

When recorded return to:  
9745 Valley Road Farm LLC  
9745 NE Valley Road  
Bainbridge Island, WA 98110



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CONDOMINIUM DECLARATION FOR VALLEY ROAD FARM  
A CONDOMINIUM

Grantor/Declarant	9745 VALLEY ROAD FARM, LLC, a Washington limited liability company Additional names on pg. <u>N/A</u>
Grantee	VALLEY ROAD FARM, A CONDOMINIUM Additional names on pg. <u>N/A</u>
Legal Description	NW NW 14 25 02E Official legal description on Schedule A
Assessor's Tax Parcel No:	142502-2-025-2006
Reference# (if applicable)	<u>N/A</u> Additional numbers on pg. <u>N/A</u>

**CONDOMINIUM  
DECLARATION  
FOR  
VALLEY ROAD FARM  
A CONDOMINIUM**



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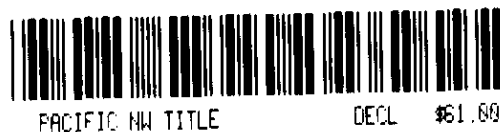
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## ARTICLE 1 DEFINITIONS

**Section 1.1 Words Defined.** For the purposes of this Declaration and any amendments to it, the following definitions shall apply.

**Allocated Interests** means the allocation of Common Expense Liability, interest in Common Elements and votes allocated to each Unit in the Condominium determined in accordance with the formulas set forth in Section 5.4 and as specified in Schedule B.

**Articles** means the Articles of Incorporation for the Association.

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

**Association** means the owners association identified in Article 14.

**Board** means the board of directors of the Association, as described in Article 16.

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

**Common Elements** means all portions of the Condominium other than Units, including the Limited Common Elements.

**Common Expenses** means expenditures made by or financial liabilities of the Association including those expenses related to the maintenance, repair and replacement of the Common Elements, including allocations to reserves, and any utility services provided to the Owners.

**Common Expense Liability** means the liability for Common Expenses allocated to each Unit, as set forth in Schedule B.

**Condominium** means Valley Road Farm, a Condominium, created under the Declaration and the Survey Map and Plans.

**Condominium Act** means the Washington Condominium Act, RCW 64.34, as amended.

**Consensus** means the procedure for decision making in the Association as described in the Bylaws.



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**Conveyance** means any transfer of the ownership of a Unit, including a transfer by deed or by real estate contract.

**Declarant** means 9745 Valley Road Farm, LLC, a Washington limited liability company, and its successors and assigns.

**Declaration** means this Condominium Declaration for Valley Road Farm, a Condominium, as it may be amended from time to time.

**Development Rights** means those rights under Bainbridge Island Municipal Code set forth in Article 15.

**Eligible Mortgagee** means the Mortgagee that has filed with the secretary of the Association a written request that it be given copies of notices of any action by the Association that requires the consent of Mortgagees.

**FHLMC** means the Federal Home Loan Mortgage Corporation.

**FNMA** means the Federal National Mortgage Association.

**Foreclosure** means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu of foreclosure.

**Home** means a structure located within a Unit which is designed and intended for use and occupancy as a residence by a single family or which is intended for use in connection with the residence.

**HUD** means the Department of Housing and Urban Development.

**Identifying Number** means the Unit letter on the Survey Map and Plans which identifies each Unit in the Condominium.

**Limited Common Element** means a portion of the Common Elements allocated in Article 7 for the exclusive use of one Unit. Whenever the term "Limited Common Element" is used, it shall include Limited Common Element Improvements, if any, constructed or placed within a Limited Common Element.

**Limited Common Element Improvements** means all buildings, structures, fixtures and other improvements located within a Limited Common Element.

**Managing Agent** means the person, if any, designated by the Board under Section 14.4.4.

**Mortgage** means a mortgage, deed of trust or real estate contract.

**Mortgagee** means any holder, insurer or guarantor of a mortgage on a Unit.



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**Notice and Opportunity to be Heard** means the procedure described in Section 16.5.

**Owner or Unit Owner** means Declarant or other person who owns a Unit, but does not include any person who has an interest in a Unit solely as security for an obligation.

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

**Structure** means any building, fence, wall, pole, driveway, walkway, patio, hot tub or the like.

**Survey Map and Plans** means the survey map and plans filed simultaneously with the recording of this Declaration and any amendments, corrections and addenda to them subsequently filed.

**Unit** means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described in Section 5.2 and shown on the Survey Map and Plans. Whenever the term "Unit" is used, it shall include Unit Improvements, if any, constructed or placed within the boundaries of a Unit.

**VA** means the Veterans Administration.

**Section 1.2 Form of Words.** The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine and gender-neutral pronouns shall be used interchangeably.

**Section 1.3 Statutory Definitions.** Some of the terms defined above are also defined in the Condominium Act. The definitions in the Declaration are not intended to limit or contradict the definitions in the Condominium Act. If there is any inconsistency or conflict, the definition in the Condominium Act shall prevail.

## **ARTICLE 2 CONSTRUCTION AND VALIDITY OF DECLARATION**

The Declaration and the Condominium Act provide the framework by which the Condominium is created and operated. In the event a conflict between the provisions of the Declaration and the Condominium Act, the Condominium Act shall prevail. In the event of a conflict between the Declaration and the Bylaws, the Declaration shall prevail except to the extent the Declaration is inconsistent with the Condominium Act. The creation of the Condominium shall not be impaired and the title to a Unit and its interest in the Common Elements shall not be rendered unmarketable or otherwise affected by reason of an insignificant failure of this Declaration or the Survey Map and Plans or any amendment to them to comply with the Condominium Act.



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### ARTICLE 3 NAME OF CONDOMINIUM

The name of the Condominium created by this Declaration and the Survey Map and Plans is Valley Road Farm, a Condominium.

### ARTICLE 4 DESCRIPTION OF LAND

The real property included in the Condominium is described in Schedule A.

### ARTICLE 5 DESCRIPTION OF UNITS; ALLOCATED INTERESTS

**Section 5.1 Number and Identification of Units.** The Condominium has 4 units. The Identifying Letter of each Unit is set forth in Schedule B. The location of the Units are shown on the Survey Map and Plans.

**Section 5.2 Unit Boundaries.** The Units are open space Units. The vertical boundaries of the Units are the planes in space shown on the Survey Map and Plans. The horizontal boundaries are the legal limits of ownership of a fee interest in the land. The open space and any Home or other Structures within the boundaries of a Unit are a part of the Unit.

**Section 5.3 Unit Data.** Schedule B sets forth the following data for each Unit if applicable: the square footage; the number of bedrooms; the number of bathrooms; the number of rooms designated primarily as bedrooms; the number of built-in fireplaces; and the level or levels upon which each Unit is located. Upon the completion of construction or alteration of a Home within a Unit in accordance with plans approved by the Board, Schedule B shall be amended by the Association to provide or correct the data required by that schedule.

**Section 5.4 Allocated Interests.** Schedule B sets forth the allocated interests of each of the Units in the Condominium for the purposes of Common Expense Liability, interest in the Common Elements and voting. The formulas for making allocations are as follows:

- Common Expense Liability: 100% divided equally among Units
- Common Interest: 100% divided equally among Units
- Voting: 2 votes per Unit.

### ARTICLE 6 COMMON ELEMENTS

**Section 6.1 Description.** The Common Elements are all portions of the Condominium other than the Units.

**Section 6.2 Use.** Each Owner shall have the right to use the Common Elements, other than the Limited Common Elements, in common with all other Owners, and a right of access from the Owner's Unit across the Common Elements to the public street. The right to use the Common Elements extends not only to each Owner, but also to the Owner's agents, servants, tenants, family members, invitees and licensees. The right to use the Common Elements, including the Limited Common Elements, shall be governed by the provisions of the Condominium Act, the Declaration, the Bylaws, and the rules and regulations of the Association. Nothing shall be



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altered, placed, stored, planted, constructed or, except for an Owner's personal property, removed from the Common Elements, other than the Limited Common Elements, without prior written approval of the Board.

**Section 6.3 Conveyance or Encumbrance of Common Elements.** Portions of the Common Elements not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association if all of the Owners of Units agree. All of the Owners of Units to which any Limited Common Element is allocated must agree in order to cover that Limited Common Element or subject it to a security interest.

## **ARTICLE 7 LIMITED COMMON ELEMENTS**

**Section 7.1 Description.** The Limited Common Elements allocated to each Unit are as shown on the Survey Map and Plans. Each Limited Common Element includes all Limited Common Element Improvements placed or constructed upon it.

**Section 7.2 Use.** A Limited Common Element is an area that is owned in common with all other Owners, but that is reserved for the exclusive use of the Owners of the Unit to which the Limited Common Element is allocated. The right to use extends to the Owner's agents, servants, tenants, family members, invitees and licensees. Unless prohibited by law, Limited Common Elements are encouraged to be used for small scale organic farming or gardening purposes as provided and defined in rules and regulations adopted by the Association. Other uses may be provided for in the rules and regulations.

### **Section 7.3 Reallocation.**

**7.3.1** A Limited Common Element may be reallocated between Units only with approval of the Board according to rules and regulations adopted by the Association and by an amendment to the Declaration executed by the Owners of the Units to which the Limited Common Element was and will be allocated.

**7.3.2** The Board shall approve the request of an Owner or Owners under this Section within 30 days unless the proposed reallocation does not comply with the Condominium Act or the Declaration. The failure of the Board to act upon a request within that time period shall be deemed approval of the request.

