

SALISHAN

RESTATED

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS**

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SALISHAN
RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

This Restated Declaration of Covenants, Conditions, Restrictions and Easements for Salishan (“Declaration”) is made this _____ day of _____, 2011 by the Housing Authority of the City of Tacoma, a housing authority organized under RCW Ch. 35.82 (“Declarant”).

Purpose of Restatement

Declarant desires to consolidate the various amendments made to the Covenants, Conditions, Restrictions and Easements for Salishan into a single restated document. To that end, this document incorporates the substantive elements of the following recorded documents related to Salishan:

A. Declaration of Covenants, Conditions, Restrictions and Easements for Salishan recorded under Pierce County Auditor’s File No. 200605240414;

B. First Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Salishan (Division 2) recorded under Pierce County Auditor's File No. 200806240771;

C. Second Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Salishan (Division 3) recorded under Pierce County Auditor’s File No. 200806240772;

D. Amendment to Covenants, Conditions and Restrictions and Easement for Salishan recorded under Pierce County Auditor's File No. 201004210002 that was re-recorded under Pierce County Auditor’s File No. 201006140110 to attach the legal description;

E. Fourth Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Salishan and Correction of Prior Supplemental Declarations (Division 4) recorded under Pierce County Auditor's File No. 201007150455; and

F. Supplemental Declaration of Covenants, Conditions and Restrictions for Salishan (Historic Streetscape) recorded under Pierce County Auditor's File No. 200609080041.

The result is that this Restated Declaration sets forth the conditions and restrictions that now apply to the Property. Upon recording this document supersedes and replaces all of the documents referenced above and becomes the "Declaration" as that term is used herein.

ARTICLE 1 DECLARATION

1.1 Overall Purpose.

Declarant owns or has owned the real property described on Exhibit A (the "Property"). It intends to create a general plan of development for the master planned residential community known as Salishan. This Declaration provides for the overall development, administration, maintenance, and preservation of the community. The Declaration applies now only to real property described on **Exhibit "A"**, which includes Division 1, Division 2, Division 3 and Division 4 of Salishan, but the Declaration provides a procedure for the future expansion of Salishan to include additional phases on the property described on **Exhibit "B"**. An integral part of the development plan is the creation of the Salishan Association. This Association is comprised of all owners of real property within the Property. The Association will operate and/or maintain various common areas and community improvements, and administer and enforce this Declaration. The Declaration is adopted for the mutual and reciprocal benefit and protection of all present and future Owners, invitees and tenants within Salishan. It is intended to protect the value of the Property within Salishan and to insure that the Property will be planned, developed, used and improved under high standards of architecture, site planning, engineering, design, construction and maintenance.

1.2 Declarant's Unique Interest

Declarant is a housing authority organized under state law for the purpose of fostering and maintaining affordable housing for low income persons and families. Consistent with that purpose, portions of the Property are currently subject to restrictive covenants for the benefit of the United States of America acting by and through the Secretary of Housing and Urban Development ("HUD"), requiring that such portions be operated and maintained consistent with HUD regulations and other restrictions. Declarant also has additional obligations to HUD and others under other contracts and regulations. This Declaration is intended and shall be interpreted to further those purposes and obligations. In part to fulfill Declarant's legal purpose and obligations, it will retain ownership of substantial portions of the Property,

leasing such portions to other entities that will construct and maintain housing. Because of its ongoing ownership, obligations and interest, Declarant will have a special and permanent role in the Association.

1.3 Binding Effect.

All property described on Exhibit “A” (“the Property”), and any additional land that is later made a part of the Property as set forth below, shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such property. Except as otherwise specifically provided, this Declaration shall be binding upon all persons having any right, title or interest in any portion of the Property, their heirs, successors and assigns.

**ARTICLE 2
DEFINITIONS**

For purposes of this Declaration, terms shall be defined as follows:

2.1 Areas of Common Responsibility.

“Areas of Common Responsibility” shall mean all of the real and personal property the Association maintains relating to the Property. The term includes the Common Areas such as parks and wetland tracts (see definition of Common Areas in 2.8 below), most of which are owned by the Association. It also includes other areas for which the Association has or assumes maintenance responsibility, such as landscaped medians within street right-of-ways. These other areas can be made the Association’s responsibility by the Declaration, any Supplemental Declaration, or other applicable covenants, contracts or agreements. The term “Areas of Common Responsibility” also includes any Improvements associated with such areas. The property that initially makes up the Areas of Common Responsibility is described on **Exhibit “C”** to this Declaration.

2.2 Articles of Incorporation.

“Articles of Incorporation” shall mean the articles of incorporation of Salishan Association as filed with the Washington Secretary of State, and as they may be amended.

2.3 Association.

“Association” shall mean Salishan Association, a Washington non-profit corporation, its successors and assigns.

2.4 Assessments

“Assessments” shall mean the charges levied by the Association under Article 6, in the following categories:

2.4.1 Base Assessment. “Base Assessment” shall mean assessments levied on all Units subject to assessment under Article 5 to fund Common Expenses.

2.4.2 Special Assessments. “Special Assessments” shall mean assessments levied under Section 6.6.

2.4.3 Specific Assessments. “Specific Assessments” shall mean assessments levied under Section 6.7.

2.5 Board of Directors.

“Board of Directors” shall mean the body responsible for administration of the Association, selected as provided in the Declaration and the Bylaws, and serving as the Board of Directors under Washington law.

2.6 Builder.

“Builder” shall mean any Person who purchases one or more Units for the purpose of constructing dwellings for later sale or rent to consumers, or who purchases one or more parcels of land within the Property for further subdivision, development and/or resale in the ordinary course of such Person’s business.

2.7 Bylaws.

“Bylaws” shall mean the Bylaws of Salishan Association adopted by the Board of Directors on December 1, 2011, as they may be amended.

2.8 Common Area.

“Common Area” shall mean all real and personal property, including easements, which the Association owns or leases, or in which it otherwise holds possessory or use rights for the common use and enjoyment of the Owners. Without limitation, Common Areas include parks, stormwater facilities (including biofiltration swales), wetlands and wetland buffers, landscaped tracts, common mailboxes, irrigation systems, entry monuments, signage, and other property conveyed to the Association by Declarant. The term Common Areas includes Improvements on such areas. Common Areas are included within the term “Areas of Common Responsibility (see 2.1 above), but that term also includes other property

such as median strips that are maintained by the Association but are not owned by the Association.

2.9 Common Expenses.

“Common Expenses” shall mean the actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Owners, including any reasonable reserve, all as may be found necessary and appropriate by the Board under this Declaration, the Bylaws and Articles of Incorporation.

2.10 Community-Wide Standard.

“Community-Wide Standard” shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the community of Salishan. Such standard shall initially be established by Declarant and may contain objective and subjective elements, and may evolve as development of Salishan progresses.

2.11 Construction Committee.

“Construction Committee” shall mean the committee described in Article 8 with responsibility for the review of construction in Salishan.

2.12 Declarant.

“Declarant” shall mean the Housing Authority of the City of Tacoma and any successor or assign who takes title to any portion of the Property for the purpose of development and/or sale, but only if such successor or assign is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant. Upon such designation of a successor Declarant, all rights of the former Declarant to such status under this Declaration shall cease, and there shall only be one “Declarant” at any one point in time.

2.13 Declaration.

“Declaration” shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Salishan as it may be amended or supplemented.

2.14 Design Guidelines.

“Design Guidelines” shall mean the Salishan Design Guidelines adopted pursuant to Section 8.4 below as they may be amended.

2.15 Governing Documents.

“Governing Documents” shall mean collectively the Declaration, the Articles, the Bylaws, the Design Guidelines and the Rules and Regulations.

2.16 Historic Streetscape.

“Historic Streetscape” shall refer to Lots 1 through 11 of Block 3, Salishan Division 1, as recorded in the Pierce County Auditor’s records under recording number 200606025006 which are subject to a Memorandum of Agreement dated February 9, 2004 executed by the Washington State Historic Preservation Officer, the City of Tacoma, and the City of Tacoma Historic Preservation Officer (the “MOA”). The MOA requires that the Historic Streetscape be maintained consistent with the mass and scale of the original Salishan development, and also sets forth restrictions pertaining to future modification of the Historic Streetscape.

2.17 Improvement.

“Improvement” shall mean any structure, building, sign, fence, wall, landscaping or other planting, parking area, driveway, stormwater system or other utility, and any other improvement located on any portion of the Property.

2.18 Long Term Leases.

“Long Term Leases” shall mean leases of land and buildings for at least 30 years by Declarant to others. The Long Term Leases are described on **Exhibit E**.

2.19 Maintenance and Maintain.

“Maintenance” and “Maintain” as used in connection with the obligations of the Association and Owners shall include regular maintenance, as well as repair and replacement.

2.20 Member.

“Member” shall mean a Person who owns a Unit and is therefore a member of the Association under this Declaration.

2.21 Mortgage.

“Mortgage” shall mean a mortgage, deed of trust, deeds to secure debt, or any other form of security instrument affecting title to any Unit. A “Mortgagee” shall refer to a beneficiary or holder of a Mortgage.

2.22 Owner.

“Owner” shall mean one or more Persons who hold the record title to any Unit, but excluding any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the Owner. Special provisions for the Owners of parcels that are the subject of Long Term Leases are set forth in Section 3.4 below.

