarant does not intend to allocate any other real property as limited common elements.

#### 4.5 Relocation of Boundaries; Adjoining Units.

4.5.1 In General. Subject to the provisions of the Declaration and other provisions of law, the boundaries between adjoining Units may only be relocated by an amendment to the Declaration by the Owners of those Units. If the Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application must state the proposed reallocations. Any relocation of boundaries must be approved by both Unit Owners and all Eligible Mortgagees. If approved, the Association shall prepare an amendment that states the reallocations, is executed by the Unit owners, contains words or conveyance between them, and is recorded in the name of the grantor and the grantee.



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

ARTICLE 5

ALLOCATED INTERESTS

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

ARTICLE 6

COMMON ELEMENTS

6.1 Except as otherwise specifically allocated by other provisions of this Declaration or amendments thereto, the Common Elements consist of all portions of the Condominium except Units and include the following:

6.1.1 The windows, roofs, foundations, columns, girders, studding, joists, beams, supports, walls (excluding nonbearing interior partitions of Units) , chimneys, and all other structural parts of the Buildings, to the boundaries of the Units as defined by this Declaration and any replacements thereto.

6.1.2 Installations of central services such as: power, light, gas, hot and cold water, heating, refrigeration, and air conditioning; pipes, conduits, and wires; tanks, pumps, motors, fans, compressors, ducts; elevator; and in general all apparatus



and installations existing for common use; but excluding plumbing, electrical and similar fixtures, and fireplaces which fixtures are located within a Unit for the exclusive use of that Unit.

6.1.3 The back porch (concrete slab) upon which units 705 and 915 open.

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

## 6.2 Conveyance and Encumbrance of Common Elements.

6.2.1 Required Approvals. Common Elements may not be conveyed or subjected to a security interest without the consent of all of the Unit owners. The proceeds of any conveyance or financing are assets of the unit owners in proportion to their respective ownership shares.

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

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

6.2.4 Support Right. A conveyance or encumbrance of Common Elements shall not deprive any Unit of its rights of access and support.

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

6.2.7 Association's Authority. The Association shall have all powers necessary and appropriate to effect the conveyance or encumbrance authorized pursuant to this section, including the power to execute deeds or other instruments.



ARTICLE 7

EASEMENTS

7.1 General. It is intended that in addition to rights under the Act, each Unit has a perpetual easement in and through each other Unit and the Common and Limited Common Elements for all support elements and utility, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of this Condominium plan. Said easement shall be appurtenant to each Unit. Without limiting the generality of the foregoing, each Unit and all Common and Limited Common Element are specifically subject to an easement for the benefit of each of the other Units in the Condominium for all duct work for the several Units, and for heating, ventilation, air conditioning and fireplaces and associated flues or chimneys. In addition, each Unit and all the Common and Limited Common Elements are specifically subject to easements as required for the intercom, security and electrical entry system, if any, for the electrical wiring and plumbing, for the air conditioning lines and equipment, if any, for each Unit, and for the master antenna cable system, if any. Finally, each Unit is granted an easement to which each other Unit and all Common and Limited Common Element is subject to the location and maintenance of all the original equipment and facilities and utilities for such Unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for Common Elements reserved by law.

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

ARTICLE 8  
(RESERVED)

ARTICLE 9

USE RESTRICTIONS

9.1 Commercial Use. Each Unit shall be used for commercial purposes only.

9.2 Common Elements. Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner. No



Common Element may be altered in any way without the express written consent of both owners.

9.3 Interior Unit Maintenance.

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

9.3.2 Additional Rights and Duties. Without limiting the generality of the foregoing, each Owner shall have the right, at his/her sole cost and expense, to construct, alter, maintain, repair, paint, paper, panel, plaster, tile, and finish interior doors, interior door frames and trim, interior non-load bearing partitions, and the interior surfaces of the ceilings, floors, and the perimeter walls of the Unit and the surfaces of the bearing and non-bearing walls located within his/her Unit. An owner shall not permit or commit waste of his/her Unit or the Common Elements. This Section shall not be construed as permitting any violation of any other provision of this Declaration or any interference with or damage to the structural integrity of the Building or interference with the use and enjoyment of the Common Elements or of the other Units or any of them, nor shall it be construed to limit the powers or obligations of the Association or Board hereunder.

9.4 Alterations of Units. A Unit Owner may make any improvements or alterations to the Owner's Unit that do not affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium.

9.5 Exterior Appearance. Unit Owners shall not paint or decorate or adorn the outside of any Unit, or install any canopy or awning or outside radio or television antenna, or other equipment, fixtures or items of any kind, without the prior written consent of the other owners.

9.6 Rental Restrictions. The leasing or renting of a Unit by its Owner shall be subject to the following provisions:



ARTICLE 10

SPECIAL DECLARANT RIGHTS

Development Rights. Declarant has not reserved any Development rights.

ARTICLE 11

ASSOCIATION

11.1 Incorporation. The Association may be incorporated as a nonprofit Washington corporation but may also act as an unincorporated association.

11.2 Membership. Each Unit Owner shall be a member of the Association so long as he/she shall be a Unit Owner, and such membership shall automatically terminate when he/she ceases to be a Unit Owner. A real estate contract purchaser shall be deemed the Unit Owner for purposes of the Association. The Association's members shall consist exclusively of the Unit Owners.

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

11.4 Administration of Association. The Association shall be responsible for administration of the Condominium in accordance with the provisions of this Declaration, the Articles of Incorporation and the Bylaws adopted by the Association, if any.