**7.3.3** A Common Element may be reallocated as a Limited Common Element or a Limited Common Element may be incorporated into an existing Unit with the approval of all the Owners. The reallocation or incorporation shall be reflected in an amendment to the Declaration and the Survey Map and Plans. The amendment shall be recorded in the names of the parties and of the Condominium.



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## Section 7.4 Allocation for Additional Units.

7.4.1 If one or more additional Units is created, then the undivided interests in the Limited Common Elements will all be deemed reallocated automatically upon creation of the additional Units.

7.4.2 The undivided interest of the Owner of each Unit in the Limited Common Elements will be a fraction, the numerator of which is 1, and the denominator of which is the total number Units in the Condominium.

7.4.3 The reallocation shall be reflected in an amendment to the Declaration and the Survey Map and Plans. The amendment shall be recorded in the names of the parties and of the Condominium.

## ARTICLE 8 CONSTRUCTION/MODIFICATION OF STRUCTURES

Section 8.1 **In General.** The architectural goal of the Condominium is to build according to design principles of energy efficiency and the wise use of resources. The Association shall rely on the good faith of the Owners to promote these principles without binding restrictions except those set forth in this Article. Each Owner shall be exclusively liable for any damage to other Units, Common Elements or Limited Common Elements caused by or relating to work permitted under this Article. Declarant has no obligation to provide Unit Structures, including without limitation any utilities, driveways, services or infrastructure. The rules and regulations for Unit Structures may be different from those applicable to Limited Common Element Improvements.

Section 8.2 **Approval Required.** No construction or alteration shall be started without the written approval of the Board, which shall be solely based upon compliance with this Section.

8.2.1 Before any construction or alteration of any Home or other Structure is begun within a Unit, the Owner must provide the following information in writing to the Board:

- i) Estimated start and completion dates,
- ii) Detailed and reasonably accurate description of how the project supports, and does not conflict with, the Vision Statement and
- iii) Assurance that the Owner's plans will comply with
  - applicable building codes,
  - the size restrictions in Section 8.6 and
  - the location of the Structure within the Unit as shown on the Survey Map and Plans.

8.2.2 The Board shall only have the right to disapprove those plans which do not contain the above information and must do so in writing within 15 days after the information has been submitted. If the Board does not act within the 15-day period, the plans shall be deemed approved as submitted

Section 8.3 **Time Limits.** Once commenced, all construction or renovation of any Structure shall be diligently pursued by the Owner until completion, and a Home shall be substantially



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completed, including all exterior finishes and painting, within 12 months after commencement of construction. . If a Home or other Structure is not completed within 12 months from the date work is begun, the Owner may, with an explanation of the delay, request from the Board in writing a 6-month extension. The Board shall have 21 days to approve or deny the request. If the Board denies the request, it shall do so in writing, stating the reasons for the denial.

**Section 8.4 Placement of Materials.** Construction equipment and materials may be placed within a Unit or its allocated Limited Common Element to the extent reasonably necessary for the construction of any Structure. An Owner may, with approval of the Board, live in temporary housing, including a trailer, in the Owner's Unit or Limited Common Element during construction of a Home within the Unit.

**Section 8.5 After Construction.** If an Owner does not perform all clean up and repair activities required within 30 days following the completion of construction activities or within 15 days following Notice and Opportunity to be Heard, whichever is earlier, the Board may perform the clean-up and repairs, and collect the cost of doing so from the Owner as an Assessment on the Owner's Unit or Units.

**Section 8.6 Restrictions on Structures.** In recognition of the underlying environmental values of the Condominium, the following restrictions on building size and site planning are to guide all decisions of the Association and the Board.

**8.6.1 Living Space Defined; Maximum Size.** The aggregate enclosed above-grade living space of a Home shall not exceed 2,000 square feet measured within the exterior walls. Enclosed above-grade living space" shall refer only to the area within a Home that is permanent, heated, fully-enclosed and intended for human habitation (Living Space).

**8.6.2 Other Space Defined; Maximum Size.** Living Space shall not include basements extending less than eighteen inches above-grade, garages, attached greenhouses used primarily for growing plants, unfinished basements or other unfinished and unheated storage areas (collectively, Other Space). The aggregate area of all Other Spaces within the boundaries of a Unit shall not exceed 500 square feet.

**8.6.3 Impervious Surface.** The aggregate ground area covered by impervious surfaces within the boundaries of a Unit shall not exceed 3,000 square feet.

**8.6.4 Reallocation.** The total combined maximum square footage for a Home and Other Spaces combined is 3,000 square feet. The ratio between a Home and Other Spaces may be reallocated using a ratio of 1.5 square feet of Other Space for each square foot of Dwelling Space except for basements less than 18 inches above grade where the ratio shall be 2 square feet for each square foot of Dwelling Space..



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## **ARTICLE 9 CONSTRUCTION/MODIFICATION OF LIMITED COMMON AREA IMPROVEMENTS**

**Section 9.1 Approval Required.** No Limited Common Element Improvements may be placed, constructed or modified without the written consent of the Board which shall not be unreasonably withheld. Construction equipment and materials may be placed within a Unit or its allocated Limited Common Element to the extent reasonably necessary for the construction of any improvement. Each Owner shall be exclusively liable for any damage to other Units, Common Elements or Limited Common Elements caused by or relating to work permitted under this Article.

**Section 9.2 Procedure for Approval.** The Owner shall inform the Board of estimated start and completion dates of any work and submit proof of compliance with any applicable laws. The Board shall have 30 days to approve or disapprove the work. If the Board does not act within the 30-day period, the plans shall be deemed approved as submitted.

## **ARTICLE 10 PARKING**

**Section 10.1 Assignment of Reserved Parking Spaces.** In the Condominium, there will be four reserved parking spaces to be designated, marked and one assigned to each Unit. These parking spaces are not shown on the Survey Map and Plans and shall be designated, marked and assigned by the Board pursuant to rules and regulations adopted by the Association. These reserved parking spaces may be used only by, or with the permission of, the Owner of the Unit to which the parking space is assigned. Parking spaces are not Limited Common Elements and the assignments are subject to change. In addition, the Association may provide guest or temporary parking spaces.

### **Section 10.2 Parking in Designated Areas.**

**10.2.1** Motor vehicle parking in the Condominium shall be allowed only in the following areas:

- i) Completely within a parking space, carport or garage contained within a Unit,
- ii) Completely within a portion of the Limited Common Elements that has been approved by the Association for parking use, or
- iii) Completely within a marked parking space designated by the Association within the Common Elements.

**10.2.2** All other driveways and paved areas are deemed fire lanes and may not be obstructed, except by a duly authorized emergency vehicle. The Board may direct that any vehicle or other thing improperly parked or kept in a fire lane be removed, and if it is not removed, the Board may cause it to be removed at the risk and cost of the owner.

## **ARTICLE 11 PERMITTED USES; MAINTENANCE**

**Section 11.1 Residential Use, Timesharing Prohibited.** The Units are intended for and restricted to residential use only, on an ownership, rental or lease basis, and for social, recreational or other reasonable activities normally incident to such use, including use as a home



office or business not involving regular use by nonresidential employees or regular visits by customers or clients. Board approval shall be required for any business activity that involves public traffic within the Condominium. Timesharing of Units, as defined in RCW 64.36, is prohibited.

#### **Section 11.2 Maintenance of Common Elements.**

11.2.1 Except for parking spaces assigned to Units, the Association shall be responsible for maintenance, repair and replacement of Common Elements, other than Limited Common Elements, and the costs shall be assessed as a Common Expense. It is understood that the roads and driveways in the Condominium are or will be gravel and that they will require periodic maintenance by the Association.

11.2.2 The Association may construct, pave and maintain the assigned parking spaces as a Common Expense, allocate the costs in another way or require that Owners construct, pave and maintain the assigned parking spaces at Owners' expense.

**Section 11.3 Maintenance of Units and Limited Common Elements.** Each Owner is responsible for maintaining the good appearance and condition of the Unit and Limited Common Element allocated to the Unit, including the exterior of any Home, Structure or other improvement within the Unit or the Limited Common Element. Each Owner shall keep the Unit and Limited Common Element in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair. Each Owner shall be responsible for the maintenance, repair or replacement of utility lines or services that serve only that Unit, whether or not located in the Unit.

**Section 11.4 Effect on Insurance.** Nothing may be done or kept in any Unit or in any Common Element or Limited Common Element that will increase the rate of insurance on the Condominium without the prior written consent of the Board. Nothing may be done or kept in any Unit, Common Element or Limited Common Element that will result in the cancellation of insurance on any part of the Condominium, or that would be in violation of any laws.

**Section 11.5 Entry for Maintenance and Repairs.** The association and its agents and employees may enter any Unit and the Limited Common Element allocated to a Unit to effect repairs, improvements, replacements or sanitation work deemed by the Board to be necessary in the performance of its duties, to do necessary work that the Owner has failed to perform or to prevent damage to the Common Elements, Limited Common Elements or another Unit. Except in cases of great emergency that preclude advance notice, the Board shall cause the Unit occupant to be given Notice and Opportunity to be Heard as far in advance of entry as is reasonably practicable. The Board may levy a special assessment against the Owner of the Unit for all or a portion of the cost of the work that the Owner has failed to perform which may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed under Article 18.



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**Section 11.6 Trash.** No one may leave refuse, garbage, trash, etc. on any portion of the Common Elements or Limited Common Elements except in designated places. The Board may, upon request, made exceptions on a temporary basis for specific purposes.