2.23 Ownership Unit.

“Ownership Unit” shall mean a single-family dwelling Unit, attached or detached: (a) initially constructed for the purpose of sale to an individual, family or housekeeping unit; or (b) already owned by Declarant and sold to an individual, family or housekeeping unit. The Ownership Units are designated on **Exhibit “E”**. The designation of Ownership Units is established based on initial construction as set forth on **Exhibit “E”**, and the fact that an Ownership Unit may, at some time, be rented does not change that designation.

2.24 Person.

“Person” shall mean a natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

2.25 Property.

“Property” shall mean the real property described on **Exhibit “A”**, together with such additional property as may be subjected to this Declaration under Article 14.

2.26 Rental Unit.

“Rental Unit” shall mean a single-family dwelling Unit, attached or detached, initially constructed for the purpose of rental to an individual, family or housekeeping unit. The Rental Units in the development are designated on **Exhibit “E”**.

2.27 Rules and Regulations or Rules.

“Rules and Regulations” or “Rules” shall mean rules and regulations adopted by the Board under authority of the Governing Documents.

2.28 Salishan.

“Salishan” shall mean the master planned community known as Salishan developed by Declarant, including Rental Units, Home Ownership Units, community facilities, parks and open spaces.

2.29 Senior Housing Units.

“Senior Housing Units” are Rental Units that are age-restricted consistent with the Fair Housing Act, 42 USC 3601 et seq. Senior Housing Units are distinguished from other Rental Units only for purposes of establishing Base Assessments under Section 6.4. In all other respects, Senior Housing Units shall be treated as Rental Units.

2.30 Supplemental Declaration.

“Supplemental Declaration” shall mean an amendment or supplement to the Declaration, filed under Article 14, which subjects additional property to the Declaration and/or imposes additional or modified covenants, conditions or restrictions.

2.31 Unit.

“Unit” shall mean a portion of the Property, whether improved or unimproved, that may be independently owned or occupied, and that is intended for development, use and occupancy as an attached or detached housing residence for a single family. The term shall also refer to the land, if any, which is part of the Unit as well as any Improvements thereon. In the case of a building within a condominium, apartment or other structure containing attached dwellings, each dwelling shall be deemed a separate Unit. Special provisions for Units which are the subject of Long Term Leases are set forth in Section 3.4 below.

Until dwelling units are completed and ready for occupancy, a parcel of vacant land, or land on which improvements are under construction, shall be deemed to contain the number of Units designated for such parcel on the preliminary plat or site plan most recently approved by the City of Tacoma.

2.32 Use Restrictions.

“Use Restrictions” shall mean the Use Restrictions set forth in **Exhibit “G”** as they may be amended under Article 9.

ARTICLE 3
THE ASSOCIATION AND ITS MEMBERS

3.1 Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility, including the Common Area. The Association is also the entity primarily responsible for enforcement of the Declaration. The Association shall perform its functions in accordance with the Declaration, the Articles and the Bylaws, applicable City of Tacoma Codes and Washington law.

3.2 Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If more than one person owns a Unit, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in the Bylaws. All such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner that is not a natural person may be exercised by the officer, director, partner, trustee, or other individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association. Special provisions concerning property subject to Long Term Leases are set forth in Section 3.4.

3.3 Voting Rights.

The primary means by which Owners will exercise power is through election of Directors as described below. As to any matters on which Owners vote directly, including the election of representative Directors, each Owner shall have one vote for each Unit owned by such Owner. Each Unit is allotted one vote regardless of the number of Persons who own the Unit. If the Owners of a Unit are unable to agree as to a vote, they shall forfeit their right to vote on that issue.

3.4 Special Provision Regarding Long Term Leases.

Declarant's intention is to execute Long Term Leases of certain parcels to other entities that will construct and maintain Rental Units. The Long Term Leases are designated on **Exhibit "E"**. In such cases, the Declarant, as the Owner of the land and buildings, shall have all voting rights for the Units. However, the Declarant may agree in writing to assign all or any part of the voting rights associated with the Units to the tenant under the Long Term Lease. Notwithstanding any other provision of the Governing Documents, the tenant under a Long Term Lease shall have all obligations of the Owner under the Governing Documents as to the leased parcel,

including, but not limited to, the obligation to pay assessments, the obligation to maintain the Unit, and all obligations with respect to use and improvement of the Units, and use of the Common Areas. As to all such obligations under the Governing Documents, the term “Owner” shall include the Long Term Lease tenants.

3.5 Management of Common Areas and Enforcement of Declaration.

The Association shall have the sole authority and obligation to manage and administer the Common Areas, and the primary authority to enforce this Declaration. Such authority shall include all authority provided for in the Articles, Bylaws, Rules and Regulations and all the authority granted the Association by the Declaration either directly or by necessary implication.

3.6 Indemnification of Officers, Directors and Others.

To the extent allowed by Washington law, the Association shall indemnify and hold harmless every member, officer, director and committee member against all damages, liabilities and expenses, including attorney’s fees, reasonably incurred in connection with any suit or proceeding (including settlement if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

**ARTICLE 4
BOARD OF DIRECTORS**

4.1 Authority of the Board.

The Board, for the benefit of the Owners, shall have all of the powers and duties necessary for the administration of the Association’s affairs and for the execution of the Association’s rights and responsibilities as set forth in the Governing Documents and as provided by law. The Board may do all things not reserved by law or the Governing Documents exclusively to the Members.

4.2 Number of Directors.

The size and makeup of the Board are intended to reflect: the different interests of Rental and Ownership Unit Owners, Declarant’s unique interest as described in Section 1.2 above, and the fact that the Association will expand and change as the community grows over time.

4.2.1 Initial Board. Initially, the Board shall be comprised of three (3) Directors, one representing the Ownership Units and two (2) representing the Rental Units. The Declarant shall appoint the Rental Unit Directors. The Declarant shall

appoint a Builder Owner purchasing at least 5 Units as the initial Ownership Unit Director, to serve until a new director is elected as described in section 4.2.2.

4.2.2 Election. After at least 50 Ownership Units have been sold to Owners who are not Builders, the Association shall call a meeting at which the Owners of Ownership Units shall elect the new Ownership Unit Director to serve a two-year term. Thereafter, the Ownership Unit Directors shall be elected as described in the Bylaws. The Declarant shall continue to appoint the Rental Unit Directors.

4.2.3 Increase to Five. When additional property is first added to the Property under Article 14, the number of directors shall be increased to five (5). Two (2) Directors representing the Ownership Units shall be elected by the Owners of such Units as described in the Bylaws, and the Declarant shall appoint three (3) Directors representing the Rental Units.

4.2.4 Further Increases. At any time, the Board may, by resolution, increase the number of directors to a maximum of nine (9) and identify the manner in which the additional directors are selected, provided that at all times, at least 20% and no more than 33-1/3% of the directors shall be elected by the Ownership Unit Owners. The remaining directors shall be appointed by Declarant.

4.2.5 Declarant Appointment of Non-Voting Directors. To ensure that the Board considers the views of a diverse community, the Declarant shall have the right to appoint up to 3 non-voting directors. The Declarant must notify the Association in writing of any such appointment.

4.3 Rules and Regulations.

The Board is empowered to adopt Rules and Regulations (a) governing the use of the Common Areas; (b) establishing procedures for Association activities and governance; (c) establishing sanctions for violations of the Governing Documents, including monetary fines that shall, if unpaid, become Specific Assessments against the Owner's Unit; and (d) concerning other matters relating to the Association's authority. All Owners shall be given written notice of the adoption and amendment of the Rules and Regulations, and the Secretary of the Association shall maintain a copy of the current Rules and Regulations for inspection by Members.

4.4 Delegation to Manager.

The Board may delegate any of its managerial duties, powers, or functions to any person, firm, entity or corporation (the "Manager"); provided that any management agreement may be terminated by the Association:

- (a) For cause upon thirty (30) days advance written notice; and

(b) Without cause upon ninety (90) days advance written notice;

The term of any such management agreement may not exceed one (1) year and may be renewable by agreement of the parties for successive one (1) year periods.

The Members of the Board shall not be liable for any omission or improper exercise by the Manager of any duty, power, or function so delegated by written instrument executed by a majority of the Board.

ARTICLE 5 MAINTENANCE AND COMMON EXPENSE

5.1 Maintenance of Areas of Common Responsibility.

5.1.1 The Association shall maintain, consistent with the Community-Wide Standard and requirements of the City of Tacoma land use approvals, the Areas of Common Responsibility which shall include, but need not be limited to:

5.1.1.1 The Common Area, which includes parks, stormwater facilities (including biofiltration swales), wetlands and wetland buffers, landscaped tracts, common mailboxes, irrigation systems, entry monuments, signage, and other property conveyed to the Association by Declarant. There exist wetland buffer mitigation areas within Tract B, between R Street and the T Street gulch, that are Areas of Common Responsibility. The Association shall take care to maintain those areas where wetland buffer exists, as naturally vegetated, unmowed buffer areas, not parkland. The Salishan Buffer Plant Schedule included in **Exhibit “C”** provides the list of approved plants to be maintained in the buffer areas.

5.1.1.2 Landscaping in median strips, the bioswales, and any structures installed by the Builder or the Association in, over or across the bioswales, related stormwater facilities, and other areas maintained under agreements between the Association **and** the City of Tacoma. The bioswales shall be maintained consistent with the Maintenance Checklist for Bioinfiltration Swales attached as Exhibit F

5.1.1.3 To the extent, and at the discretion of the Board, the Association may mow and edge grass areas as originally installed in front and side yards of Ownership Units only. All other front and side yard maintenance, including irrigation, fertilization, weeding, and care of other plantings and features shall be the responsibility of the Owner.