11.5 Board of Directors. One owner of each Unit shall be designated as a Director.

11.6 Management by Board. The Board shall act in all matters affecting Common Elements and in all manner necessary to effectuate this Declaration. Except as otherwise provided in the Declaration, the Bylaws, or the Act, the Board shall act in all instances on behalf of the Association. In the performance of their duties, the members of the Board are required to exercise ordinary and reasonable care.

11.7 Enumerated Powers. The Association, acting by and through the Board, for the benefit of the Condominium and the Owners shall enforce the provisions of this Declaration and of the



Bylaws and shall have all powers and authority permitted to the Association under and subject to the Condominium Act, the Washington Non Profit Corporation Act, and this Declaration, including but not limited to:

- (a) Adopt and amend Bylaws, rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures, reserves and impose and collect Assessments from Unit Owners;
- (c) Hire and discharge and contract with agents and independent contractors and managers;
- (d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Condominium or the Association;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement and modification of Common Elements and cause additional improvements to be made as a part of the Common Elements;
- (g) Acquire, hold, encumber and convey in its own name any right, title, or interest to real or personal property;
- (h) Grant easements, leases, licenses and concessions through or over the Common Elements and petition for consent to the vacation of streets and alleys;
- (i) Impose and collect any payments, fees, or charges for the use, rental, or operation of the Common Elements, for services provided to Unit Owners;
- (j) Impose and collect charges for the late payment of assessments and after notice and an opportunity to be heard by the Board, levy reasonable fines in accordance with a previously established schedule adopted by the Board and furnished to the Owners for violations of this Declaration, Bylaws and rules and regulations of the Association;
- (k) Impose and collect reasonable charges for the preparation and recording of amendments to this declaration, resale certificates and statements of unpaid Assessments;
- (l) Provide for indemnification of its officers and Board and maintain directors' and officers, liability insurance;





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

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

(o) Exercise any other powers conferred by the Condominium Act, this Declaration or the Bylaws;

(p) Exercise any other powers necessary and proper to the operation of the Association.

11.8 Limitations upon Capital Expenditures. The Board shall have no authority to acquire and pay for out of the Association funds a capital addition or improvement (other than for purposes of restoring, repairing or replacing portions of the Common Elements having a total cost in excess of \$1,000.00), without first obtaining the affirmative vote of sixty-seven (67) percent of Owners at a meeting called for such purpose.

#### 11.9 Voting.

11.9.1 Number of Votes. The total voting power of all Owners shall be ten (10) votes. The total number of votes available to Owners of each Unit is set forth in Exhibit A attached hereto. Cumulative voting is permitted.

11.9.2 Multiple Owners of a Unit. If there is more than one Owner of a Unit, and if one of the multiple owners is present at a meeting of the Association or has delivered a written ballot or proxy to the Board, that Owner is entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners are present or have delivered a ballot or proxy to the Association



secretary, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority of the multiple owners. There is majority agreement if any one of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. Division of the votes allocated to a Unit shall not be permitted in the event of dispute between multiple owners of a Unit.

11.9.3 Method of Voting. The means by which votes in the Association shall be cast and recognized, including voting by proxy, shall be as set forth by the Association.

11.9.4 Proxies. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each owner of the Unit may vote or register protest to the casting of votes by the other Owners of the unit through a duly executed proxy. A Unit Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. Unless stated otherwise in the proxy, a proxy terminates eleven (11) months after date of issuance.

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

11.10 Meetings, Notices and Quorums.

11.10.1 Meetings. A meeting of the Association must be held at least once each year. Special meetings of the Association may be called by any owner. Not less than fourteen (14) nor more than sixty (60) days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand delivered or sent prepaid by first class United States mail to the mailing address of each Unit or to any other mailing address



designated in writing by the Unit Owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda to be voted on by the members, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in the previously approved budget that result in a change in Assessment obligations, and any proposal to remove a director or officer.

11.10.2 Quorums.

(a) A quorum is present throughout any meeting of the Association if the owners of Units to which fifty-one (51) percent of the votes of the Association are allocated are present in person or by proxy at the beginning of the meeting.

(b) A quorum is deemed present throughout any meeting of the Board if a majority of the Directors are present at the beginning of the meeting.

11.11 Bylaws of Association.

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

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

11.12 Borrowing by Association. In discharge of its duties, with the approval of sixty-seven (67) percent of the Unit Owners, the Board may borrow funds on behalf of the Association and assess each Unit Owner a pro rata share of the borrowed funds. The obligation to pay that pro rata share shall be a lien against the Unit and the undivided interest in the Common Elements allocated to that Unit.

11.13 Limitation of Board's Liability. Except and to the extent covered by insurance, the members of the Board shall not be liable for any service to be obtained and paid for by the Board of Directors or for injury or damage to person or property caused by the elements or by another Unit Owner or person in the Condominium or resulting from the flow of electricity, water or gas from outside or from any parts of the Buildings or from any of their



pipes, drains, conduits, appliances or equipment or from any other place. No diminution or abatement of Assessments shall be claimed or allowed for inconveniences or discomfort arising from making of repairs or improvements to the Common Elements or from any action taken to comply with any law, ordinance or orders of governmental authorities. The Board and Manager shall not be responsible to Unit Owners for loss or damage by theft or otherwise of articles which may be used or stored by Unit Owners on the Property or in the Units.

11.14 No Personal Liability for Decisions. So long as a Board member, Association committee member, or Association officer has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by such person, no such person shall be personally liable to any Owner, or other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, negligence (except gross negligence), decision, or failure to make a decision; provided, that this section shall not apply if and to the extent the consequences of such act, omission, error, negligence or decision are covered by insurance obtained by the Board.