**Section 11.7 Noxious or Offensive Activity.** As a community, the Owners recognize the value of living together in harmony and tranquility and also recognize the difficulty of defining noxious or offensive activity on the part of Owners, residents and others in the Condominium. It is expected that the rules and regulations of the Association will partially anticipate and address problems of this kind.

**Section 11.8 Signs.** No sign of any kind shall be displayed to the public view on or from any Unit, Limited Common Element or Common Element without the prior consent of the Board unless the sign complies with rules and regulations of the Association. Because of the Owners' profound respect for both freedom of expression and comfort of all residents of the Condominium, the Board shall consider the impact of a sign on the Condominium as a whole without regard to the content when asked to approve a sign.

**Section 11.9 Pets.** Domesticated animals, birds or reptiles (collectively referred to as pets) may be kept in the Units or the Limited Common Elements subject to the rules and regulations of the Association. The Association may regulate access of pets to the Common Elements as experience demonstrates the need for regulation. The Board may, after Notice and Opportunity to be Heard require the removal of any pet which it finds is disturbing other Owners unreasonably, and may exercise authority for specific pets even though other pets are permitted to remain.

**Section 11.10 Quiet Enjoyment.** No Owner shall permit anything to be done or kept in the Owner's Unit, Limited Common Element allocated to the Unit or Common Elements which would interfere with the rights of quiet enjoyment of the other residents of the Condominium.

## **ARTICLE 12 RENTALS**

**Section 12.1 In General.** No rental of a Unit may be for less than the entire Unit nor less than 6 months. This shall not prevent an Owner from having "housemates" who pay rent or share expenses. Owners may not rent their Units to non-Owners for more than 24 months during any 5-year period. All rental agreements shall be in writing, and a copy must be delivered to the Association before the tenancy begins. Other than as stated in this Article, there is no restriction on the right of an Owner to rent a Unit. The use of the terms "rent" and "rental" shall include "lease."

### **Section 12.2 Rental Agreement.**

**12.2.1** Rental agreements must provide that the terms shall be subject in all respects to the provisions of the Declaration, and the Bylaws and rules and regulations of the Association, and that any failure by the tenant to comply with the terms of these documents and the rules and regulations shall be a default under the rental agreement.



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12.2.2 If a rental agreement under this Article does not contain the provisions in Section 12.2.1, such provisions shall be deemed to be part of the rental agreement and binding upon the Owner and the tenant by reason of their being stated in the Declaration.

**Section 12.2 Board Supervision.** The Board shall supervise all renting, leasing or subleasing of Units or Limited Common Elements to ensure compliance with this Article. The Association may require written approval of the Board or its designee before any rental of a Unit or Limited Common Element takes effect.

**Section 12.3 Limited Common Elements.** Owners may rent all or a portion of the Limited Common Elements allocated to their Units separately from their Units, but only for small scale organic farming or gardening or as provided in the rules and regulations of the Association.

**Section 12.4 Prospective Tenant Orientation and Screening.** In order that prospective tenants of Units understand the operation of the Condominium before renting a Unit, the Association may require that any prospective tenant, before executing a binding rental agreement for a Unit, meet with the Board or its designee, tour the property and receive information concerning the operation of the Condominium as the Association determines is appropriate. The Association may adopt a rule that requires any Owner desiring to rent a Unit to have any prospective tenant other than a relative of the Owner screened at the Owner's cost, by a tenant screening service designated or approved by the Board and to furnish the report of the tenant screening service to the Board or its designee prior to the Owner's entering into a rental agreement with the prospective tenant.

**Section 12.5 Limitation of Number of Units Rented.** The maximum number of Units rented at any time shall be two. No rental shall be permitted that would cause the number of Units rented to exceed the maximum number.

**Section 12.6 Board Authority to Terminate Tenancy.**

12.6.1 If any tenant or resident of a Unit violates or permits the violation by guests and invitees of any provisions of the Declaration, or the Bylaws or rules and regulations of the Association, and the Board determines that i) the violations have been repeated and ii) a prior notice to cease has been given, the Board may give notice to the tenant or resident and to the Owner of the Unit to immediately cease the violations.

12.6.2 If the violation is then repeated, the Board shall have the authority, on behalf and at the expense of the Owner, to evict the tenant or resident if the Owner fails to do so after Notice and an Opportunity to be Heard. The Board shall have no liability to an Owner, tenant or resident for any eviction made in good faith. The Association shall have a lien against the Owner's Unit for any costs incurred by it in connection with the eviction, including reasonable attorneys' fees, which may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed under Article 18.



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## ARTICLE 13 RIGHT OF FIRST REFUSAL; CONVEYANCE OF UNIT

**Section 13.1 Right of First Refusal** Each initial Owner of a Unit must have been a member of Declarant prior to conveyance of the Unit to the Owner. The right of an Owner to sell the Unit after the original conveyance shall be subject to a right of first refusal of the Association, acting through the Board, as follows:

13.1.1 An Owner desiring to sell a Unit shall deliver a written notice to the Board advising of the Owner's intention to sell and stating the asking price, which notice shall constitute an offer to sell the Unit at the stated asking price to the Association or its designee.

13.1.2 The Board shall promptly send the notice to the other Owners and may notify others whom the Board believes may have an interest in purchasing a Unit in the Condominium.

13.1.3 The Association, or its designee named by the Board, shall have 15 days in which to accept the offer or to make a counter-offer at a lower price.

13.1.4 If the asking price is accepted or if the selling Owner accepts the lower price counter-offer, the selling Owner shall be obligated to sell the Unit to the Association or its designee at the asking price or the agreed lower price, as the case may be.

13.1.5 Unless otherwise agreed, the purchase price shall be paid all cash at closing within 60 days and the selling Owner shall convey marketable title to the Unit by Statutory Warranty Deed, pay the excise tax and provide standard coverage title insurance. Other closing costs shall be allocated in the usual manner for Kitsap County, Washington.

13.1.6 If i) the Association or its designee does not agree to pay the asking price, or ii) the lower price counter-offer is not accepted by the selling Owner or iii) the Association does not make a counter-offer, the selling Owner shall, subject to compliance with the new-purchaser orientation requirements in this Article, be free to sell the Unit to a third party for six months after the end of the 15-day period. The sales price shall be equal to or greater than the Association's counter-offer or at any price if the Association does not make a counter-offer.

13.1.7 If the selling Owner wishes to accept an offer below the Association's counter-offer, the selling Owner shall re-offer the Unit to the Association or its designee at the lower price in the manner provided above.

13.1.8 The right of first refusal contained in this Section shall not apply with respect to any sale or transfer of a Unit in connection with foreclosure of a Mortgage or the acceptance of a deed in lieu of foreclosure, or with respect to any sale or transfer by the Mortgagee or other party who acquired the Unit in connection with the foreclosure or deed in lieu of foreclosure.

**Section 13.2 Purchaser Orientation and History.** In order that prospective purchasers of Units understand the operation of the Condominium before purchasing a Unit, the Association



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may require that any prospective purchaser, before executing a binding purchase agreement for a Unit, meet with the Board or its designee, tour the property and receive such information concerning operation of the Condominium as the Association determines is appropriate in addition to receiving the information required by the Condominium Act. Because of the interdependence of the community, the Association may also require a complete credit check on a prospective purchaser, including without limitation a criminal history.

### **Section 13.3 Conveyance of Unit.**

13.3.1 At least two weeks before closing the sale or other transfer of a Unit, the Owner of the Unit shall notify the Board in writing of i) the name- and address of the purchaser, the closing agent and the title insurance company insuring the purchaser's interest, and ii) the expected closing date.

13.3.2 The Board shall have the right to notify the purchaser, the title insurance company, and the closing agent of the amount of unpaid Assessments and charges outstanding against the Unit, whether or not such information is requested. Promptly upon the conveyance of a Unit, the new Owner shall notify the Association of the date of the conveyance and the Owner's name and address. The Association shall notify each insurance company that has issued an insurance policy under Article 22 of the name and address of the new Owner and request that the new Owner be made a named insured under the policy.

### **Section 13.4 First Conveyance of Unit.** At the time of the first conveyance of each Unit:

- a. Every mortgage, lien and other encumbrance affecting that Unit and any other Unit or Units or real property, other than the percentage of undivided interest of that Unit in the Common Elements, shall be paid and satisfied of record, or
- b. The Unit being conveyed and its undivided interest in the Common Elements shall be released from the mortgage, lien or other encumbrance by partial release duly recorded or
- c. The purchaser of the Unit shall receive title insurance from a licensed title insurance company against the mortgage, lien or other encumbrance.

## **ARTICLE 14 OWNERS ASSOCIATION**

Section 14.1 **Form of Association.** Declarant shall become the owners association for the Condominium and shall be known as the Valley Road Farm Owners Association. The Association is a nonprofit corporation, the members of which shall be the Owners of Units in the Condominium. The Association shall be governed by a Board. The rights and duties of the Board and of the Association shall be governed by the provisions of the Condominium Act, the Declaration and the Bylaws. Decision making shall generally be by consensus with voting resorted to only as provided in the Bylaws..

**Section 14.2 Bylaws.** The Association shall adopt Bylaws to supplement the Declaration, to provide for the administration of the Association and the Condominium and for other purposes not inconsistent with the Condominium Act or the Declaration.

**Section 14.3 Qualification and Transfer.**

14.3.1 Each Owner of a Unit shall be a member of the Association, and each Unit shall be entitled to two votes.

14.3.2 An Owner's membership shall 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. If a Unit has been sold on contract, the contract purchaser shall exercise the rights of the Owner for purposes of the Association, the Declaration and the Bylaws, 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 shall operate automatically to transfer the membership in the Association to the new Owner.