5.1.1.4 Maintenance of street trees as originally installed in street rights-of-way, but not including irrigation which is the obligation of the adjoining Owner.

5.1.1.5 Replacement and repair of sidewalks in public right-of-way. Routine maintenance of sidewalks such as removal of ice and snow, and cleaning shall be the response of the adjoining Owner. Any damage caused by the acts or omissions of an Owner shall be the responsibility of that Owner.

5.2 Maintenance of Units.

The maintenance of individual Units shall be the sole responsibility of the Owners of the Unit. Any action necessary or appropriate to the maintenance of such individual Units, including but not limited to building exteriors and roofs, yard areas, parking areas and walks, utilities and landscaping, and the payment of property taxes shall be the sole responsibility of the individual Unit Owners. Each Owner shall maintain its respective Unit in a neat and orderly manner consistent with the Community Wide Standard. In addition, each Owner shall have the responsibilities reserved to Owners under Section 5.1 above, and shall carry out those responsibilities consistent with the Community-Wide Standard.

If any Owner should fail to maintain its Unit in such a condition, the Association shall have the right to notify said owner in writing of the maintenance work required. If said work is not performed within 30 days of such notice, the Association shall have the right to enter onto the offending Unit, provide such work, and to levy a Specific Assessment against the Unit Owner and the Unit for the cost of providing such work under Section 6.7.

In case of Senior Housing, the standard for the condition of the property, the terms for providing notice of required repairs, and the procedure to complete those repairs shall be controlled by the Long Term Lease agreement.

5.3 Maintenance of the Public Rights-of-Way.

Except as provided in Section 5.1, Owners shall be obligated to maintain the parking strip area of the right-of-way adjoining their Unit consistent with City of Tacoma Codes.

5.4 Maintenance of Storm Detention System.

All Owners shall maintain in proper working order all roof drains, storm drains and stormwater conveyance systems located on or in the Unit.

5.5 Common Expenses.

Certain expenses shall be paid by the Association for the benefit of all Owners and shall be referred to as "Common Expenses." The Association shall pay the Common Expenses from the fund established by assessments paid by Unit Owners as described in this Declaration. Common Expenses shall include but not be limited to:

5.5.1 The expense of maintaining the Areas of Common Responsibility.

5.5.2 The real property and other taxes upon the Common Areas.

5.5.3 The cost of maintaining insurance coverage, including insurance on the Common Areas, all as required by the Declaration or deemed appropriate by the Board.

5.5.4 Utility charges attributed to the Areas of Common Responsibility.

5.5.5 The cost of maintaining entrance improvements to Salishan, including but not limited to, signs, lights, fences, walls, plantings and landscaping.

5.5.6 The cost of maintaining common drainage facilities both temporary and permanent.

5.5.7 The cost of maintaining water-quality monitoring programs if established.

5.5.8 The cost of Salishan security measures as deemed appropriate by the Association.

5.5.9 The costs of administrating the Association, and all expenses incurred in carrying out its powers and duties.

5.5.10 Any other expense reasonably related to the health, safety and welfare of the Owners, guests, business invitees, employees and licensees of Salishan and which shall be designated as a Common Expense in this Declaration or from time to time by the Association.

ARTICLE 6 ASSESSMENTS

6.1 Creation of Assessments.

There are hereby created three types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Units; (b) Special Assessments as described in Section 6.6; and (c) Specific Assessments as described in Section 6.7. Each Owner, by acceptance of a deed or recording a contract of sale or Long Term-Lease for any portion of the Property, is deemed to covenant and agree to pay these assessments as levied from time to time by the Association. (As to property subject to a Long-Term Lease, the assessments shall be paid by the tenant as described in Section 3.4.) The Association shall, on request, furnish to any Owner a written certificate setting forth whether Assessments have been paid for any particular Unit, on advance payment of a reasonable processing fee as set by the Board.

All Assessments, together with interest at a rate set by the Board (not to exceed 18% or the highest rate allowed by Washington law, if less) from the date of delinquency, late charges, costs, and reasonable attorney's fees and court costs, shall be a charge and a continuing lien upon each Unit against which the Assessment is made until paid, as more particularly provided in Section 6.8. However, Declarant's property may not be subjected to a lien, as provided in Section 6.8.2. Each such Assessment, with interest, late charges, costs of collection, including reasonable attorney's fees and court costs, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the Assessment was made. If title to a Unit is transferred, the grantee shall be jointly and severally liable for Assessments and charges due at the time of conveyance, except that a first Mortgagee who obtains title to a unit by exercising rights under the Mortgage shall not be liable for previously accrued Assessments and related charges.

6.2 Payment of Assessments.

Assessments shall be paid in a manner and by dates fixed by the Board. The Board may allow payment of Assessments in installments. Unless the Board otherwise provides, one-twelfth of the Base Assessment and of any Neighborhood Assessments shall be due in advance on the first day of each calendar month. If any Owner is delinquent in paying any Assessments or charges levied on the Unit, the Board may require all unpaid Assessment installments to be paid immediately. No Owner may exempt himself or herself from liability for Assessments by non-use of Common Areas, abandonment of the Unit or any other means. The obligation to pay Assessments is a separate and independent covenant of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed for any alleged

failure of the Association to take any action required of it, or for inconvenience or discomfort arising from repairs, improvements or other actions of the Association.

6.3 Declarant Assessments.

Until Assessments have commenced under Section 6.9 on at least one-half of the Units, the Declarant may elect annually to pay the Association either (a) regular Assessments on all of its Units on which Assessments have not commenced, notwithstanding the commencement date under Section 6.9, or (b) the difference between the amount of Assessments collected from other Units and the necessary expenditures of the Association during the fiscal year. Unless Declarant otherwise notifies the Board at least 60 days before the beginning of a fiscal year, Declarant shall continue to pay on the same basis as the preceding fiscal year. Declarant's obligations hereunder may be satisfied in cash, by "in kind" contributions of services or materials, or by a combination of these.

The Association is specifically authorized to enter into subsidy contracts and/or contract for "in kind" contributions of services and materials with Declarant or others for payment of Common Expenses.

6.4 Computation of Base Assessment.

6.4.1 Budget. At least 60 days before the beginning of each calendar year, the Board shall prepare a budget for the estimated Common Expenses of the Association during the coming year, including capital contributions in accordance with reserve fund budgets prepared under Section 6.5. The Base Assessment shall be levied in aggregate amounts reasonably expected to produce income equaling the total budgeted Common Expenses. In determining Assessments, the Board may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Units subject to Assessment under Section 6.9 on the first day of the fiscal year for which the budget is prepared and the number of Units reasonably anticipated to become subject to Assessment during the fiscal year.

The Board shall send to each Owner a copy of the budget and notice of the amount of the Base Assessment against such Owner's Unit at least 30 days before the beginning of the fiscal year. The budget and Assessments shall be effective unless disapproved at a meeting by a vote by Owners representing at least 51% of the Units. There shall be no obligation to call a meeting to consider the budget unless a petition of the Members, as provided for special meetings in the Bylaws, is presented to the Board within ten days after delivery of the notice of Assessment. If a budget is disapproved or the Board fails to determine the budget for any year, then the budget for the preceding year shall continue until a new budget is established.

6.4.2 Allocation Among Units. In fixing the Base Assessment, the Association shall allocate the Common Expenses among the Ownership Units, the Senior Housing Units, and the Rental Units that are not Senior Housing Units (“Other Rental Units”) based upon the relative amount of the Property land area (not including public streets and alleys and Common Areas) allocated to each Unit type. For example, if 30 acres are set aside for Ownership Units, 10 acres for Senior Housing Units, and 60 acres for Other Rental Units, 30% of the Common Expenses would be allocated to Ownership Units, 10% to Senior Housing Units, and 60% to Other Rental Units. The land area allocations for the first phase of Salishan are set forth on Exhibit E. Once this allocation has been made, the Board shall calculate Base Assessments as follows:

6.4.2.1 Ownership Units. The Board shall have the authority to fix the Base Assessment for Ownership Units subject to assessment so that such Units equitably share the amount allocated to Ownership Units as described above. In fixing such Base Assessments, the Board need not assess each Ownership Unit the same amount, and may lower the Base Assessment for certain Ownership Units based on Owners’ income, housing affordability, lower expected use of Common Areas, or other factors deemed fair by the Board. However, in no event shall the Base Assessment for any Ownership Unit be less than 50% of the Base Assessment for any other Ownership Unit; and the Base Assessment shall not be reduced for more than 33% of the Ownership Units.

6.4.2.2 Senior Housing Units. The Association shall calculate the Base Assessment for Senior Housing Units subject to Assessment so that each Senior Housing Unit pays an equal share of the amount allocated to Senior Housing Units as set forth above.

6.4.2.3 Rental Units. The Association shall calculate the Base Assessment for Rental Units other than Senior Housing Units subject to Assessments so that each such Rental Unit pays an equal share of the amount allocated to Rental Units as set forth above.

6.5 Reserve Budget and Capital Contribution.

The Board shall annually prepare reserve budgets which take into account the number and nature of replaceable assets owned or maintained by the Association, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in Base Assessments capital contributions in amounts sufficient to meet these projected needs.