11.15 Indemnification of Board. Each member of the Board and each officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed in connection with any proceeding to which he or she may be a party or in which he or she may become involved by reason of being, or having been, such a member or officer, including the settlement of any proceeding, whether or not he or she is such a member or officer at the time such expenses are incurred, except in such cases where the member or officer is adjudged guilty of willful misfeasance or malfeasance.

11.16 Arbitration. In the event of a dispute among the Unit Owners which cannot be resolved through the voting procedures provided for under the Declaration and the Act or by mere compliance with the provisions of the Declaration and the Act, such dispute shall be determined by an arbitrator in an arbitration proceeding. Such proceeding shall be conducted as expeditiously as possible and in accordance with the rules of the American Arbitration Association. The arbitrator shall be appointed with the approval of Unit Owners holding two-thirds of the Total Voting Power; provided, however, if no such arbitrator is so appointed or approved, then any Unit Owner may cause the appointment of an arbitrator by appropriate petition to the Skagit County Superior Court. Such arbitrator shall be neutral and independent and be an attorney licensed to practice law in the State of Washington and



have reasonable prior experience with condominium law and practice. All of the costs associated with the arbitration proceeding shall be paid by the Association as a Common Expense; provided, however, the legal fees of any attorney retained by an individual Unit Owner shall be paid by such Unit Owner. The ruling of the arbitrator shall be consistent with the Declaration and the Act, but otherwise shall be final and binding upon the Unit Owners.

11.17 Association's Records and Funds.

11.17.1 Records and Audits. The Association shall keep financial records sufficiently detailed to enable the Association to provide resale certificates. All financial and other records shall be made reasonably available for examination by a Unit Owner, the owner's authorized agents, all mortgagees and any prospective buyers and/or Mortgagees. At least annually, the Association shall prepare, or cause to be prepared, a financial statement of the Association in accordance with generally accepted accounting principles; provided, however, that this requirement shall be waived upon the approval of sixty (60) percent of all Unit Owners, other than Declarant.

11.17.2 Fund Commingling. The funds of the Association shall not be commingled with the funds of any other Association, nor with the funds of any Manager or any other person responsible for the custody of such funds.

11.17.3 Reserve Funds. Any reserve funds of the Association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of at least two (2) persons who are officers or directors of the Association.

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



ARTICLE 12

ASSESSMENTS

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

12.2 Common Expenses. Common Expenses shall include:

- (a) Expenses of administration;
- (b) Expenses of maintenance, repair, replacement and landscaping of Common Elements and Limited Common Elements;
- (c) Cost of insurance or bond required by the Act, this Declaration and the Bylaws or as obtained at the direction of the Board;
- (d) Bills for any utility services furnished to the Common Elements;
- (e) Any general operating reserve established by the Board from time to time;
- (f) Reserves for replacements and deferred maintenance established by the Board from time to time;
- (g) Any deficit in common expenses for any prior period; and
- (h) Any other items properly chargeable as expenses of the Association.

12.3 Budget. Within sixty (60) days prior to the beginning of each calendar year, or such other fiscal year as the Board may adopt, the Board shall prepare a budget for the Association, estimate the Common Expenses expected to be incurred, less any previous overassessment, and assess the Common Expenses to each Unit in proportion to the Unit's Allocated Interest therefor set forth in this Declaration. Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board shall provide



a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting the Owners of Units to which a majority of the votes in the Association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board. The initial Board, whether appointed by Declarant or elected by Unit Owners, may at any suitable time establish the first such estimate. If the sum estimated and budgeted at any time proves inadequate for any reason (including non-payment for any reason of any Owner's Assessment), the Board may at any time levy a further Assessment, which shall be assessed to the Owners according to this Declaration. Similarly, if the sum estimated and budgeted, and being collected and/or already collected, at any time proves excessive, the Board may reduce the amount being assessed and/or apply existing funds (in excess of current needs and required reserves) against future Assessments and/or refund such excess funds.

12.4 Reserve Funds. In establishing its budget, the Board shall make provision for creating, funding and maintaining reasonable reserves for contingencies and operations and for the maintenance, repair, replacement and acquisition of Common Elements and Limited Common Elements and shall take into account any expected income and any surplus available from the prior year's operating fund. The reserve shall also be sufficient to cover any deductible amounts which are included in the casualty and any flood insurance policy for the Condominium obtained by the Association. The Board shall calculate the contributions to the reserve fund so that there are sufficient funds therein to replace, or perform such major repair, to each Common Element covered by the fund at the end of the estimated useful life of each such Common Element.

12.5 Commencement of Assessments. The Declarant in the exercise of its reasonable discretion shall determine when the Association shall commence making Assessments; provided, that in all event Assessments shall commence on a date within sixty (60) days after the earlier of: (a) the date six (6) months after the date of first conveyance of a Unit to an owner (other than Declarant or an Affiliate of Declarant) or (b) the date on which seventy-five percent (75-.) of the Units which may be created have been conveyed to Owners (other than Declarant or an Affiliate of Declarant). Until the Association makes an Assessment, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments must be made against all



Units, based on a budget adopted by the Association; provided, for a period not to exceed twelve (12) months following the date of first conveyance of a Unit to an Owner other than Declarant or an Affiliate of Declarant, the Board (whether appointed by Declarant or elected by Unit Owners) may elect not to collect monthly assessments and instead elect to collect and expend monthly assessments based on the actual costs of maintaining, repairing, operating and insuring the Common Areas.

12.6 Allocation of Assessments.

12.6.1 Allocated Liability. Except as otherwise stated in this section, all Common Expenses shall be assessed against all of the Units in accordance with their respective Allocated Interests.