**Section 14.4 Powers of Association.** In addition to those actions authorized elsewhere in the Declaration, the Association shall have the power to:

14.4.1 Adopt and amend the Bylaws for the Association;

14.4.2 Adopt and amend rules and regulations for the Condominium;

14.4.3 Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect Common Expenses and special Assessments from Owners;

14.4.4 Hire and discharge or contract with Managing Agents and other employees, agents; and independent contractors;

14.4.5 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;

14.4.6 Make contracts and incur liabilities;

14.4.7 Regulate the use, maintenance, repair, replacement and modification of Common Elements and Limited Common Elements;

14.4.8 Cause additional improvements to be made as a part of the Common Elements;

14.4.9 Acquire, hold, encumber, convey, and dispose of in the Association's name, right, title, or interest to real or tangible and intangible personal property, and arrange for and supervise any addition or improvement to the Condominium, provided that:



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a. If the estimated cost of any separate property acquisition or addition or improvement to the Condominium exceeds \$5,000 and has not been included in the current year's budget, the approval of all the Owners shall be required,

b. No structural change shall be made to a Unit without the approval of the Owner of that Unit, and

c. The beneficial interest in any property acquired by the Association pursuant to this Section shall be owned by the Owners in the same proportion as their respective interests in the Common Elements and shall thereafter be held, sold, leased, mortgaged or otherwise dealt with as the Board shall determine.-

14.4.10 Grant easements, leases, licensees and concessions through or over the Common Elements and petition for or consent to the vacation of streets and alleys;

14.4.11 Impose and collect any payments, fees or charges for the use, rental or operation of the Common Elements and for services provided to Owners;

14.4.12 Acquire and pay for all goods and services reasonably necessary or convenient for efficient and orderly functioning of the Condominium;

14.4.13 Impose and collect charges for late payment of Assessments as further provided in Article 18 and, after Notice and an Opportunity to be Heard by the Board or by a representative designated by the Board in accordance with procedures provided in the Declaration, the Bylaws or rules and regulations adopted by the Association, levy reasonable fines in accordance with a previously established schedule adopted by the Association and furnished to the Owners for violations of the Declaration, the Bylaws and rules and regulations of the Association;

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

14.4.15 Provide for the indemnification of its officers and Board and maintain directors and officers liability insurance;

14.4.16 Assign its right to future income, including the right to receive Assessments;

14.4.17 Provide or pay, as part of the Common Expenses, utility services to the Units which are not separately metered or charged to a Unit by the utility company;

14.4.18 Exercise any other powers conferred by the Declaration or the Bylaws, any other powers that may be exercised in this state by the same type of corporation as the Association, and any other powers necessary and proper for the governance and operation of the Association.



## **Section 14.5 Financial Statements and Records.**

14.5.1 The Association shall keep financial records in accordance with generally accepted accounting principles and in sufficient detail to enable the Association to comply with the resale certificate requirements set forth in RCW 64.34. 425. All financial and other records shall be made reasonably available for examination by any Owner and the Owner's authorized agents.

14.5.2 At least annually the Board shall prepare or cause to be prepared a financial statement of the Association in accordance with generally accepted accounting principles. 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 upon request shall receive the annual financial statement within 120 days following the end of the fiscal year.

14.5.3 An Owner or Mortgagee, at the Owner's or Mortgagee's expense, may at any reasonable time conduct an audit of the books of the Association. Upon written request of FHLMC, FNMA, HUD or VA, if it is a Mortgagee, the Association shall provide within a reasonable time the financial statement of the Association for the preceding fiscal year.

**Section 14.6 Inspection of Condominium Documents; Books and Records.** The Association shall make available to Owners, Mortgagees, prospective purchasers and their prospective Mortgagees, and the agents or attorneys of any of them, current copies of the Declaration, the Articles, the Bylaws, the rules and regulations of the Association, and other books, records and financial statements of the Association. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. The Association may require the requesting party to pay a reasonable charge to cover the cost of making copies.

**Section 14.7 Multiple Owners.** When a Unit has two Owners and only one is present at a meeting of the Association, or only one has delivered a proxy to the Secretary, that Owner is entitled to cast all the votes allocated to the Unit. When both Owners are present or have both delivered proxies to the Secretary, each is entitled to cast one vote. In the event that a Unit has more than two Owners, the provisions in RCW 64.34.340 regarding voting by multiple owners shall apply.

## **ARTICLE 15 DECLARANT RESERVATION OF SPECIAL RIGHTS; DECLARANT TRANSFER OF DOCUMENTS**

### **Section 15.1. Reservation of Development Rights.**

15.1.1 To the best of Declarant's knowledge, under the Bainbridge Island Municipal Code, the Condominium presently has 5 Development Rights, allowing 5 Units. Declarant has exercised only 4 of the allowed Development Rights. Declarant reserves the right to add one additional Unit and to reallocate Common Elements, and shall assign these rights to



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the Association at the time of conveyance of the first Unit and transfer of all documents to the Association.

15.1.2 The Board shall not decide to exercise the assigned Development Rights unless all the Owners agree in writing.

15.1.3 None of the Development Rights shall be deemed extinguished, encumbered or diminished in any way by the recording of the Declaration and the creation of the Condominium.

15.1.4 Except as may be expressly provided by law or in a written agreement separate from the Declaration, no party is under any obligation to exercise any of the Development Rights within any particular period of time.

**Section 15.2 Declarant's Transfer of Documents to Association.** By the time of the first conveyance of a Unit, Declarant shall have delivered to the Association all property of the Owners and the Association held or controlled by Declarant including, but not limited to, the following:

- a. The original or a photocopy of the recorded Declaration and each amendment to the Declaration,
- b. The certificate of incorporation and a copy or duplicate original of the Articles as filed with the secretary of state;
- c. The minute books, including all minutes and other books and records of the Association,
- d. Any rules and regulations that have been adopted,
- e. The financial records, including cancelled checks, bank statements, and financial statements of the Association and source documents,
- f. Association funds or the control of the funds of the Association,
- g. All tangible personal property of the Association, represented by Declarant to be the property of the Association and inventory of the property,
- h. Insurance policies for the Condominium and the Association,
- i. Copies of any certificates of occupancy that may have been issued for the Condominium,
- j. Any other permits issued by governmental bodies applicable to the Condominium, in force or issued within one year;



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- k. All original warranties that are still in effect for the Common Elements, or any other areas or facilities which the Association has a responsibility to maintain and repair, from the contractor, subcontractors and suppliers, and
- l. All contracts to which the Association is a party.

**Section 15.3 Termination of Contracts Made By Declarant.** If entered into before a Board is elected by the Owners, 1) any management contract or employment contract or 2) any other contract between the Association and Declarant as defined by RCW 64.34.020(1), may be terminated without penalty by the Association at any time after the owner-elected Board takes office upon not less than 90 days' notice to the other party, or within a shorter notice period without penalty provided for in the contract.

## **ARTICLE 16 THE BOARD**

**Section 16.1 Selection of the Board and Officers.** The Board shall consist of one representative from each Unit in the Condominium. The Board shall elect officers in accordance with the procedures provided in the Bylaws. The officers shall take office upon election.

**Section 16.2 Powers of the Board, Participation of Owners.** Except as provided in the Declaration, the Bylaws or the Condominium Act, the Board shall at all times act on behalf of the Association. The Board may exercise all powers of the Association, except as otherwise provided in Declaration, the Bylaws or the Condominium Act. The Bylaws or the Board may create standing or ad hoc committees with such authority as the Board may authorize by resolution pursuant to the Bylaws. Decision making by the Board and by the committees shall generally be by consensus with voting resorted to only as provided in the Bylaws.

**Section 16.3 Managing Agent.** The Board may contract with an experienced professional Managing Agent to assist the Board in the management and operation of the Condominium and may delegate such of its powers and duties to the Managing Agent as it deems to be appropriate. Any contract with a Managing Agent shall have a term no longer than one year, 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 1) for cause upon 30 days' written notice or 2) without cause, upon not more than 90 days' written notice.

**Section 16.4 Limitations on Board Authority.** The Board shall not act on behalf of the Association to amend the Declaration in any manner that requires the vote or approval of the Owners pursuant to Article 27, to terminate the Condominium pursuant to Article 28 or to elect members of the Board or determine the qualifications, powers, and duties 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 16.5 Right to Notice and Opportunity to Be Heard.**

**16.5.1** Whenever the Declaration requires that an action of the Board be taken after "Notice and Opportunity to be Heard," the following procedure shall be observed:



a. The Board shall give written notice, of the proposed action to all Owners or residents of Units whose interest would be significantly affected by the proposed action and

b. 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 5 days from the date notice is delivered by the Board.

16.5.2 At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both as specified in the notice, subject to reasonable rules of procedure established by the Association to assure a prompt and orderly resolution of the issues. The 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.

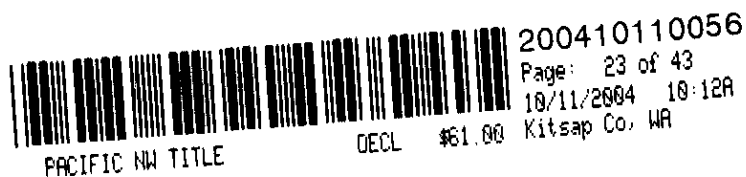
## **ARTICLE 17 BUDGET AND ASSESSMENTS**

**Section 17.1 Fiscal Year.** The Association may adopt a fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year shall be the calendar year.