6.6 Special Assessments.

In addition to Base Assessments and Specific Assessments, the Association may levy Special Assessments from time to time to cover expenses greater or different than those budgeted. Except as otherwise specifically provided in this Declaration, Special Assessments must be approved by the affirmative vote or written consent of Owners representing at least 51% of the Units. Special Assessments shall be paid in a manner and by dates fixed by the Board, and shall be allocated in the same manner as Base Assessments. The Board may allow payment in installments extending beyond the fiscal year in which the Special Assessment is approved.

6.7 Specific Assessments.

The Board may specifically assess against particular Units expenses incurred by the Association to provide special benefits, items, or services (a) on request of an Owner, or a group of Owners for a special benefit, item, or service; (b) pursuant to the Association's maintenance rights under Section 5.2 above; (c) made necessary by the conduct of the Owner or its licensees, invitees, or guests; or (d) necessary to bring the Unit, into compliance with this Declaration, the Articles, the Bylaws, or the Rules and Regulations. Such Specific Assessments may be levied by the Board after notice to the affected Owners and an opportunity for a hearing.

6.8 Lien for Assessments.

6.8.1 General. Except as noted in 6.8.2 below, the Association shall have a lien against each Unit to secure payment of delinquent assessments, interest, late charges and costs of collection (including attorney's fees and court costs). Such lien shall be prior and superior to all other liens, except: (a) the liens for taxes and governmental assessments which by law are superior, and (b) the lien of any Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment and foreclosure in the same manner as a Mortgage.

The Association may bid for a Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. When a Unit is owned by the Association following foreclosure, (a) no right to vote shall be exercised on its behalf, (b) no Assessments shall be levied on it, and (c) each other Unit shall be charged, in addition to its usual Assessment, its pro rata share of the Assessment that would have been charged to such Unit had it not been acquired by the Association. The Association may sue to recover a money judgment for unpaid Assessments and related charges, including attorney's fees, without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the Assessment lien or relieve such Unit from the lien for any Assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to foreclosure of the Mortgage, it shall not be liable for the unpaid share of the Assessments that became due prior to such acquisition of title. Such unpaid share of Assessments shall be deemed to be common expenses collectible from Owners of all Units including such acquirer, its successors and assigns.

6.8.2 Declarant's Property. Since Declarant's property may not, by law, be subjected to a lien, the provisions of 6.8.1 shall not apply to any property owned by Declarant. However, the leasehold interest of a tenant under a Long Term Lease of such property shall be subject to a lien as described above. Such lien shall be subject to provisions of Section 6.8.1.

6.9 Date of Commencement of Assessments.

The obligation to pay Assessments shall commence as to each Unit (after the Board first determines a budget and levies Assessments) as follows: (a) as to each Ownership Unit, upon the first day of the month following the first conveyance; and (b) as to the Rental Units in any building, upon the first day of the month following occupancy of the first Unit in such building. The first annual Base Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Unit.

6.10 Failure to Assess.

Failure of the Board to fix the Assessment amounts or rates or to deliver Assessment notices shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the prior year until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively.

6.11 Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner other than a Builder (or in the case of an Rental Housing Unit, at the time of first occupancy), a contribution shall be made by or on behalf of the purchaser or tenant to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment for the Unit. This amount shall be in addition to, and not in lieu of, the annual Base Assessment levied on the Unit and shall not be considered an advance payment thereof. This amount shall be collected at the closing (or occupancy) of the Unit and disbursed to the Association for use in covering operating and other expenses incurred by the Association under the terms of this Declaration and the

Bylaws. The Board in its discretion may exempt certain Ownership Units from the obligation to pay this contribution based on Owners' income, housing affordability, lower expected use of Common Areas, or other factors deemed fair by the Board.

6.12 Exempt Property.

The following Property is exempt from payment of Base Assessments, Specific Assessments, and Special Assessments: (a) all property dedicated to and accepted by any governmental entity (excluding Declarant) or public utilities, including without limitation, public streets, sidewalks and public parks; and (b) Common Areas.

ARTICLE 7 EASEMENTS

7.1 Easements for Use and Enjoyment.

7.1.1 Every Owner of a Unit shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to each Unit, subject to:

(i) the right of the Association to establish reasonable rules and regulations for the use, operation, and maintenance of the Common Areas including their use and enjoyment by an Owner, and the Owner's tenants, guests and invitees;

(ii) the right of the Association to dedicate or transfer all or any portion of the Common Areas subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of at least seventy-five percent (75%) of the total voting power of the Association.

(iii) any restrictions imposed by the City of Tacoma in its approvals for Salishan.

7.1.2 Any Owner may delegate such Owner's right of use and enjoyment in and to the Common Areas and facilities located thereon to such Owner's tenants, guests and invitees and, if the Unit is leased, the Owner shall be deemed to have made a delegation of all such rights to the tenants.

7.2 Easements for Utilities.

There is hereby reserved to the Declarant and the Association blanket easements upon, across, above and under all portions of the Property for access,

ingress, egress, installation, repairing, replacing and maintaining all utilities serving Salishan or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage. It shall be expressly permissible for the Declarant, the Association, or the designee of either, as the case may be, to install, repair, replace and maintain or to authorize the installation, repairing, replacing and maintaining of such wires, conduits, cables and other equipment related to such utility or service. In no event, however, shall any utility installed pursuant to this easement interfere with any building that is, or is being, constructed on a Unit. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

7.3 Easement for Entry.

The Association and its agents shall have the right, but shall not be obligated, to enter upon any property within Salishan for emergency, security and safety reasons, which right may be exercised by the Association's representative, and all police officers, fire fighters, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right to enter to cure any condition which may increase the possibility of a fire, slope erosion, flooding or other hazard in the event an Owner or occupant fails or refuses to cure the condition upon request by the Association.

7.4 Easement for Maintenance.

Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of Salishan, determined in the sole discretion of the Association, as are necessary to allow for the maintenance to be performed by the Association under the Declaration. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owner's property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

7.5 Easement for Signs.

There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction, and maintenance of entry signs for Salishan, over and upon any Unit as more fully described on any recorded final plat for Salishan. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such signs and the right to grade the land under and around such signs.

7.6 Construction and Sale Period Easement.

Notwithstanding any provisions contained in the Governing Documents, Declarant reserves an easement across the Property for Declarant and any Builder approved by Declarant to maintain and carry on, upon such portion of Salishan as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient or incidental to Declarant's and such Builder's development, construction and sales activities related to Salishan. This includes, without limitation: (i) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in Salishan, including, without limitation, any Unit; (ii) the right to tie into any portion of Salishan with driveways, parking areas and walkways; (iii) the right to tie into and/or otherwise connect and use (without a tap or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over Salishan; (iv) the right to carry on sales and promotional activities in Salishan; (v) and the right to construct and operate business offices, signs, construction trailers, and sales offices. Rights exercised under this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent.

ARTICLE 8 ARCHITECTURAL STANDARDS

8.1 General.

(a) No Improvements (including staking, clearing, excavation, grading and other site work), exterior alteration of existing Improvements (including painting), placement or posting of any object or thing on the exterior of any Unit (e.g., fences, signs, antennas, satellite dishes, clotheslines, lighting, temporary structures, artificial vegetation, exterior sculptures, and fountains), or planting or removal of plants, trees, or shrubs on any Unit is allowed except in compliance with this Article and with the approval of the Construction Committee.

(b) An Owner may remodel or redecorate the interior of buildings in any manner desired, repaint the exterior of structures in accordance with the originally approved color scheme, or rebuild structures in accordance with originally approved plans and specifications without approval under this Article. Any modifications to the interior of porches, patios and similar portions of a Unit visible from outside the Unit, and modifications to enclose garages, porches or patios as living space shall require approval under this Article. Any request to enclose a garage must include

plans for a replacement garage on the Unit. If approval of a garage enclosure is granted by the Construction Committee, such approval may be conditioned on the construction of a replacement garage.

(c) Upon completion of any work performed in compliance with this Article and the Design Guidelines, an Owner may request and the Association shall provide a written certificate in recordable form stating that such work was completed in compliance with this Article and the Design Guidelines. The Association may charge the Owner for the reasonable costs of providing such certificate.

(d) All dwellings constructed or reconstructed and any exterior remodel on any Unit shall be designed by and built in accordance with the plans and specifications prepared by a licensed architect or other professional approved by the Construction Committee, and shall be constructed of new construction materials on-site, unless otherwise approved by the Construction Committee. All dwellings and all improvements or remodels of dwellings or other structures on a Unit shall be constructed in compliance with all applicable building codes, and the Owner of such Unit shall obtain all permits required by law.

(e) This Article shall not apply to (a) activities of Declarant, or (b) Improvements or modifications to Common Area, by or on behalf of the Declarant or Association. This Article may not be amended without Declarant's written consent so long as Declarant owns any land subject to this Declaration, or which it may unilaterally submit to this Declaration.

8.2 Architectural Review.

Administration of the Design Guidelines and review of applications for construction and modifications under this Article shall be handled by the Construction Committee described below. Committee members need not be Owners and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established by the Board. The Board may establish reasonable fees for review of applications and require them to be paid prior to review.