12.6.2 Limited Common Element Expenses. Any Common Expense associated with the operation, maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit to which that Limited Common Element is assigned. If a Limited Common Element is assessed against more than one Unit, such Units shall share such Assessment equally.

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

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

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

12.6.6 Assessments for Judgments. Assessments to pay a judgment against the Association pursuant to RCW 64.34.368 (1) may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their respective Allocated Common Interests at the time the judgment was entered.

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

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





12.7 Working Capital Contribution. The first purchaser of any Unit shall pay to the Association, in addition to other amounts due, an amount equal to two (2) months of monthly Assessments as a contribution to the Association's working capital. Such working capital contributions shall not be considered advance payments of Assessments or used to defray Declarant's expenses, to pay Declarant's contributions to Association reserves or to make up any deficiency in the budget of the Association. Upon the election of the first Board by Unit Owners other than Declarant, Declarant shall pay to the Association as a working capital contributions an amount equal to two (2) months of monthly Assessments for each of the Units then owned by Declarant. When a Unit owned by Declarant is sold, Declarant may apply funds collected at closing from the purchaser to reimburse itself for funds paid to the Association for such contribution with respect to that Unit.

12.8 Assessment Certificate. The Association, upon written request, shall furnish to a Unit Owner or a Mortgagee a statement signed by an officer or authorized agent of the Association setting forth the amount of unpaid Assessments against that Unit. The statement shall be furnished within fifteen (15) days after receipt of the request and is binding on the Association, the Board, and every Unit Owner, unless and to the extent known by the recipient to be false.

## ARTICLE 13

### ASSOCIATION'S RIGHTS AND REMEDIES

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

13.2 Access to Property. The Board and its agents or employees, may enter any Unit or Limited Common Element when necessary in connection with any maintenance, landscaping or construction for which the Board is responsible or in the event of emergencies. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board paid for as a Common Expense if the entry was due to an emergency, or for the purpose of maintenance or repairs to Common or Limited Common Elements where the repairs were



undertaken by or under the direction or authority of the Board; provided, if the repairs or maintenance were necessitated by or for the Unit entered or its Owners, or requested by its Owners, the costs thereof shall be specially charged to such Unit. In furtherance of the foregoing, the Board (or its designated agent) shall have the right at all times to possess such keys and/or lock combinations as are necessary to gain immediate access to Units and Limited Common Elements.

13.3 Abatement of Construction. Prior to causing any items of construction which are alleged to be in violation of the Act or this declaration to be altered or demolished, the Association shall institute appropriate judicial proceedings, including such requests for temporary restraining orders and preliminary or permanent injunctions as the Board may deem appropriate, to obtain a judicial determination of the rights of the parties.

13.4 Owner Liability. Each Assessment shall be the joint and several obligation of the Owner or Owners of the Unit to which the same are assessed as of the time the Assessment is due. In a voluntary conveyance the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

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

13.6 Lien for Assessments.

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

13.6.2 Priority. The Association's Assessment lien shall be prior to all other liens and encumbrances on a Unit except (a) liens and encumbrances recorded before the recording of this



Declaration, (b) a Mortgage on the Unit recorded before the date on which the Assessment sought to be enforced became delinquent, and (c) liens for real property taxes and other governmental assessments or charges against the Unit.

13.6.3 Mortgage Priority. Except as provided in Section 13.6.4, the Association's Assessment lien shall be prior to Mortgages described in Section 13.6.2 to the extent of Assessments for Common Expenses, excluding any amounts for capital improvements based on the periodic budget adopted by the Association pursuant to this Declaration, which would have become due during the six (6) months immediately preceding the date of the sheriff's sale in an action for judicial foreclosure by either the Association or a Mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a Mortgagee, or the date of recording of this Declaration of forfeiture in a proceeding by the vendor under a real estate contract.

13.6.4 Mortgagee Notice. The priority of the Association's lien against Units encumbered by a Mortgage held by an Eligible Mortgagee or by a Mortgagee which has given the Association a written request for a notice of delinquent Assessments shall be reduced by up to three (3) months if and to the extent the lien priority under Section 13.6.2 includes delinquencies which relate to a period after such holder becomes an Eligible Mortgagee or has given such request for notice and before the Association gives the holder a written notice of the delinquency. This section does not affect the priority of mechanics, or materialmen's liens, or the priority of liens for other Assessments made by the Association.

13.6.5 Recording as Notice. Recording this Declaration constitutes record notice and perfection of the Association's lien for Assessments. While no further recording of any claim of lien for Assessment under this section shall be required to perfect the Association's lien, the Association may record a notice of claim of lien for Assessments under this section in Skagit County, Washington. Such recording shall not constitute a written notice of delinquency to a Mortgagee.

13.6.6 Foreclosure. The Association's lien may be enforced judicially by the Association or its authorized representative in the manner set forth in RCW Chapter 61.12. Additionally, the Association may foreclose on liens informally in any manner prescribed by law. The Association or its authorized representative shall have the power to purchase the Unit at a 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 judgement in a judicial foreclosure action, the period



of redemption shall be eight (8) months. Nothing in this section shall prohibit the Association from taking a deed in lieu of foreclosure.

13.6.7 Lien Survives Sale. The Association's Assessment lien shall not be affected by the sale or transfer of a Unit except in the event of sale by foreclosure, trustee's sale or contract forfeiture in which case the holder of the Mortgage or purchaser who obtains possession shall not be liable for assessments that came due prior to the right of possession.

13.6.8 Receiver. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Unit that is not occupied by the owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Unit as and when due. If the rental is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this section, and a receiver shall not be appointed less than ninety (90) days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.