**Section 17.2 Preparation of Budget.** Not less than 30 days before the annual meeting of the Association, the Board shall prepare a budget for the next 12 months. In preparing a budget the Board shall estimate the Common Expenses of the Association to be paid during that period, make suitable provision for accumulation of reserves, including amounts reasonably anticipated to be required for maintenance, repair and replacement of the Common Elements other than Limited Common Elements, and shall take into account any surplus or deficit carried over from the preceding year and any expected income to the Association.

**Section 17.3 Ratification of Budget.** Within 30 days after adoption of any proposed budget for the Condominium, the Board shall provide a summary 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 less than 14 nor more than 60 days after mailing of the summary. Unless at that meeting the Owners to which 75 percent 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 Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. If the Board proposes a supplemental budget during any fiscal year, that budget shall not take effect unless ratified by the Owners in accordance with this Section.

**Section 17.4 Supplemental Budget.** If during the year the budget proves to be inadequate for any reason, including nonpayment of any Owner's Assessments, the Board may prepare a supplemental budget for the remainder of the year. A supplemental budget shall be ratified pursuant to Section 17.3.



**Section 17.5 Assessment for Common Expenses.** The sums required by the Association for Common Expenses as reflected by the annual budget and any supplemental budgets shall be divided into installments to be paid as decided by the Board. The annual Common Expense Assessments for each Unit is determined by the Common Expense Liability allocated to each Unit in Schedule B times the total Common Expenses for all Units. Assessments begin accruing for all Units upon the closing of the first conveyance of a Unit by Declarant. Declarant may delay the commencement of Assessments and pay all actual Common Expenses but no allocations to reserves. During any time that garbage collection charges or other service charges are based on the number of occupied Units, any Units not occupied shall be exempt from Assessments for such charges.

**Section 17.6 Special Assessments.** For those Common Expenses which cannot reasonably be calculated and paid on an annual basis, the Board may levy special Assessments for such expenses against the Units, subject to ratification by the Owners pursuant to Section 17.3. To the extent that any Common Expense is caused by the misconduct of an Owner or resident of any Unit, the Association may, after Notice and Opportunity to be Heard, levy that expense against the Unit concerned as a special Assessment.

**Section 17.7 Creation of Reserves; Assessments.** The Board may create reserve accounts for anticipated expenses for repairs and maintenance of Common Elements not including Limited Common Elements which will occur in the future in order to accumulate sufficient funds to pay such expenses when they occur. The operation of reserve accounts and Assessments for reserve accounts shall be further governed by the Bylaws.

**Section 17.8 Notice of Assessments.** The Board shall notify each Owner in writing of the amount of the general and special Assessments to be paid for the Owner's Unit and shall furnish copies of all budgets and the Common Expense Liability allocations which apply to the Unit, on which the general and special Assessments are based. The Board shall furnish the same information to an Owner's mortgagee if so requested.

**Section 17.9 Payment of Assessments.** At the annual meeting, the Owners shall pay or cause to be paid to the treasurer or designated agent of the Association the Assessment against their Units for the coming year. An Assessment not paid by the first day of the calendar month following the annual meeting shall be delinquent and subject to late charges, interest charges and collection procedures as provided in Article 18.

**Section 17.10 Proceeds Belong to Association.** All Assessments and other receipts received by the Association on behalf of the Condominium shall belong to the Association.

**Section 17.11 Failure to Assess.** Any failure by the Board or the Association to make the budgets and Assessments 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 the Declaration, or a release of the Owners from the obligation to pay Assessments during that or any subsequent year. The Assessment amounts established for the preceding year shall continue until new Assessments are established.



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**Section 17.12 Certificate of Unpaid Assessments.** Upon the request of any Owner or Mortgagee of a Unit, the Board will furnish a certificate stating the amount, if any, of unpaid Assessments charged to the Unit. The certificate shall be conclusive upon the Board and the Association as to the amount of the indebtedness on the date of the certificate in favor of all purchasers and mortgagees of the Unit who rely on the certificate in good faith. The Board may establish a reasonable fee to be charged to reimburse it for the cost of preparing the certificate.

**Section 17.13 Recalculation of Assessments.** If Common Expense Liabilities are reallocated, Common Expense Assessments, special Assessments and any installment not yet due shall be recalculated in accordance with the reallocated liabilities.

## **ARTICLE 18 LIEN AND COLLECTION OF ASSESSMENTS**

**Section 18.1 Assessments Are a Lien; Priority.** The Association has a lien on a Unit for any unpaid Assessment levied against the Unit from the time the Assessment is due. A lien under this Article shall be prior to all other liens and encumbrances on a Unit except:

- a. Liens and encumbrances recorded before the recording of the Declaration;
- b. A mortgage on the Unit recorded before the date on which the Assessment sought to be enforced became delinquent, EXCEPT to the extent of Assessments for Common Expenses, excluding all amounts for capital improvements, based on the periodic budgets adopted by the Association pursuant to Article 17 which would have become due during the six months immediately preceding the date of a 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 of a mortgage, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract. 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 3 months if and to the extent that the lien priority includes any delinquencies which relate to a period after the mortgagee becomes an Eligible Mortgagee or has given notice and before the Association gives the mortgagee a written notice of the delinquency; and
- c. Liens for real property taxes and other governmental assessments or charges against the Unit.

**Section 18.2 Record Notice.** Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. The Association may record a notice of claim of lien for Assessments in the real property records of the county in which the Condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to above

**Section 18.3 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



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manner set forth in RCW 61.12, or nonjudicially in the manner set forth in Section 18.4. 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 the exception to (b) in Section 18.1, 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 that became due prior to the right of possession. Unpaid Assessments shall be deemed to be Common Expenses collectible from all the Owners, including the 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 the sale.

**Section 18.4 Nonjudicial Foreclosure.** A lien arising under this Article may be foreclosed nonjudicially in the manner set forth in RCW 61.24 for nonjudicial foreclosure of deeds of trust. For the purpose of preserving the Association's nonjudicial foreclosure option, the Declaration shall be considered to create a grant of each Unit in trust to Pacific Northwest Title Insurance Company or its successors or assigns ("Trustee"), to secure the obligations of each Owner ("Grantor") to the Association ("Beneficiary") for the payment of Assessments. Grantor shall retain the right to possession of Grantor's Unit as 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 Grantor's obligation to pay Assessments. The Units are not used principally for agricultural or farming purposes. If the Association forecloses its lien nonjudicially pursuant to this Section, it shall not be entitled to the lien priority over mortgages provided in exception (b) of Section 18.1.

**Section 18.5 Receiver During Foreclosure.** 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, the Association shall be entitled to the appointment of a receiver to collect from the resident the rent for the Unit as and when due. If the rent is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental Units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorney's fees, then to the cost of refurbishing the Unit, then to applicable charges, then to costs, fees and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this Section, and a receiver shall not be appointed less than 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.

**Section 18.6 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 provided in this Article, shall be the personal obligation of the Owner of the Unit when the Assessments are made. Suit to recover a personal judgment for all delinquent Assessments shall be maintainable without foreclosing or waiving the liens securing them.



**Section 18.7 Extinguishment of Lien and Personal Liability.** A lien for unpaid Assessments and the personal liability for payment of Assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within 3 years after the amount of the Assessments sought to be recovered becomes due.

**Section 18.8 Joint and Several Liability.** In addition to constituting a lien on the Unit, each Assessment shall be jointly and severally liable for the 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 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. 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 18.9 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 on all subsequent delinquent Assessments or installments. 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.

**Section 18.10 Recovery of Attorney's Fees and Costs.** The Association shall be entitled to recover any costs and reasonable attorney's fees incurred in connection with the collection of delinquent Assessments, whether or not the collection activities result in suit being commenced or prosecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorney's fees if it prevails on appeal and in the enforcement of a judgment.

**Section 18.12 Remedies Cumulative.** The remedies provided in this Article are cumulative. The Board may pursue them and any other remedies which may be available under the law although not expressed in this Article, either concurrently or in any order.

## **ARTICLE 19 ENFORCEMENT OF DECLARATION, BYLAWS AND RULES AND REGULATIONS; FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE NO WAIVER; CORRECTION OF VIOLATIONS**

**Section 19.1 Rights of Action.** Each Owner, the Board and the Association shall comply strictly with the Declaration, the Bylaws and rules and regulations adopted by the Association and the decisions of the Board. Failure to comply with any of the foregoing shall be grounds for an action to recover sums due, damages; and for injunctive relief, or any or all of them, maintainable by the Board on behalf of the Association or by an Owner.

**Section 19.2 Failure of Board to Insist on Strict Performance No Waiver.** The failure of the Board in any instance to insist upon strict compliance with the Declaration, the Bylaws or the rules and regulations of the Association, or to exercise any right 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 any term, covenant, condition or restriction. 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 writing by the Board.

## **ARTICLE 20 TORT AND CONTRACT LIABILITY**

**Section 20.1 Declarant Liability.** Neither the Association nor any Owner except Declarant is liable for Declarant's torts in connection with any part of the Condominium which Declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the Association must be brought against the Association and not against any Owner or any officer or director of the Association. Owners are not precluded from bringing an action contemplated by this Section because they are Owners, directors or officers of the Association.