8.3 Construction Committee.

The Construction Committee shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all construction, modifications, additions or alterations on any Unit. Until a date 3 years following the recording of the last final plat in Salishan (including all of the property described on Exhibit B), Declarant may appoint all members of the Construction Committee who shall serve at its discretion. There shall be no surrender of this right prior to that time, except by a recorded instrument executed by Declarant. Upon expiration of

such right, the Board shall appoint the members of the Construction Committee, who shall serve at its discretion.

8.4 Guidelines and Procedures.

(a) Declarant shall prepare initial design, development and construction guidelines and application and review procedures (the “Design Guidelines”), which may contain general provisions applicable to all of the Property, and specific provisions which vary from one portion of the Property to another, depending on the location, characteristics, and intended use. The Construction Committee, acting on behalf of the Board, shall adopt the Design Guidelines at its initial meeting and, thereafter, shall have sole and full authority to amend them without consent of the Owners. Any amendments shall not apply to completed applications for approval of work submitted before the amendment, and shall not require modifications to or removal of any previously approved work. The Design Guidelines shall at all times be consistent with the Declaration.

(b) The Construction Committee shall make the Design Guidelines available to Owners, Builders and others who seek to work on any portion of the Property and all such Persons shall conduct their activities in accordance with such Design Guidelines.

(c) Plans and specifications consistent with the Design Guidelines showing the nature, kind, shape, color, size, materials, and location of all work shall be submitted to the Construction Committee for review and approval. In reviewing each submission, the Construction Committee may consider the quality of materials, workmanship and design, harmony of external design and material with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, and other factors, as well as the Design Guidelines. The Construction Committee shall approve or disapprove any application within 50 days after submission of all information and materials reasonably requested. If the Construction Committee fails to so act, the owner may give notice of intention to go forward. If the Committee fails to approve or disapprove within 50 days after receipt of such notice, the application shall be deemed approved. However, no approval, whether expressly granted or implied, shall be inconsistent with any objective standard of the Declaration or of the Design Guidelines unless a variance has been granted in writing by the Construction Committee under Section 8.6. If the Construction Committee disapproves an application, it shall provide the applicant with a written report stating the reasons for disapproval not more than 20 days after disapproval.

8.5 Historic Streetscape.

The Historic Streetscape will maintain dwellings that have the front and side yards set-backs consistent to the form and rhythm of the Historic Streetscape. In carrying out its review of activities regulated by this Article 8 as to the Historic Streetscape, the Construction Committee shall consider the following special guidelines:

(a) The distinguishing original qualities or character of a building and its relationship to the street shall not be destroyed. Alterations which encroach into existing side and front yards, or which propose additional height, shall be reviewed for consistency with the original bulk and scale of the streetscape.

(b) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that impact the form and rhythm of the Historic Streetscape shall be discouraged.

(c) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(d) Contemporary design for alterations and additions to existing buildings shall not be discouraged when such alterations are compatible with the scale and character of the streetscape.

8.6 No Waiver of Future Approvals.

The approval of any proposals, plans, specifications, drawings or other matters in any one instance shall not be deemed a waiver of any right to withhold subsequent approval of any similar proposals, plans, specifications, drawings, or matters.

8.7 Variances.

The Construction Committee may authorize variances in writing from its Design Guidelines, but only: (a) consistent with any standards for variance set forth in the Design Guidelines themselves, (b) when unique circumstances, such as unusual topography, natural obstructions, aesthetic or environmental conditions necessitate the variance, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining property. Inability to obtain, or the terms of, any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance.

8.8 Limitation of Liability.

The Construction Committee shall not be responsible for the structural integrity or soundness of approved work, or for ensuring compliance with building codes and other governmental requirements nor for ensuring that all dwellings are of a particular quality, size or value. Neither Declarant, the Association, the Board, any committee nor member of any of them shall be liable for any injury, damages or loss arising out of the manner or quality of approved work. The Association shall defend, indemnify and hold harmless, the members of the Construction Committee as provided in Section 3.6.

8.9 Enforcement.

Any construction, alteration or other work done in violation of this Article shall be deemed nonconforming. On written request from the Board or Declarant, Owner shall, at its own expense, cure such nonconformance to the satisfaction of the requester, or restore the Property to substantially the same condition as existed prior to the nonconforming work. If an Owner fails to so cure or restore, the Board, Declarant or their designees may do so at the Owner's expense and assess the cost against the affected Unit as a Specific Assessment under Section 6.7.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with this Article may be excluded by the Board from the Property, subject to any notice and hearing procedures in the Bylaws. In such event, neither the Association, its officers, directors nor its agents shall be held liable to any Person for exercising the rights granted by this paragraph. In addition, the Board may, on behalf of the Association, pursue all legal and equitable remedies available to enforce this Article and the decisions of the Construction Committee.

**ARTICLE 9
USE GUIDELINES AND RESTRICTIONS**

9.1 Plan of Development; Applicability; Effect.

Declarant has created Salishan as a master planned community which includes residential uses, community uses and open space property. The Property, as part of Salishan, is subject to land development, architectural, and Design Guidelines as set forth in Article 8, and also to restrictions governing land use, individual conduct and actions upon the Property, as provided in this Article 9.

All provisions of the Declaration and of any Rules adopted by the Board shall also apply to all occupants, tenants, guest and invitees of any Unit. The Owner shall make reasonable efforts to cause all occupants of his or her Unit to comply with

these provisions. Every Owner shall be responsible for its violations and resulting losses to the Association and to any other Member caused by such violations, although the occupants also are fully liable and may be sanctioned for such violations and losses. Any lease on any Unit shall provide that the tenant and all occupants of the leased Unit shall be bound by the terms of this Declaration, the Bylaws, and the Rules of the Association.

Declarant has created Salishan's general plan of development in order to protect all Owners' quality of life and collective interests, the aesthetic and environment within the Property, and the vitality of and sense of community within Salishan, all subject to the Board's ability to respond to changes in circumstances, conditions, needs and desires within the community.

Declarant has created initial Use Restrictions on **Exhibit "G"** which contain general provisions applicable to all of the Property, as well as specific provisions that may vary within the Property, depending upon the location, characteristics, and intended use. The Board shall provide, without cost, a copy of the Use Restrictions and any other Rules then in effect to all new Members at the time of acquisition of a Unit, and to any Mortgagee upon request.

9.2 Board Power.

Subject to the terms of this Article, and to its duty of care and undivided loyalty to the Association and its Members, the Board may adopt, modify, cancel, limit, create exceptions to, or expand the Use Restrictions set forth in **Exhibit "G"**. However, with respect to the Senior Housing Units, no use restriction, except those currently set forth in **Exhibit "G"**, may be adopted without the prior written approval of HUD, Office of Housing. The Board shall conspicuously publish notice of any such proposal at least five business days prior to the Board meeting at which it will be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to action being taken. The Board shall have all powers necessary and proper, subject to its exercise of sound business judgment and reasonableness, to affect the duties contained in this section.

The Board shall send a copy of any proposed new Use Restrictions or amendment to each Owner at least 30 days prior to its effective date. The Use Restriction shall become effective unless disapproved at a meeting by Owners representing at least 51% of the Units. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon petition of Members as required for special meetings in Article 2.4 of the Bylaws.

9.3 Members' Powers.

Members, at a special meeting duly called for such purpose as provided in Article 2.4 of the Bylaws, may adopt, repeal, modify, limit and expand Use Restrictions by a vote of Owners representing at least 51% of the Units. However, with respect to the Senior Housing Units, no use restriction, except those currently set forth in **Exhibit "G"** may be adopted without the prior written approval of HUD, Office of Housing. This provision does not authorize the Members to modify or repeal the Design Guidelines (Article 8) or the Declaration.

9.4 Owner's Acknowledgement.

All Owners are subject to the Use Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board may add, delete, modify, create exceptions to, or amend the Use Restrictions in accordance with Sections 9.2, 9.3 and 4.3. EACH OWNER BY ACCEPTANCE OF A DEED ACKNOWLEDGES AND AGREES THAT THE USE AND ENJOYMENT AND MARKETABILITY OF HIS OR HER PROPERTY CAN BE AFFECTED BY THIS PROVISION AND THAT THE USE RESTRICTIONS AND RULES MAY CHANGE FROM TIME TO TIME.

9.5 Rights of Owners.

Except as may be contained in the Declaration or in the Initial Use Restrictions set forth in **Exhibit "G"**, neither the Board nor the Association may adopt any Use Restriction in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and residents shall be treated similarly and in compliance with all fair housing laws.

(b) Speech. No Use Restriction shall abridge the rights of Owners and occupants to display on their Unit political signs and symbols of the kinds normally displayed in or outside of residences located in residential neighborhoods in individually owned property, except that the Association may adopt reasonable time, place and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

(c) Religious and Holiday Displays. No Use Restriction shall interfere with the right of Owners to display on their Unit religious and holiday signs, symbols, and decorations of the kinds normally displayed in or outside of residences located in residential neighborhoods, except that the Association may adopt reasonable time, place and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

(d) Household Composition. The Association or Board shall make no Use Restriction that interferes with the freedom of occupants to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit, to the extent not prohibited by law.

(e) Activities Within a Unit. Neither the Association nor the Board shall make any Use Restriction that interferes with the activities of the residents carried on indoors, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that impose monetary costs on the Association or other Owners, that create a danger to the health or safety of other occupants, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, or that create an unreasonable source of annoyance.