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

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

13.9 Limitation on Actions. The Association, s lien for unpaid Assessments and the personal liability for payment of Assessments are extinguished unless proceedings to enforce the lien



or collect the debt are instituted within three (3) years after the amount of the Assessments sought to be recovered becomes due.

## ARTICLE 14

### COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

#### MAINTENANCE AND REPAIR

14.1 Common Elements. The Association shall cause the Common Elements to be maintained in a good, clean, sanitary and operating condition.

14.2 Limited Common Elements. Limited Common Elements, are for the sole and exclusive use of the Units for which they are reserved or assigned; provided, that the use, condition and appearance thereof may be regulated under provisions of the Bylaws, Rules or this Declaration including the following:

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

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

14.2.4 Owner Pays Cost. Unit Owners will be responsible for the cost of such Maintenance Work for the Limited Common Elements reserved for or assigned to their Units;

14.2.5 Multiple Owners. With respect to a Limited Common Element reserved for or assigned to more than one Unit for the mutual and joint use thereof, the cost of such Maintenance Work for such Limited Common Element shall be divided in equal shares among the Units for which such Limited Common Element is reserved.

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



14.3 Damage Caused by Negligence and Misconduct. if, due to the act or neglect of a Unit Owner or such Owner's tenant, licensee or invitee, or of a member of his or her family or his or her household pet, damage shall be caused to the Common Elements or to any Unit or Units owned by others, such Unit Owner shall pay for repair and replacement of such damaged areas as may be determined by the Association to the extent not covered by the Association's insurance.

ARTICLE 15

INSURANCE

15.1 Required Policies. Commencing not later than the time of the first conveyance of a Unit to any person other than a Declarant, the Association shall maintain, to the extent reasonably available:

(a) Casualty insurance on the entire Condominium, including the Units, the Common and Limited Common Elements, and fixtures, building service equipment and common personal property and supplies owned by the Association, and which may, but need not, include equipment, improvements, and betterments in a Unit installed by the Declarant or the Unit Owners unless required by Mortgagees, insuring against all risks of direct physical loss normally insured against under a standard fire and extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by a standard "all risk" endorsement. The total amount of insurance after application of any deductibles shall not be less than one hundred (100) percent 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 casualty policies.

(b) Comprehensive general liability insurance for the Condominium which provides coverage for bodily injury and property damage resulting from the operation, maintenance or use of the Common Elements and Limited Common Elements in an amount to be determined by the Board but not less than One Million Dollars (\$1,000,000) for any single occurrence.

(c) Workers compensation insurance to the extent required by applicable laws;

(d) If required by the Board or any Mortgagee, blanket fidelity bonds naming the members of the Board and all other persons handling or responsible for funds of the Association. The



bonds shall be in amount at least equal to the greater of (i) three (3) months' aggregate Assessments for all Units plus reserves, or (ii) the maximum funds that are expected to be within the Association's custody or control. 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 bond shall name the Association as the obligee. The bond shall cover the maximum funds that will be in the custody of the Association at any given time during the period in which the bond is enforced.

(e) Insurance against loss of personal property of the Association by fire, theft and other losses with deductible provisions as the Board deems advisable;

(f) Such other insurance as the Board deems advisable.

15.2 Required Provisions. Insurance policies carried pursuant to this Article shall:

(a) 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;

(b) 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;

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

(d) 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;



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

(f) Contain standard mortgagee clauses which name Mortgagees and their successors and assigns. Provide at least ten (10) days, prior written notice to the insureds before the policy may be canceled or substantially modified. Contain no provision (other than insurance conditions) which will prevent Mortgagees from collecting insurance proceeds; and

(g) Contain, if available, an agreed amount and inflation guard endorsement.

15.3 Claims Adjustment. Any loss covered by the property insurance under this Article must be adjusted with the Association, and each Unit Owner, by acquiring his or her Unit subject to this Declaration, appoints the Association as his or her attorney-in-fact for such purposes. The insurance proceeds are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a Mortgage. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lienholder as their interests may appear. Subject to the provisions of Article 16, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lienholders 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 the Condominium is terminated.

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

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





15.6 Notification on 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 16

### PROCEDURES FOR SUBDIVIDING OR COMBINING

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

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

16.1.2 Owner/Mortgagee Approval. Upon written approval of such proposal by all the owners and Eligible Mortgagees, the Owner (s) making the proposal may proceed according to such plans and specifications; provided that the Board may in its discretion require that the Board administer the work or that provisions for the protection of other Units or Common Elements or reasonable deadlines for completion of the work be inserted in the contracts for the work.

16.1.3 Survey Map and Plans. The changes in the Survey Map, if any, and the changes in the Plans and Declaration shall be placed of record as amendments to the Survey Map, Plans, and Declaration.

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



ARTICLE 17

DAMAGE AND REPAIRS

17.1 Definitions. As used in this Article, the term "Significant Damage" means damage or destruction, whether or not caused by casualty, to any part of the Property which the Board is responsible to maintain or repair (a) for which funds are not available in the maintenance and repair or contingency budget of the Association to make timely repairs, and (b) which has a significant adverse impact on the habitability of any Unit or the ability of an Owner or Owners to use the Property or any significant portion of the Property for its intended purpose. As used in this Article, the term "Repair" means to repair, reconstruct, rebuilt or restore the Building or improvement which suffered Significant Damage to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and the Common and Limited Common Elements having substantially the same vertical and horizontal boundaries as before. Modifications to conform to then applicable governmental rules and regulations or available means of construction may be made. As used in this Article, the term "Emergency Work" means the work the Board deems reasonably necessary to avoid further damage, destruction or substantial diminution in value to the improvements and to reasonably protect the owners from liability arising out of the condition of the Property.