**Section 20.2 Limitation of Liability for Failure, etc.** Except to the extent covered by insurance obtained by the Board, neither the Association, the Board, the Managing Agent, nor Declarant shall be liable for the failure of any utility or other service to be obtained and paid for by the Board, or for injury or damage to person or property caused by the elements, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance, or orders of a governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any utility or service failure, or for injury, or damage, or for inconvenience or discomfort.

**Section 20.3 No Personal Liability.** As long as a director, Association officer or committee member, Declarant or the Managing Agent has acted in good faith, without willful or intentional misconduct, upon the basis of information as they then possess, they shall not be personally liable to any Owner or any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence. This Section shall not apply where the consequences of any act, omission, error, or negligence, is covered by insurance obtained by the Board.

## **ARTICLE 21 INDEMNIFICATION**

Each director, officer and Association committee member, Declarant and the Managing Agent shall be indemnified by the Association against all expenses and liabilities, including attorney's fees and arbitrator fees, reasonably incurred by or imposed in connection with any proceeding to which they may be, a party, or in which they may become involved, by reason of holding or having held such position, or any settlement of a proceeding, whether or not they hold such position at the time the expenses or liabilities are incurred, except to the extent the expenses and liabilities are covered by any type of insurance and except in cases wherein they are adjudged guilty of willful misfeasance in the performance of their duties. In the event of a settlement, the indemnification shall apply only when the Board approves the settlement and reimbursement as being for the best interests of the Association.



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## ARTICLE 22 INSURANCE

### Section 22.1 General Requirements.

22.1.1 Commencing not later than the time of the first conveyance of a Unit to a person other than Declarant, the Association shall obtain property insurance, to the extent reasonably available, a policy or policies and bonds necessary to provide a) property insurance on the improvements within the Common Elements, other than Limited Common Elements, b) commercial general liability insurance; c) fidelity insurance; d) worker's compensation insurance to the extent required by applicable laws; e) directors and officers liability insurance; and f) such other insurance as the Board deems advisable.

22.1.2 The Board shall review at least annually the adequacy of the Association's insurance coverage. All insurance shall be obtained from insurance carriers that are generally acceptable for similar projects, authorized to do business in the state of Washington, and meet the specific requirements of FNMA, HUD, VA, and FHLMC regarding the qualifications of insurance carriers. Notwithstanding any other provisions in the Declaration, the Association shall continuously maintain in effect property, liability and fidelity insurance that meets the insurance requirements for condominium projects established by FNMA, HUD, FHLMC, and VA so long as any of them is a holder of a mortgage or Owner of a Unit, except to the extent coverage is not available or has been waived in writing by them..

22.1.3 All insurance policies shall provide that coverage may not be cancelled or substantially modified, including cancellation for nonpayment of premiums, without at least 30-days' prior written notice to any and all insureds named in the policy, including Owners, Mortgagees, and designated servicers of Mortgagees.

**Section 22.2 Property Insurance; Deductible.** The Association shall obtain and maintain property insurance on an all risk or special cause of loss coverage basis, in an amount equal to the full replacement cost of the Common Elements, excluding the Limited Common Elements, and the equipment, fixtures, and improvements within the Common Elements, and personal property of the Association with deductibles as the Board determines are appropriate.

**Section 22.3 Commercial General Liability Insurance.** The liability insurance coverage shall insure the Board, the Association, the Owners, Declarant and the Managing Agent and shall cover all of the Common Elements in the Condominium other than the Limited Common Elements with a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or of another Owner, and shall cover liability, of the insureds for property damage, bodily injury, and death of persons arising out of the operation, maintenance, and use of the Common Elements, and such other risks as the Association or a Mortgagee requires or that are customarily covered with respect to residential condominium projects of similar construction, location, and use. The limits of liability shall be in amounts generally required by Mortgagees for projects of similar construction, location and use for combined single limit for bodily injury and property damage per occurrence and general aggregate.



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## **Section 22.4 Coverage Maintained by Unit Owners.**

22.4.1 Notwithstanding any other provisions of the Declaration, the Owner of each Unit shall purchase and maintain at all times:

- a. Sufficient property damage insurance to completely rebuild and replace any Home, other Structures and Limited Common Element Improvements, and
- b. Liability insurance of such types and in such amounts as the Association or insurers under any insurance contracts with the Association may require.

22.4.2 Owners' policies shall provide separate loss payable endorsements in favor of the Mortgagee of each Unit. Certificates of insurance shall be issued to the Association and to each Owner and Mortgagee upon request.

22.4.3 An Owner shall not purchase and maintain insurance coverage in any manner that would decrease the amount which the Association, or any trustee on behalf of all of the Owners, will realize under any insurance policy which the Association may have in force from time to time.

**Section 22.5 Fidelity Insurance.** If the Association elects to obtain fidelity insurance, the policy shall afford coverage to protect against dishonest acts on the part of officers, directors and employees of the Association, and all other persons who handle or are responsible for handling funds of or administered by the Association. The Managing Agent, if any, shall maintain fidelity insurance for its officers, employees and agents who handle or who are responsible for handling funds of or administered by the Association. All fidelity insurance shall name the Association as an obligee and shall be not less than the estimated maximum of funds, including reserve funds, in custody of the Association at any time during the term of each policy. In no event, shall the aggregate amount of insurance be less than 3 months' aggregate Assessments. The policy shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

## **Section 22.6 Use of Insurance Proceeds.**

22.6.1 Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

- i) insurance proceeds are insufficient to completely defray the cost of reconstruction or repair;
- ii) the Condominium is terminated;
- iii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or
- iv) all Owners vote not to rebuild.

22.6.2 If all of the damaged or destroyed portions of the Common Elements are not repaired or replaced, the insurance proceeds, if any, shall be distributed to all the Owners or



lienholders, as their interests may appear, in proportion to the interest in Common Elements of each Unit. Notwithstanding the provisions of this Section, Article 28 governs the distribution of insurance proceeds if the Condominium is terminated.

## **ARTICLE 23 DAMAGE TO PROPERTY AND REPAIR**

**Section 23.1 Initial Board determination.** In the event of damage to any Common Element, the Board shall promptly, and in all events within 60 days after the date of damage, make the following determinations with respect to the damage, employing such advice as the Board deems advisable:

- a. The nature and extent of the damage, together with an inventory of the improvements and property directly affected;
- b. A reasonably reliable estimate of the cost to repair the damage, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors;
- c. The expected 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 of the deductible to be paid;
- e. The amount of available reserves or other Association funds, although the Board is not required to use any reserves or other Association funds; and
- f. The amount, if any, by which the estimated cost of repair exceeds the insurance proceeds, and the 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 and assessed against all the Units in proportion to their Common Expense Liabilities.

**Section 23.2 Notice of Damage.** The Board shall promptly, and in all events within 60 days after the date of damage, file a proof of loss statement with the insurance company if the loss is covered by insurance, and abide by all terms and conditions of its insurance policies, unless the Board determines it would not be in the best interest of the Association to file a proof of loss. The Board shall then provide each Owner and each holder of a first mortgage on a Unit with a written notice describing the damage and summarizing the initial Board determinations made under Section 23.1. If the Board fails to do so within the 60-day period, any Owner or mortgagee may make the determinations required under Section 23.1 and give the notice required under this Section.

**Section 23.3 Definitions Damage; Substantial Damage, Repair, Emergency Work.** As used in this Article:



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- a. Damage means all kinds of damages, whether of slight degree or total destruction.
- b. Substantial Damage shall mean that the estimated Assessment determined above would exceed 10% of the full, fair market value of a Unit, determined by the then current assessments for the purpose of real estate taxation.
- c. Repair means restoring the improvements to substantially the condition they were in before they were damaged, with the Common Elements having substantially the same boundaries as before. Modifications to conform to applicable governmental rules and regulations or available means of construction may be made.
- d. 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.

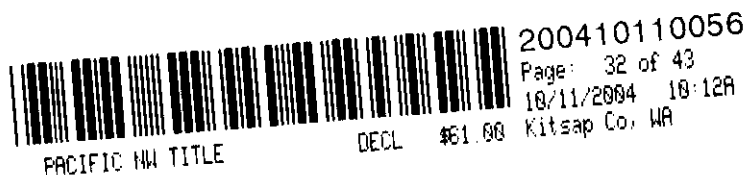
#### **Section 23.4 Execution of Repairs.**

23.4.1 The Board shall have the authority to employ professionals, 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 has provided for payment of 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.

23.4.2 If the damage as determined under Subsection 23.1 is not substantial, the Association shall have 15 days to decide whether to repair the damage. Except for emergency work, no repairs shall be commenced until after the 15-day period.

23.4.3 If the damage as determined under Subsection 23.1 is substantial, the Board shall promptly, and in all events within 60 days after the date of damage, call a special Owners' meeting to consider repairing the damage. If the Board fails to do so within the 60-day period, then notwithstanding the provisions of Section 14.4 and the Bylaws, any Owner or first mortgagee of a Unit may call and conduct the meeting. Failure to conduct the special meeting within 90 days after the date of damage shall be deemed a unanimous decision to repair the damage in accordance with the original plan.

23.4.4 In the event of a decision not to repair damage, whether substantial or not, the Board may nevertheless expend as much of the insurance proceeds and common funds as the Board deems reasonably necessary for emergency work, including but not limited to removal of the damaged improvements and clearing, filling, and grading the land.





## ARTICLE 24 CONDEMNATION

**Section 24.1 Consequences of Condemnation, Notices.** If any Unit, Common Element or Limited Common Element or any portion of a Unit, Common Element or Limited Common Element is made the subject of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall be given to each Owner and Mortgagee and the provisions of this Article shall apply.