(f) Pets. No Use Restriction prohibiting the keeping of ordinary household pets shall be adopted by the Board or Association over the objection of any Owners expressed in writing to the Association. However, the Association or Board may adopt reasonable regulations designed to minimize the damage and disturbance to other Owners and occupants, including regulation requiring damage deposits, waste removal, leash control, noise controls, occupancy limits based on size and facilities of the Unit and fair share of the Area of Common Responsibility. The Association and Board specifically have the authority to limit the number of pets that may be allowed in a Unit. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance. Nothing in this provision shall prevent any Owner from imposing further restrictions on pet ownership on or in its Unit.

(g) Alienation. The Association or Board shall not adopt Use Restrictions that prohibit transfer of any Unit, or require a consent period for the Association or Board for transfer of any Unit, for any period greater than one month. The Association or Board shall not impose any fee on transfer of any Unit greater than an amount reasonably based on the cost of the transfer to the Association.

(h) Reasonable Rights to Develop. Neither the Association nor the Board shall adopt any Use Restriction or take any action that would unreasonably impede Declarant's right to develop in accordance with the master plan for Salishan.

(i) Special Housing. Neither the Association nor the Board shall take any action that would preclude the use and establishment of a group home or other housing program for children, disabled persons or homeless persons that otherwise complies with this Declaration.

ARTICLE 10 INSURANCE

10.1 Required Coverages.

The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available.

10.1.1 Blanket property insurance covering the full replacement cost of all insurable Improvements under current building ordinances and codes on the Common Area and within the Areas of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership;

10.1.2 Commercial general liability insurance on the Areas of Common Responsibility, insuring the Association and its Members with limits of (if generally available at reasonable cost, including primary and any umbrella coverage) at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage, or such additional coverage and higher limits which a reasonably prudent person would obtain;

10.1.3 Workers compensation insurance and employers liability insurance, if and to the extent required by law;

10.1.4 Directors and officers liability coverage;

10.1.5 Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

10.1.6 Such additional insurance as the Board, in its best business judgment, determines advisable.

Premiums for all insurance on the Areas of Common Responsibility shall be Common Expenses.

10.2 Policy Requirements.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Pierce County, Washington area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 10.1. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

10.2.1 be written with a company authorized to do business in Washington which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

10.2.2 be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

10.2.3 not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

10.2.4 contain an inflation guard endorsement;

10.2.5 include an agreed amount endorsement, if the policy contains a co-insurance clause;

10.2.6 provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

10.2.7 provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

10.2.8 include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

10.2.9 include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition the Board shall use reasonable efforts to secure insurance policies which provide:

10.2.10 a waiver of subrogation as to any claims against the Association's Board, officers, employees and its manager, the Owners and their tenants servants, agents, and guests;

10.2.11 a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

10.2.12 an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

10.2.13 a cross liability provision.

10.3 Restoring Damaged Improvements.

In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed in a timely manner unless Members representing at least 75% of the total votes in the Association and Declarant, so long as it owns any portion of the property, decide not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Persons entitled to use the damaged or destroyed property, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments or Specific Assessments as appropriate to cover the shortfall.

ARTICLE 11 MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Property. In addition, as noted in Section 11.10, certain provisions are for the benefit of certain Tax Credit Members of tenants under Long Term Leases. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

11.1 Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an “Eligible Holder”), will be entitled to timely written notice of:

11.1.1 Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

11.1.2 Any delinquency in the payment of Assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating, to such Unit or the Owner or Occupant which is not cured within 60 days;

11.1.3 Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

11.1.4 Any proposed action that would require the consent of a specified percentage of Eligible Holders.

11.2 Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Members representing at least 67% of the total Association voting power consent, the Association shall not:

11.2.1 By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

11.2.2 Change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Property regarding assessments for expansion areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by the Declaration);

11.2.3 By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Areas the (the issuance and amendment of Design Guidelines, Use Restrictions under Article 8, procedures, or Rules shall not constitute a change, waiver, or abandonment within the meaning of this provision);

11.2.4 Fail to maintain insurance, as required by this Declaration; or

11.2.5 Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

11.3 Other Provisions for First Lien Holders.

To the extent not inconsistent with Washington law:

11.3.1 Any restoration or repair of the Property after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is

obtained of the Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

11.3.2 Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

11.4 Amendments to Documents.

The following provisions do not apply to amendments to the constituent documents or termination of the Association as a result of destruction, damage, or condemnation pursuant to Sections 11.3.1 and 11.3.2, or to the addition of land in accordance with Article 14.

11.4.1 The consent of Members representing at least 67% of the votes and of Declarant so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

11.4.2 The consent of Members representing at least 67% of the votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to a Mortgage appertain, shall be required to materially amend any provisions of the Declaration, Bylaws, or Articles of Incorporation, or to add any material provisions thereto which establish, provided for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of the Property;
- (vii) expansion or contraction of the Property or the addition, annexation, or withdrawal of Property to or from the Association;

- (viii) boundaries of any Unit;
- (ix) leasing of Unit;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

11.5 No Priority.

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

11.6 Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

11.7 Construction of Article 11.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws, or Washington law for any of the acts set out in this Article.

11.8 Amendment by Board.

Should the Federal National Mortgage Association or FHLMC subsequently delete any of its respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board without approval of the Owners, may record an amendment to this Article to reflect such changes. However, with respect to the Senior Housing Units, Article 11 will not be amended without the prior written approval of HUD, Office of Housing.

11.9 Provisions for Tax Credit Members of Tenants Under Long Term Leases.

The following provisions apply to Tax Credit Partners holding at least a ninety percent (90%) interest in a tenant under a Long Term Lease who file a written request with the Association. A tenant who meets these requirements is an “Eligible Tenant” under the provisions set forth below.

11.9.1 An Eligible Tenant shall be entitled to receive the timely written notices described in Section 11.1.1, through 11.1.4.

11.9.2 The consent of any Eligible Tenant shall be required for any of the actions described in Sections 11.2.1 through 11.2.5.

11.9.3 In addition to the Eligible Holder approval described in Sections 11.3.1 and 11.3.2, the described actions shall also require the approval of Eligible Tenants.

11.9.4 The consent of any Eligible Tenant shall be required for the amendments described in Section 11.4 as set forth in that section.

11.10 Failure of Mortgagee or Eligible Tenant To Respond.

Any Mortgagee or Eligible Tenant who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee or Eligible Tenant within 30 days of the date of the Association’s request, provided such request is delivered to the Mortgagee or Eligible Tenant by certified or registered mail, return receipt requested.

**ARTICLE 12
ENFORCEMENT**

12.1 Payments in Arrears.

If any Owner is in arrears on the payment of an assessment due or is in breach under the Declaration, the Rules and Regulations of the Association, or the Bylaws for a period of 30 days, such Owner’s right to vote shall be suspended and shall remain suspended until all payments are brought current and all breaches remedied. In addition, the Association shall have any other remedies against such delinquent Owners as may be provided for by the Articles, Bylaws, the Declaration, or the Rules and Regulations.

12.2 Owners and Association Rights and Remedies.

Any Owner and the Association shall have all rights and remedies available to it in law and in equity to enforce this Declaration, the Articles and Bylaws against any non-complying Owner. The prevailing party in any such action shall have the right to collect attorneys' fees, court costs and other expenses of litigation, in addition to any damages that may be awarded, including any such fees and expenses incurred on appeal.

12.3 Owner Indemnity.

Each Owner shall indemnify, defend and hold the Association harmless from and against all losses, liabilities, claims (including mechanics' or materialmen's losses), costs (including attorneys' fees), actions or damages incurred by the Association as a result of any breach of this Declaration or the Rules and Regulations by such Owner, or arising out of any personal injury or property damage caused by or arising out of such Owner's use of the Common Area. This indemnification does not extend to injury or damage arising from the actions or inactions of Owners, tenants, guests and other invitees, except to the extent that such injury or loss are also caused by the actions or inactions of the Owner.

12.4 Violation Deemed to Create a Nuisance.

Every violation of this Declaration or any part thereof is hereby declared to constitute a nuisance, and every remedy provided by law or equity may be exercised to abate such nuisance.

12.5 No Waiver or Rights to Enforce.

The failure of Declarant, the Association or any Owner to enforce any of the covenants, conditions or restrictions contained in this Declaration shall in no event be deemed or construed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other covenants, conditions or restrictions.

ARTICLE 13 DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

13.1 Alternative Method for Resolving Disputes.

Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Property, without the emotional and financial costs of litigation. Accordingly, each

Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 13.2 (“Claims”) to the procedures set forth in Section 13.2 in lieu of filing suit in any court.

13.2 Claims.

Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Property shall be subject to the provisions of Section 13.3.

Notwithstanding the above; unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 13.3:

13.2.1 any suit by the Association against any Bound Party to enforce the provisions of the Governing Documents;

13.2.2 any suit by the Association to obtain equitable relief (*i.e.*, temporary restraining order, injunction, or specific performance) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association’s ability to enforce the provisions of Articles 8 and Article 9 and the Use Restrictions;

13.2.3 any suit by a Bound Party for declaratory or injunctive relief which seeks a determination as to applicability, enforcement, clarification, or interpretation of any provisions of the Declaration;

13.2.4 any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents if the amount in controversy exceeds Five Thousand Dollars (\$5,000.00), which amount shall be increased in proportion to increases in the Consumer Price Index for Seattle-Tacoma for All Urban Consumers, All Items, from the date of recordation of this Declaration to the date of any such claim;

13.2.5 any suit in which any indispensable party is not a Bound Party;

13.2.6 any suit as to which any applicable Statute of Limitations would expire within 180 days of giving the Notice required by Section 13.3.1, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and

13.2.7 any suit for unlawful detainer initiated by any Owner.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 13.3.