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

(a) The nature and extent of the Significant Damage together with an inventory of the improvements and property directly affected thereby;

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

(c) The anticipated insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer;



(d) The amount, if any, that the estimated cost of Repair exceeds the anticipated insurance proceeds therefor and the amount of Assessment to each Unit if such excess was paid as a Common Expense and specifically assessed against all the Units in proportion to their Allocated Interest in the Common Elements; and

(e) The Board, s recommendation as to whether such Significant Damage should be Repaired.

17.3 Notice of Damage or Destruction. The Board shall promptly, and in all events within thirty (30) days after the date of Significant Damage, provide each Owner and each first Mortgagee with a written notice summarizing the initial Board determination. If the Board fails to do so within said thirty (30) days, then any Owner or Mortgagee may make the determination required under Section 16.2 and give the notice required under this section.

17.4 Duty to Restore. Any portion of the Condominium for which insurance is required under this Article which is Significantly Damaged shall be Repaired promptly by the Association unless (a) the Condominium is terminated; or (b) repair would be illegal under any state or local health or safety statute or ordinance. Even if the Significant Damage is not to be Repaired, the Board shall still have authority to perform Emergency Work. The cost of Repair and Emergency Work in excess of insurance proceeds and reserves is a Common Expense.

17.5 Damage not Restored. If all or any portion of the damaged portions of the Condominium are not repaired (regardless of whether such damage is Significant) (a) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium; (b) the insurance proceeds attributable to Units and Limited Common Elements which are not Repaired shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear; and (c) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to their Allocated Interests in the Common Elements.

17.6 Decision to Terminate. In the event of a decision to terminate the Condominium and not to Repair and Restore damage and destruction, the Board may nevertheless expend such of the insurance proceeds and funds of the Association as the Board deems reasonably necessary for Emergency Work (which Emergency Work may include but is not necessarily limited to removal of the damaged or destroyed building and clearing, filling and grading the real



property), and the remaining funds, if any, and Property shall thereafter be held and distributed as provided in RCW 64.34.268.

17.7 Board's Authority. Without limiting the rights and powers of the Board generally, if any damage to the Property is to be Repaired by the Board, the Board shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors and others, and to take such other action as is reasonably necessary to effectuate the Repair. The Board may authorize the insurance carrier to proceed with Repair upon satisfaction of the Board that such work will be appropriately carried out. The Board may enter into a written agreement with any reputable financial institution or trust or escrow company to engage such firm or institution to act as an insurance trustee to adjust and settle any claim for a loss in excess of Fifty Thousand Dollars (\$50,000), or for such firm or institution to collect the insurance proceeds and carry out the provisions of this Article. In the event of a decision to terminate the Condominium and not to Repair, the Board may expend such of the insurance proceeds and funds of the Association as the Board deems reasonably necessary for Emergency Work and the remaining funds, if any, and the Property shall thereafter be held and distributed as provided in the Act.

## ARTICLE 18

### CONDEMNATION

18.1 Condemnation of Units. If a Unit is acquired by condemnation, or if part of a Unit is acquired by condemnation leaving the Unit Owner with a remnant of a Unit which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for the Owner's Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, 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 allocations. Any remnant of a Unit remaining after part of a Unit is taken under this section is thereafter a Common Element.

18.2 Partial Unit Condemnation. If part of a Unit is acquired by condemnation, the award must compensate the Unit Owner for the reduction in value of the Unit and its appurtenant interest in the Common Elements, whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides (a) that Unit's Allocated Interests are reduced in proportion to the



reduction in size of the Unit and (b) the portion of the Allocated Interests divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

18.3 Association May Represent Owners. The Association may represent the Unit Owners in any proceedings, negotiations, settlements or agreements regarding a condemnation of any part of the Condominium, and any condemnation proceeds shall be payable to the Association for the benefit of the Owners of affected Units and their Mortgagees, and, by acquiring Units subject to this Declaration, each Unit Owner appoints the Association as his or her attorney-in-fact for such purposes. Should the Association not act on the Owners' behalf in a condemnation process, the affected Owners may individually or jointly act on their own behalf.

## ARTICLE 19

### PROTECTION OF MORTGAGEES

19.1 Retention of Common Elements. Except when acting pursuant to the provisions of the Act involving damage, destruction, or condemnation, the Association shall not, without the prior written approval of sixty-seven (67) percent of all Eligible Mortgagees and Unit Owners, seek by act or omission to encumber, sell or transfer any of the Common Elements or Limited Common Elements.

19.2 Partitions and Subdivisions. The Association shall not combine or subdivide any Unit or the appurtenant Limited Common Elements, or abandon, partition, subdivide, encumber or sell any Common Elements, or accept any proposal so to do, without the prior written approval of sixty-seven (67) percent of all Eligible Mortgagees and all Unit Owners.

19.3 Change in Percentages. The Association shall not amend this Declaration to change percentages of interest in the Common Elements without the prior written approval of all Unit owners.

19.4 Copies of Notices A Mortgagee of a Unit (and any insurer or guarantor of such Mortgage) shall be entitled to receive timely written notice:



(a) That the Owner/Mortgagor of the Unit has for more than sixty (60) days failed to meet any obligation under the Condominium documents;

(b) Of all meetings of the Association and be permitted to designate a representative to attend all such meetings;

(c) Of any condemnation loss or casualty loss affecting a material portion of the Property or the Unit on which it holds a Mortgage;

(d) Of any lapse, cancellation or material modification of insurance policies or fidelity bonds maintained by the Association; and

(e) of any proposed action that requires the consent of a specified percentage of Mortgagees.