**Section 24.2 Power of Attorney.** Each Owner appoints the Association as attorney-in-fact for the purpose of representing the Owners in condemnation proceedings and negotiations, settlements and agreement with the condemning authority for acquisition of Common Elements or any part of them, from the condemning authority. The Board may appoint a trustee to act on behalf of the Owners in carrying out these functions in lieu of the Association. 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 24.3 Condemnation of a Unit.** If a Unit is acquired by condemnation, or if part of a Unit is acquired leaving the Owner with a remnant of a Unit which may not practically or lawfully be used for any purpose permitted by the Declaration, the award must compensate the Owner for the Unit and its appurtenant interest in the Common Elements, including the Limited Common Elements, whether or not any Common Elements are acquired. The proceeds from the condemnation of a Unit shall be paid to the Owner or lienholder of the Unit, as their interests may appear. Upon acquisition, unless the decree otherwise provides, the 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 24.4 Condemnation of Part of a Unit.** Except as provided in Section 24.3, if part of a Unit is acquired by condemnation, the award must compensate the Owner for the reduction in value of the Unit and its appurtenant interest in the Common Elements, including Limited Common Elements, whether or not any Common Elements are acquired. The proceeds from the condemnation awarded to the Owner shall be paid to the Owner or lienholders of the Unit, as their interests may appear. Upon acquisition, unless the decree otherwise provides, i) the Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit, and ii) 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.

**Section 24.5 Condemnation of Common Element or Limited Common Elements.** If part of the Common Elements is acquired by condemnation, the portion of the award attributable to the Common Elements taken shall be paid to the Owners based on their respective interests in the Common Elements, or to lienholders, as their interests may appear. Any portion of the award

attributable to the acquisition of a Limited Common Element shall be awarded to the Owner of the Unit to which that Limited Common Element was allocated at the time of the acquisition, or to lienholders, as their interests may appear. If the Board determines that a particular Owner's interest in the Common Elements 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, or to remove the allocation of a Limited Common Element to that Owner's Unit, as the case may be.

**Section 24.6 Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 23.

## **ARTICLE 25 EASEMENTS**

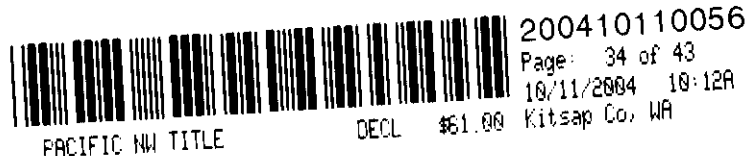
**Section 25.1 In General.** Each Unit has an easement in and through each other Unit and the Common and Limited Common Elements for all utility lines serving the Unit and for reasonable access as required to continue proper operation of the Condominium.

**Section 25.2 Encroachments.** To the extent not provided by the definition of Unit in the Declaration and in the Condominium Act, each Unit and all Common and Limited Common Elements are hereby declared to have an easement over all adjoining Units and Common and Limited Common Elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the property, or any other similar cause, and any encroachment due to building overhang or protection. There shall be valid easements for the maintenance of the encroaching Units and Common and Limited Common Elements as long as the encroachments exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment. In no event will a valid easement for encroachments be created in favor of a Unit if an encroachment was caused by the willful act with full knowledge of the Owner. The encroachments described in this Section shall not be construed to be encumbrances affecting the marketability of title to any Unit.

**Section 25.3 Easement specifically Reserved by Declarant.** Declarant reserves an access easement over, across and through the Common Elements of the Condominium for the purpose of completing any improvements and discharging Declarant's obligations or exercising Special Declarant Rights.

**Section 25.4 Utility Easements Granted by Declarant.**

**25.4.1** Declarant grants to each company or municipality providing utility services to the Condominium, or to the Owners of Units in the Condominium, an easement for the installation, construction, maintenance, repair and reconstruction of all utilities serving the Condominium or the Units, including, without limitation, such utility services as water, sanitary sewer, storm sewer, electricity, cable, television and telephone, and an easement for access over and under the roadways, Common Elements and Limited Common Elements of the Condominium to the utility service facilities.



25.4.2 The Association may designate and change from time to time the specific location of a utility easement across the Common Elements but must provide a reasonably convenient route by which utilities can be furnished to each Unit. No decision by the Association to change the location of a utility easement shall unreasonably interfere with the use and enjoyment of any Limited Common Element. If a portion of a Limited Common Element must be disturbed in connection with the placement, construction, maintenance or replacement of any utility, the Board shall restore or have restored the Limited Common Element affected to the condition which existed immediately prior to the work and may apportion and assess the cost of restoration as it deems equitable.

**Section 25.5 Access.** As provided in Section 6.2, each Owner shall have the right to use the Common Elements other than Limited Common Elements in common with all other Owners, and a right of access from the Owner's Unit across the Common Elements other than Limited Common Elements to the public street. The Association may designate and change from time to time the specific location of access, but must provide a reasonably convenient means of legal access to the public street for each Unit. No decision by the Association to change the location of access shall unreasonably interfere with the use and enjoyment of any Limited Common Element.

## **ARTICLE 26 ADDITIONAL UNIT**

**Section 26.1 In General.** Pursuant to Article 15, the Association, as the successor of Declarant, shall have the right to add one additional Unit to the Condominium upon the agreement in writing of the Owners of the original four Units. In the event the Owners agree to the creation of an additional Unit, then the undivided interests in the Common Elements, including Limited Common Elements, shall all be deemed reallocated automatically. The undivided interest of the Owner of each Unit in the Common Elements will be a fraction, the numerator of which is one, and the denominator of which is the total number of Units in the Condominium. The Association shall record an amendment to the Declaration and the Survey Map and Plans reflecting the reallocations.

**Section 26.2 Reallocations for Additional Unit.** In the event that the Owners agree to the creation of an additional Unit, then:

- a. An additional Limited Common Element shall be allocated by the Association to the new Unit from the Common Elements, excluding any existing Limited Common Element unless the Owner of the Unit to which an affected Limited Common Element is allocated agrees in writing;
- b. An additional reserved parking space, located anywhere within the Common Elements as the Association may agree, shall be allocated to the new Unit; and
- c. Common Expenses shall be reallocated by the Association.



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**Section 26.3 Expenses and Proceeds.** Expenses relating to creating an additional unit and any income or proceeds resulting from the Unit shall belong to the Association.

## **ARTICLE 27 AMENDMENT OF DECLARATION SURVEY MAP AND PLANS, ARTICLES OR BYLAWS**

### **Section 27.1 Procedure.**

27.1.1 Except in cases of amendments that may be executed by Declarant under the Declaration or the Condominium Act; the Declaration, Survey Map and Plans, Articles and Bylaws may be amended only by vote or agreement of all the Owners, as specified in this Article.

27.1.2 An Owner may propose amendments to the Declaration, the Survey Map and Plans, the Articles or the Bylaws to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the Owners for their consideration. If an amendment is proposed by Owners with 25% or more of the votes in the Association then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the Owners for their consideration at their next regular or special meeting for which timely notice must be given.

27.1.3 Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of all the Owners, after notice has been given to all persons including Eligible Mortgagees entitled to receive notices.

27.1.4 Upon the adoption of an amendment and the obtaining of any necessary consents of Eligible Mortgagees as provided below, amendment to the Declaration or the Survey Map and Plans shall become effective when it is recorded or filed in the real property records in the county in which the Condominium is located. The amendment shall be indexed in the name of the Condominium and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment.

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

### **Section 27.2 Consent Required.**

27.2.1 Consent of Eligible Mortgagees of Units shall be required to materially amend any provisions of the Declaration, the Survey Map and Plans, the Articles or the Bylaws, or to add any material, provisions thereto which establish, provide for, govern, or regulate any of the following:



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- voting rights,
- Assessments, Assessment liens, or subordination of such liens,
- reserves for maintenance, repair, or replacement of the Common Elements,
- responsibility for maintenance and repair of any portion of the Condominium,
- rights to use Common Elements and Limited Common Elements,
- reallocation of interests in Common Elements or Limited Common Elements or rights to their use,
- redefinition of any Unit boundaries,
- convertibility of Units into Common Elements or Common Elements into Units,
- expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- hazard or fidelity insurance requirements,
- imposition of any restrictions on leasing of Units,
- imposition of any restriction on the right of an Owner to sell or transfer a Unit;
- restoration or repair (after damage or partial condemnation) in a manner other than specified in the Declaration or Survey Map and Plans, or
- any provisions which are for the express benefit of holders of first mortgages.

27.2.2 An Eligible Mortgagee who receives a written request to consent to an amendment who does not deliver or post to the requesting party a negative response within 30 days shall be deemed to have consented to such request, provided the request was delivered by certified or registered mail, return receipt requested.

**Section 27.3 Limitations on Amendments.** No amendment may restrict, eliminate, or otherwise modify any Special Declarant Right.

## **ARTICLE 28 TERMINATION OF CONDOMINIUM**

**Section 28.1 Action Required.** Except as provided in Article 23 and Article 24, the Condominium may be terminated only by agreement of all the Owners of Units and with the consent of Eligible Mortgagees of Units to which at least 67% of the votes in the Association are allocated and in accordance with the Condominium Act. An Eligible Mortgagee who receives a written request to consent to termination who does not deliver or post to the requesting party a negative response within 30 days shall be deemed to have consented to the request, provided the request was delivered by certified or registered mail return receipt requested.