13.3 Mandatory Procedures.

13.3.1 Notice. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the claim;
- (ii) the legal basis of the Claim (*i. e.*, the specific authority out of which the Claim arises);
- (iii) Claimant’s proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

13.3.2 Negotiation and Mediation.

- (i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.
- (ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of any Pierce County dispute resolution center or, if the Parties otherwise agree, to an independent agency providing dispute resolution services in the area.
- (iii) If Claimant does not submit the claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall

release or discharge Respondent from any liability to any Person other than the Claimant.

- (iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.
- (v) Within five days of the Termination of Mediation, the Claimant shall make a final written settlement/demand (“Settlement Demand”) to the Respondent, and the Respondent shall make a final written settlement offer (“Settlement Offer”) to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a “zero” or “take nothing” Settlement Offer.

13.3.3 Final and Binding Arbitration.

- (i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit H or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.
- (ii) This subsection 13.3.3 is an agreement to arbitrate and is specifically enforceable under Washington’s applicable arbitration laws. The arbitration award (the “Award”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under Washington laws.

13.4 Allocation of Costs, of Resolving Claims.

Each Party shall bear its own costs, including attorneys fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding (“Post Mediation Costs”).

Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs, except as otherwise provided in this subsection.

13.5 Enforcement of Resolution.

If the parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 13.3 and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with any Award after arbitration, then any abiding or complying Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 13.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

ARTICLE 14 EXPANSION OF SALISHAN

14.1 Expansion by Declarant.

14.2.1 Exhibit A Property. Until such time as any portion of the property described on Exhibit A is sold to a third party, Declarant may subject such portion to additional covenants and easements all of which shall run with the title to such property. Any such additional covenants and easements shall be set forth in a Supplemental Declaration.

14.2.2 Exhibit B Property. Declarant may, from time to time, make subject to the provisions of this Declaration all or any portion of the property described in Exhibit B, including portions which are not contiguous to other portions of Salishan, by recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration recorded pursuant to this Section shall not require the consent of any person except the owner of such property, if other than Declarant. Nothing in this Declaration shall be construed to require Declarant or

any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit B in any manner whatsoever.

14.2 Additional Covenants and Easements.

Declarant may subject any portion of the property described on Exhibit B to additional or modified covenants and easements and may identify new Areas of Common Responsibility which the Association will be obligated to maintain and insure. Such additional covenants and easements will be set forth in a Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of the Declaration as it applies to the added property in order to reflect the different character and intended use of such property. A portion of the property described on **Exhibit “B”** is designated on the site plan approval by the City of Tacoma as a “Neighborhood Core” and that plan allows non-residential use in that area. Any Supplemental Declaration concerning the Neighborhood Core may establish different provisions for assessment, voting rights and other matters based on the non-residential uses, and such property may, in Declarant’s discretion, be relieved of any or all assessment obligation.

14.3 Expansion by the Association.

The Association may also subject additional property to the provisions of this Declaration by recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Owners having more than 50% of the votes of the Association and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 14.1, Declarant’s consent shall also be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association.

ARTICLE 15 AMENDMENTS

15.1 By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, (and except as set out in Sections 9.2 and 9.3 and Article 11 with respect to HUD, Office of Housing, until conveyance of the first Unit to an Owner other than Declarant, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation or judicial determination; (b) to enable any reputable title insurance company to issue title insurance company to

issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to or use of any Unit unless the Owner shall consent in writing.

15.2 By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing 75% of the total votes in the Association.

15.3 Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant without Declarant's written consent (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

**ARTICLE 16
HUD COVENANT**

Portions of the Property are subject to Declarations of Restrictive Covenants in favor of HUD and recorded under Pierce County Auditor's Numbers 200501140171, 200501140172 and 200501140173. These Declarations and any subsequent Declarations of Restrictive Covenant required by HUD in connection with the development of Salishan are referred to as the "HUD Covenants". The provisions of this Declaration and any Supplemental Declaration under Article 14 shall be subordinate to the HUD Covenants. Declarant shall have the authority to unilaterally execute and record any instrument required by HUD to establish the priority of the HUD Covenants.

Exhibits A- F

Available upon request

EXHIBIT “G” USE RESTRICTIONS

The following Use Restrictions apply to the Property unless and until they are modified or repealed by the Association under Section 9.2 of the Declaration.

(a) General. Except as noted below, the Property shall be used only for residential uses and related community uses approved by the City of Tacoma. The Neighborhood Core as depicted on the Site Plan approved by the City of Tacoma (not in the Property as initially subjected to the Declaration, but within the expansion area described on Exhibit B) will contain non-residential uses. This restriction does not prohibit activities related to the construction, sale and rental of the Salishan project.

(b) Restricted Activities. The following activities are prohibited within the Property unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

(1) Parking of commercial vehicles, recreational vehicles, mobile homes, boats or other watercraft, or other oversized vehicles, equipment, stored vehicles or inoperable vehicles in places other than the enclosed garages. Guest recreational vehicles may be parked outside for up to 48 hours if registered with the Association in accordance with rules adopted by the Board.

(2) Maintenance or repair of any vehicle or equipment except in enclosed garages, and except for the occasional minor repair of a vehicle owned by a resident of the Unit where the vehicle is parked.

(3) Capturing, trapping, injuring or killing of wildlife within the Property, except in circumstances posing an imminent threat to the safety of persons using the Property or except as required or permitted by any applicable governmental authority.

(4) Chasing, injuring or killing of wildlife within the Property by pets of Owners or occupants of Units within the Property.

(5) Raising, breeding, or keeping of animals, livestock, or poultry of any kind, except that a reasonable number (as established by the Rules) of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, no pets shall be permitted to roam free, or make objectionable noise,

endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units. Any such pet shall be removed from the Property upon the request of the Board. If the pet owner fails to honor such request, the Board may remove the pet, in addition to any other remedy the Board may have to enforce these Restrictions.

(6) Obstruction of or rechanneling of drainage flows after installation of drainage swales, storm sewers, or storm drains, except that the Declarant and the Association shall have such right; so long as the exercise of such right does not materially diminish the value of or unreasonably interfere with the use of any Unit.

(7) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit, except with the approval of the Construction Committee and except that Declarant shall be permitted to subdivide or change the boundary lines of Units which it owns.

(8) Operation of a timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Units rotates among participants in the program on a fixed or floating time schedule over a period of years.

(9) Any business, trade, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit to the extent that home occupations are allowed by the City of Tacoma's Code, subject to reasonable Rules the Board may adopt.

Neither subsection nor any other provision of these Use Restrictions shall restrict: any activity conducted by the Declarant or a Builder with respect to the development and sale of the Property; or the activities for the Neighborhood Core as depicted in the site plan approved by the City of Tacoma. Use Restrictions for the Neighborhood Core will be established by Declarant when Phase 2 is developed and set forth in a Supplemental Declaration under Section 14.

(10) Any garage sale, moving sale, rummage sale or similar activity, except in accordance with Rules the Board may adopt.

(11) Any construction, erection, placement or modification of anything, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 8 of the Declaration and the Design Guidelines. This shall include, without limitation, signs, swing sets and similar sports and play equipment; clotheslines; fountains, birdbaths and lawn statuary; flag poles and ornamentation; garbage cans, woodpiles; above-ground swimming pools, hot tubs or spas; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind.

Standard TV antennas and satellite dishes one meter in diameter or less shall be permitted at the Property; however, such over-the-air reception devices shall comply with Design Guidelines or other applicable Use Restrictions adopted by Declarant, the Construction Committee, the Board, or Association, pertaining to the means, method and location of TV antenna and satellite dish installation. Nothing in this section shall either (a) impair an Owner's authority under 47 C.F.R. Section 1.4000 or any successor law; or (b) empower the Construction Committee, the Board or the Association to impair such rights in violation of that law or any successor. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property, should any master system or systems be utilized by the Association and require such exterior apparatus.

(12) Storage of items outside of the dwelling or enclosed garage, including portable play equipment and temporary storage bins or containers.

(13) Gardens, planters, and flower beds are permitted if neatly maintained consistent with the Community-Wide Standard regarding irrigation and any limitations of the Design Guidelines.

(14) Rental Restriction Pertaining to Ownership Units

14.1 Application Only to Ownership Units.

14.1 Application Only to Ownership Units. The provisions of this subsection shall apply only to those homes, townhomes or Units defined or identified as "Ownership Units" under Section 2.22 and Exhibit E of the Declaration and to such other Units as may be added or annexed to the Association in the future as Ownership Units. These provisions shall not apply to "senior housing units" or "rental units" as defined in Article 2 of the Declaration and identified in Exhibit G, which are expressly identified or described as for the purpose of rentals or being leased. For purpose of the application of these Section 14 provisions, Ownership Units shall be referred to as "O Units" or "these" or "such" Units.

14.2 Provisions Herein Supersede as to Ownership Units.

All references to rental, leasing, leases or any other words in the Declaration and its Exhibits relating to renting or leasing out of a Unit are superseded by the provisions of this Section 14 insofar as they could or may apply to O Units.

14.3 HUD. It is intended that nothing in this Section 14 shall conflict with regulations of HUD, and that if anything herein does so conflict then the regulations and legal requirements of HUD shall supersede and apply in such fashion that the provisions of this subsection (14) shall be considered as further amended so they conform to such conflicting HUD regulations.