To be entitled to receive such notices the Mortgagee (or Mortgage insurer or guarantor) must send a written request to the Association stating both its name and address and the Unit number or address of the Unit on which it has (or insures or guarantees) the Mortgage.

19.5 Insurance Requirements. With respect to a first Mortgage of a Unit, the Board shall:

(a) Select insurance carriers which meet the Mortgagees' requirements provided Mortgagee has given written notice of the requirements to the Board;

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

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

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

(e) Not make any settlement of any insurance claims for loss or damage to any such Unit, Common or Limited Common Element exceeding Five Thousand Dollars (\$5,000) without the approval of



such Mortgagee; provided, that the withholding of such approval shall not be unreasonable or in conflict with this Declaration;

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

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

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

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

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

19.6 Inspection of Books. Owners, Mortgagees, insurers and guarantors of any Mortgage on any Unit shall be entitled to inspect during all normal business hours all of the books and records of the Association including current copies of this Declaration, Bylaws and other rules governing the Condominium, and other books, records and financial statements of the Association (within a reasonable time following request). Upon written request of any holder, insurer or guarantor of a first Mortgage at no cost to the party so requesting (or if this project contains fewer than fifty (50) Units, upon the written request of any Mortgagee at its expense if an audited statement is not otherwise available), to receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association.

19.7 Approvals of Decisions. Unless sixty-seven (67) percent of first Mortgagees or purchasers of first Mortgages shall have given their prior written approval, the Association shall not be entitled to do any of the following:

(a) By act or omission seek to abandon or terminate the Condominium regime;



(b) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by the Association for the benefit of Unit Owners; provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Property shall not be deemed a transfer within the meaning of this clause;

(c) By act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the Units, the exterior maintenance of the Units, the maintenance of party walls, common fences and driveways, or the upkeep of lawns and plantings on the Property;

(d) Fail to maintain fire and extended coverage insurance on insurable portions of the Common Elements on a current replacement cost basis in an amount not less than one hundred percent (100%) of insurable value based on the then current replacement cost, or fail to maintain any other insurance or endorsement thereto then required by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association;

(e) Use hazard insurance proceeds for losses to any of the Property for other than the repair, replacement or reconstruction of improvements located thereon, except as provided in the Act in cases of substantial losses to the Property;

(f) Alienate all or any portion of the Common Elements; and

(g) Amend this Declaration to change the ratio of assessments, hazard insurance proceeds or condemnation awards attributable to Unit Owners, or the pro rata share of any Unit Owner in the Common Elements.

19.8 Approvals of Amendments. Any amendment to a provision of this Declaration establishing, providing for, governing or regulating the following shall require the consent of sixty-seven (67) percent of the Eligible Mortgagees:

(a) Voting rights;

(b) Assessments, Assessment liens, or the priority of Assessment liens;

(c) Reserves for maintenance, repair, and replacement of Common Elements;

(d) Responsibility for maintenance and repairs;





(e) Reallocation of interests in the Common or Limited Common Elements, or rights to their use;

(f) Redefinition of any Unit boundaries;

(g) Convertibility of Units into Common Elements or vice versa;

(h) Expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property to or from the Condominium;

(i) Insurance or fidelity bond;

(j) Leasing of Units;

(k) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;

(l) A decision by the Association to establish self-management when professional management had been required previously by the Condominium's documents or by an Eligible Mortgagee;

(m) Restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration;

(n) Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or

(o) Any provisions that expressly benefit Mortgage holders, insurers, or guarantors.

A Mortgagee who fails to respond within thirty (30) days of a written request to approve any amendment referred to above shall be deemed to have approved the request if such request was delivered by certified or registered mail with a return receipt requested.

19.9 Remedial Advances. First Mortgagees or purchasers of first Mortgages on Units may, jointly or singly, pay taxes or other charges which are in default and which may have or become a charge against any Common Elements, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements, and first mortgagees or the purchasers of first Mortgages making such payments shall be owed immediate reimbursement therefor from the Association.



19.10 Condemnation Awards. In the event all or any portion of the Common Elements are acquired by condemnation or under threat of condemnation, the condemnation award shall be utilized by the Association to acquire, to the extent possible, comparable replacement areas and facilities. In the event the Association is unable to obtain comparable replacement areas and facilities within a period of nine (9) months from the date the Association received the condemnation award or monies paid to the Association under threat of condemnation, the Association shall pay jointly to any Unit Owner and the Mortgagee holding the Mortgage on said Unit, if any, a pro rata share of said condemnation award or monies received attributable to said Unit. The pro rata share of said condemnation award or monies received shall be determined in accordance with the Act.

19.11 Provisions Controlling. Any provision of this Declaration conferring rights upon Mortgagees which is inconsistent with any other provision of this Declaration or the Bylaws shall control over such other inconsistent provisions.

## ARTICLE 20

### AMENDMENTS

20.1 In General. This Declaration, including the Survey Maps and Plans, may be amended only by vote or agreement of owners of Units to which at least sixty-seven (67) percent of the Total Voting Power is allocated.

20.2 Execution. Amendments to this Declaration required by the Act to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any Board member of the Association designated for that purpose.

20.3 Recording. Every amendment to this Declaration must be recorded in Skagit County, Washington, and is effective only upon recording. An amendment shall be indexed in the name of the Condominium and shall contain a cross-reference by recording number to this Declaration and each previously recorded amendment thereto. All amendments adding Units shall contain a cross reference by recording number to the Survey Map and Plans relating to the added Units and set forth all information required by the Act.