**Section 28.2 Condominium Act Governs.** The provisions of the Condominium Act relating to termination of a condominium contained in RCW 64.34.268, as amended, shall govern the termination of the Condominium, including, but not limited to, the disposition of the real property in the Condominium and the distribution of proceeds from the sale of that real property.



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## ARTICLE 29 NOTICES

**Section 29.1 Form and Delivery of Notice.** Unless provided otherwise in the Declaration, all notices given under the provisions of the Declaration or the Bylaws or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered upon being deposited in the United States mail, first class postage prepaid, addressed to the person entitled to the notice at the most recent address known to the Association. Notice to the Owner of a Unit shall be sufficient if mailed to the Unit if no other mailing address has been given to the Association. Mailing addresses may be changed by notice in writing to the Association. Notices to the Board shall be given to the president or secretary of the Association.

**Section 29.2 Notices to Eligible Mortgagees.** An Eligible Mortgagee is a Mortgagee that has filed with the secretary of the Association a written request that it be given copies of the notices listed below. The request must state the name and address of the Eligible Mortgagee and the Identifying Letter or address of the Unit on which it has, insures or guarantees a Mortgage. Until such time that the Eligible Mortgagee withdraws the request or the mortgage held, insured or guaranteed by the Eligible Mortgagee is satisfied, the Board shall send to the Eligible Mortgagee timely written notice of:

- a. Any proposed amendment of the Declaration or Survey Map and Plans effecting a change in
  - i) the boundaries of any Unit,
  - ii) the exclusive easement rights, if any, appertaining to any Unit,
  - iii) the interest in the Common Elements or the liability for Common Expenses,
  - iv) the number of votes in the Association allocated to any Unit, or
  - v) the purposes to which a Unit or the Common Elements are restricted.
- b. Any proposed termination of condominium status, transfer of any part of the Common Elements, or termination of professional management of the Condominium;
- c. Any condemnation loss or casualty loss that affects a material portion of the Condominium or that affects any Unit on which an Eligible Mortgagee has a first mortgage;
- d.. Any delinquency which has continued for 60 days in the payment of Assessments or charges owed by an Owner of a Unit on which an Eligible Mortgagee had a mortgage;
- e. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association pursuant to Article 22; or



- f. Any proposed action that would require the consent of a specified percentage of Eligible Mortgagees pursuant to Article 23 or Article 27.

## **ARTICLE 30 DECISION MAKING; RESOLUTION OF DISPUTES; BINDING ARBITRATION**

**Section 30.1 Consensus.** For all decisions except election of officers and directors the Owners present at an Association meeting shall first utilize a consensus-building process as prescribed by the Bylaws in order to secure the support of all present for a decision. Discussion of any proposal prior to a decision-making meeting is encouraged.

**Section 30.2 Resolution of Disputes.** Except for actions under Article 18 (Lien and Collection of Assessments), any deadlock on a matter requiring Board action or any dispute among Board members or among Owners or when the Declaration or the Bylaws of the Associations contain provisions allowing or requiring certain disputes to be resolved by mediation, arbitration or other non-judicial means, the parties to the dispute shall follow the following dispute resolution procedure in lieu of litigation.

30.2.1 The parties will speak with one another regarding the dispute.

30.2.2 If a dispute has not been resolved within 15 days after the parties first attempted to resolve the matter, the parties shall meet with a mutually accepted mediator or mediation service. The mediator's role shall be to help the parties arrive at a solution, not to impose one upon them and the costs shall be shared equally by the parties. If the parties cannot agree on a mediator or mediation service, the President of the Association shall designate one with no less than 3 years' experience mediating disputes of a similar nature from a list established annually by the Board.

30.2.3 If the parties agree that a mediation approach will not resolve the dispute after 3 mediation sessions, but in no event longer than 30 days from the date of the first mediation session, either party may make a written request to the other that the dispute be submitted to binding arbitration.

### **Section 30.3 Arbitration**

30.3.1 An arbitration meeting shall be held in Kitsap County within 10 days of receipt of notice of arbitration and concluded within 2 days. These time limits are not jurisdictional. The procedures shall comply with the requirements of the American Arbitration Association (AAA) Commercial Arbitration Rules with Expedited Procedures in effect on the date of and as modified by the Declaration.

30.3.2 The parties shall select one arbitrator within 7 days of the arbitration demand. If the parties cannot agree upon an arbitrator, the President of the Association shall select an attorney with at least 5 years' condominium law experience from a list established annually by the Board.



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30.3.3 Any issue about whether a claim must be arbitrated pursuant to this provision shall be determined by the arbitrator. There shall be no substantive motions or discovery, except that the arbitrator shall authorize discovery as may be necessary to ensure a fair hearing. The arbitrator shall apply substantive law and may award injunctive relief or any other remedy available from a judge including attorney's fees and costs to the prevailing party. The arbitrator shall not have the power to award punitive damages.

30.3.4 The arbitrator shall communicate the decision in writing within 5 business days after the arbitration hearing. Decisions of the arbitrator shall be final and binding, and a judgment based on the award or an order confirming the award may be entered in a court of competent jurisdiction.

30.3.5 In the event one of the parties fails to proceed with arbitration, unsuccessfully challenges or asks to vacate or modify the arbitrator's award or fails to comply with the arbitrator's award, the other party is entitled to costs of suit including a reasonable attorney's fee for having to compel arbitration or defending or enforcing the award.

**Section 30.4 Exceptions.** The following provisions of the Declaration shall not be subject to the requirements of this Article:

- a. Section 12.6. Board Authority to Terminate Tenancy, and
- b. Article 18 Lien and Collection of Assessments.

**Section 30.5 Eligible Mortgagees.** Nothing in this Article shall be construed or applied in a manner that would prevent, delay, frustrate or make more expensive the enforcement of any rights or remedies otherwise available to an Eligible Mortgagee. Eligible Mortgagees are not required to use or participate in mediation or arbitration unless required under the provisions of the applicable Mortgage or any applicable laws or court rules

## **ARTICLE 31 SEVERABILITY**

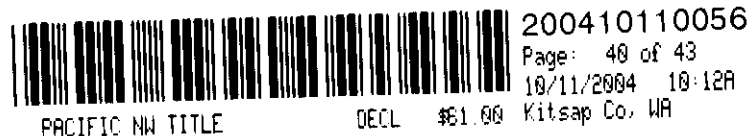
The provisions of the Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remaining provision or provisions comply with the Condominium Act.

## **ARTICLE 32 EFFECTIVE DATE**

The Declaration shall take effect upon recording.

## **ARTICLE 33 REFERENCE TO SURVEY MAP AND PLANS**

The Survey Map and Plans were filed with the Recorder of Kitsap County, Washington, simultaneously with the recording of this Declaration under File No. 200410110057 in Volume \_\_\_\_\_ of Condominiums, pages \_\_\_\_\_ through \_\_\_\_\_.




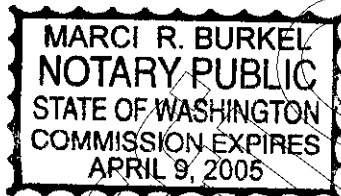


Declarant reserves the right to assign, transfer, sell, lease or rent all or a portion of the property then owned by it and reserves the right to assign all or any of its rights, duties and obligations created under this Declaration.

By Ronald D. Peltier  
RONALD D. PELTIER  
Its Managing Agent

I certify that I know or have satisfactory evidence that RONALD D. PELTIER is the person who appeared before me and acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it as the Managing Agent of 9745 VALLEY ROAD FARM, LLC, a Washington limited liability company, to be the free and voluntary act of the organization for the uses and purposes mentioned in the instrument.

  
MARCI R. BURKEL  
Notary Public in and for the State of  
Washington. My commission expires 49/05.



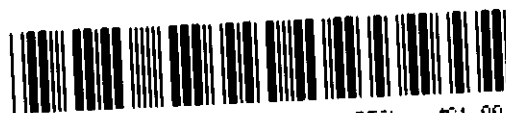
**SCHEDULE A  
LEGAL DESCRIPTION**

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST  
QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP  
25 NORTH, RANGE 2 EAST, W.M., ON BAINBRIDGE ISLAND, IN KITSAP  
COUNTY, WASHINGTON;

EXCEPT THE WEST 30 FEET FOR N. MADISON AVENUE N.E.,  
CONVEYED BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO.  
284183;

AND EXCEPT THE NORTH 30 FEET FOR N.E. VALLEY ROAD,  
CONVEYED BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO.  
465237;

ALSO EXCEPT THAT PORTION AS CONVEYED TO THE CITY OF  
BAINBRIDGE ISLAND AS DISCLOSED BY AUDITOR'S FILE NO.  
200409030193.



PACIFIC NW TITLE

DECL

\$61.00

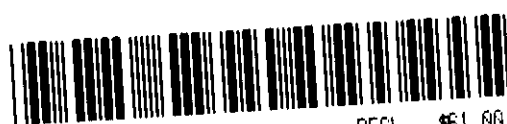
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Kitsap Co, WA

**SCHEDULE B  
UNIT DATA; ALLOCATED INTERESTS**

Unit	Unit Data*	Level	Area (sq.ft.)	Common Expense Liability and Interest in Common areas	Votes
A		1		25.00	2
B		1		25.00	2
C		1		25.00	2
D	1BR, 1BA	1	300	25.00	2
				100.00	8

Legend: BR = Bedroom  
BA = Bathroom

There are currently four structures on the Common Element. These are shown and labeled on the survey (House, Carport and two Sheds). These structures are not part of any unit and will become the property of the Association.



PACIFIC NW TITLE

DECL \$61.00

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