20.4 General Limitations. Except to the extent expressly permitted or required by other provisions of the Act, no amendment may increase the number of Units, change the boundaries of any Unit, the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of the vote or agreement of the



Owner of each Unit particularly affected and the Owners of Units to which at least ninety percent (90%) of the votes in the Association are allocated other than the Declarant.

20.5 Challenge to Validity. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is recorded.

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

## ARTICLE 21

### TERMINATION

21.1 General. Except in the case of a taking of all of the Units by condemnation, this Condominium may be terminated only by agreement of the Unit Owners of Units to which at least eighty (80) percent of the Total Voting Power is assigned. Termination shall be conducted in accordance with the provisions of RCW 64.34.268. Such vote must be evidenced by the execution of a termination agreement in the same manner as a deed by the requisite number of Unit Owners, and said agreement shall specify a date after which it will be void unless it is recorded before that date and shall contain a description of the manner in which the creditors of the Association will be paid or provided for. No termination shall be effective until the termination agreement is recorded. The termination agreement may provide that the Property shall be sold following termination in the manner and with the consequences prescribed by the Act. If the Property is not sold following termination, title therein shall vest in the Unit Owners upon termination as tenants in common with the Owners' respective undivided interests to be allocated as provided in the Act.

21.2 Mortgagee Approval. Eligible Mortgagees that represent Units to which at least sixty-seven (67) percent of the Total Voting Power is assigned must consent to any decision to terminate the legal status of this Condominium for reasons other than substantial destruction or condemnation of the Property.



ARTICLE 22

CONSTRUCTION AND INTERPRETATION

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

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

22.3 Partial Invalidity. If any term, covenant condition or restriction contained in this Declaration should be held to be unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate this Declaration as creating a condominium and shall be limited to the extent practicable to the provision so invalidated.

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

22.5 Rule against Perpetuities. The rule against perpetuities may not be applied to defeat any provision of this Declaration.

22.6 Conflicts among Act, Declaration and Bylaws. In the event of an express conflict between the provision of this Declaration and the Bylaws, this Declaration shall be controlling. In the event of an express conflict between this Declaration and the Condominium Act, the Act shall be controlling.

22.7 No Waiver of Strict Performances. The failure of the Board in any one or more instances to insist upon the strict performance of this Declaration, of the Bylaws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction



shall remain in full force and effect. The receipt by the Board of any assessment from an Owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

22.8 Delivery of Notice. Any notice permitted or required to be delivered under the provisions of this Declaration or the Bylaws may be delivered either personally or by mail. If delivery is made by mail, any such notice shall be deemed to have been delivered twenty-four (24) hours after a copy has been deposited in the United States mail, postage prepaid, by first class mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board. Notice to the Owner or Owners of any Unit shall be sufficient if mailed to the Unit of such person or persons if no other mailing address has been given to the Board by any of the persons so entitled. Mailing addresses may be changed from time to time by at least fifteen (15) days' prior written notice to the Board. Notice to be given to the Board shall be given to the President or Secretary of the Board.

22.9 Captions. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof.

ARTICLE 23

EFFECTIVE DATE

This Declaration shall take effect upon recording.

KING SQUARED LLC

BY: 

Dale King

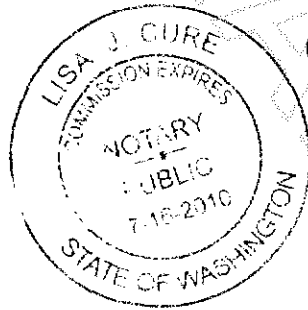
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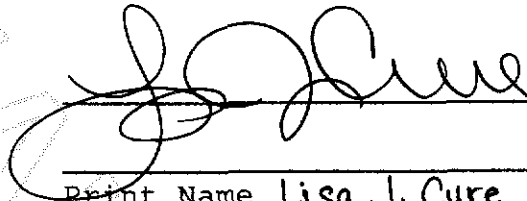


STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 3rd day of ~~May~~ <sup>August</sup>, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Dale King, to me known to be a member of King Squared LLC, the company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

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





Print Name Lisa J. Cure  
Notary Public in and for the State of  
Washington residing at: Bow  
My commission expires: 7/16/2010



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Skagit County Auditor

EMPIRE CONDOMINIUM

EXHIBIT A

ALLOCATED INTERESTS

Unit Number	Unit Square Footage	Declared Value	ALLOCATED INTERESTS
701	2,887	\$ _____	.50
705	1,519	\$100,688	.29
915	1,133	\$ _____	.21
		\$ _____	1.000

**SQUARE FOOTAGE NOTES**

Square footages are based on surveyor's "as-built" certificate upon completion of construction; are based on interior surface dimensions (excluding perimeter wall thickness and the deck and storage area); and may be less than square footages used in advertising brochures which are based on good faith architectural estimates.

**ALLOCATED INTERESTS NOTES**

Allocated Interests of a Unit in Common Elements were determined by dividing the Declared Value of the Unit by the aggregate Declared Values of all Units. The Declared Value of a Unit is used solely for the purpose of determining Allocated Interest and is not necessarily the price for which a Unit may be sold.



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Skagit County Auditor

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**ENCLOSURE (1)**

**LEGAL DESCRIPTION OF THE CONDOMINIUM PROPERTY**

The North 70 feet of Lots 8, 9 and 10, Block 21, "MAP OF THE CITY OF ANACORTES, SKAGIT COUNTY, WASHINGTON," as per plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington.

Situate in the City of Anacortes, County of Skagit, State of Washington.



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Skagit County Auditor

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