14.4 **Definitions.** For purposes of this Section 14 to Exhibit G of the Declaration, the following definitions shall apply:

14.4.1 **“Governing Documents”** means the Declaration, the Articles of Incorporation, if any, the Bylaws and the Rules and Regulations of the Association adopted as provided in the Declaration and Bylaws, as these documents may be lawfully amended and/or adopted from time to time.

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

14.4.3 **“Related Party”** means a person who has been certified in a written document filed by an O Unit Owner with the Association to be the spouse, domestic partner, parent, parent-in-law, sibling, sibling-in-law, parent’s sibling, or lineal descendant or ancestor of the Owner or the lineal descendant or ancestor of any of the foregoing persons, the officer or director of any Owner which is a corporation, the member of any Owner which is a limited liability company or professional limited liability company, the trustee or beneficiary of any Owner which is a trust, or the partner of any Owner which is a partnership. Notwithstanding the foregoing to the contrary, a person who is the settler and trustee of a living trust that owns an O Unit shall be deemed to be the Owner of the O Unit for all purposes under the Declaration.

14.4.4 **“Renting” or “Leasing”** a Unit means and includes the granting of a right to use or occupy a Unit, for a specified term or indefinite term (with rent reserved on a periodic basis), whether or not in exchange for the payment of rent (that is, money, property or other goods or services of value), and the occupancy of a Unit solely by a person or persons other than its Owner, whether or not rent is paid; but does not mean and does not include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership, or the occupancy of a Unit by any person who resides in a Unit with its Owner, whether or not rent is charged therefor.

14.4.5 **“Tenant”** means and includes a tenant, lessee, renter, the assignee of a tenant, lessee, renter, and all other non-Owner Occupants of an O Unit that is not occupied by its Owner.

14.5 Rental Defined and Regulated. The Rental of any O Unit shall be governed by the provisions of this Section 14. As used herein the terms “to rent”, “renting” or “Rental” shall refer to and include the Leasing or Renting of an O Unit by its Owner and to the occupancy of such a Unit solely by a person or persons other than its Owner, whether or not rent is paid; provided that for the purpose of tenant screening as provided in Subsection 14.20 below, the terms “to rent”, “renting” or “Rental” shall not refer to occupancy of such a Unit by a Related Party. The rights of the Association and the obligations applicable to an Owner under Subsections 14.5 through 14.17 below shall be applicable to any Tenant who subleases a Unit or enters into an assignment of a Lease for an O Unit, and the obligations of a Tenant shall likewise be applicable to the sub-Tenant or assignee of a Tenant in such a situation. Notwithstanding anything herein to the contrary, this Section 14 shall not be applicable to the rental of a Unit acquired by the Association following a foreclosure of the Association’s lien for Assessments or to the rental of a Unit by a receiver appointed on the motion of the Association in connection with a lien foreclosure action filed by the Association or to any rental of a unit to or by the Association or its staff.

No proposed temporary leasing or rental of an O Unit may be of less than the entire Unit and property (in other words, no leasing or subleasing of portions of the Unit by owner or a Tenant while Owner or Tenant continue to dwell there).

14.6 Minimum Lease Term Required. With the exception of a Mortgagee in possession of a Unit following a Mortgage Foreclosure or a receiver in possession of an O Unit during the pendency of a Foreclosure by a Mortgagee or the Association, no person shall be permitted to Rent or Lease less than the entire Unit or to Rent or otherwise permit a Unit to be used for hotel or transient purposes, which shall be defined as Rental, occupancy or use by a tenant or other non-Owner occupant for an initial occupancy period of less than six (6) months. No Owner or Tenant who does not occupy a Unit as a primary residence shall cause or allow the overnight accommodation of employees or business invitees in a Unit on a temporary or transient basis. Except as provided in this Paragraph, every Lease shall be for a fixed initial term of not less than six (6) months, but may be renewed on a month to month basis thereafter.

14.7 Minimum Ownership Period Required Before Rental. It is the intent of the Association that the O Units shall hereafter be acquired for occupancy by their Owners and occupied consistent therewith. In order to discourage the acquisition of such Units in the community for investment or rental purposes, no Owner shall be permitted to rent or lease his or her O Unit during the two (2) year period after he or she shall have acquired title thereto except as provided in Subsection 14.16. if a person or persons acquires an O Unit through inheritance, that person or persons shall be deemed to have owned and occupied that Unit during the period which their decedent owned and occupied the Unit.

14.8 Lease Requirements. No Rental of an O Unit shall be valid or enforceable unless it shall be by means of a written instrument or agreement between the Owner(s) and the Tenant(s) (a "Lease"). No Lease entered into after the date of recording of this Amendment shall be valid unless it bears the written approval by the Association granted prior to the occupancy of the Tenant. The occupancy of an O Unit in the association community and every Lease shall be subject to the Governing Documents of the Association. By entering into occupancy of an O Unit, a Tenant agrees to be bound by the Governing Documents. The Association shall have and may exercise the same rights of enforcement and remedies for breach of the Governing Documents against a Tenant as it has against an Owner, and in addition shall have the rights and remedies provided for in this Subsection (14). Each Lease shall contain language acknowledging the Association's rights and the Tenant's obligations under the Governing Documents.

14.9 Lease Approval. Except as provided in Subsection 14.12 (Pre-existing Leases) below, prior to the Rental of an O Unit Tenant, and prior to the renewal of any previously approved Lease, an O Unit Owner shall submit to the Association a valid and binding Lease, executed by both the Owner and the proposed Tenant, and contingent only on the written approval of the Association, together with a request for the written consent of the Association. The Association shall, as expeditiously as practical but in any event within thirty (30) calendar days of receipt of such request, grant its consent to the Owner if:

14.9.1 the Owner has complied with Subsections 14.9 and 14.20 (Tenant Screening Required);

14.9.2 in the case of a renewal, the Tenant is in strict compliance with all provisions of the Governing Documents, and has not been found to be in violation of the Governing Documents following notice and opportunity to be heard more than once during the immediately preceding year;

14.9.3 the Lease contains a Lease Addendum in the form approved by the Association or is otherwise in compliance with the requirements of the Declaration;

14.9.4 the Rental would not cause the aggregate number of all non-Owner occupied O Units to exceed the Rental Ceiling specified in Subsection 14.10 (Rental Ceiling Set), below; provided, however, that:

14.9.4.1 the Association may grant a hardship exception as provided in Subsection 14.16 notwithstanding the fact that it would temporarily cause the number of non-

Owner occupied Units to exceed the Rental Ceiling until the next rental vacancy occurs.

14.10 Rental Ceiling Set. Except as provided in Paragraph 14.16 and in this Subsection 14.10, the maximum number of non-Owner occupied O Units in the community at any one time shall not exceed ten (10) (referred to herein as the “Rental Ceiling”); provided, however, that the Board, by duly adopting a Rule and Regulation which is thereafter recorded with Pierce County and published to Owners, may in its discretion increase the Rental Ceiling number for O Units each time the last two (2) phases of development of the Property are completed to at least 75% build out, but limited in number and locations based on each phase, as follows:

14.10.1 for Phase Area 3, up to maximum of ten (10) more rentals located within that Phase;

14.10.2 for Phase Area 2B, up to a maximum of five (5) more rentals located within that Phase.

The Board must exercise such discretion for each Phase within one (1) year from the date each Phase is built out to 75%, or the authority to do so expires and no rentals may be established or allowed for that Phase.

Attached to this Exhibit G is a map or diagram of these two (2) phases for reference purposes, and incorporated herein by reference.

14.11 Effect of Rental Ceiling. If an Owner wishes to rent a Unit but is prohibited from doing so because of the Rental Ceiling, the Association shall place the Owner’s name on a Rental Waiting List.

14.12 Pre-existing Leases. The application of the provisions of Section 14 shall apply to all O Units currently being lease or rented at the time of adoption of this subsection. Within thirty (30) days from the date of notification to all Owners that this Amendment to Exhibit G of the Declaration is in effect, each Owner who has rented an O Unit to a Tenant who was in occupancy prior to the date on which this declaration Amendment was approved by the Owners shall file a copy of the Lease for that O Unit with the Association. A Lease in effect on that date and submitted as required in this Paragraph shall be referred to as a “Pre-existing Lease.” All O Units that are rented out will have 60 days from the date of adoption to provide the Association with a current lease, tenant screening (see 14.20.3 for requirements) and any other information as required in this document and will be considered as “grandfathered” in. Failure to provide this information within the timeframe allowed will mean that the unit will not be considered as having a “Pre-existing Lease” and the O Unit will have to follow the steps provided in this document (see 14.9). If the rental ceiling has been met, the O Unit will go on a waitlist, see 14.15.

Leases existing at time of adoption of this subsection which are month-to-month shall be subject to these provisions and Owner must comply with terminating the rental within one hundred twenty (120) days of date of adoption.

14.13 Limitations on Consent. No Lease Approval shall be granted more than sixty (60) days prior to the beginning of the Lease term for which consent is sought. Any Lease Approval granted by the Association shall automatically expire and terminate unless the Unit shall be occupied by the Tenant within thirty (30) days of the beginning of the term of the approved Lease.

14.14 Notice of Rental Termination. Each Owner who has rented an O Unit shall promptly give written notice (referred to herein as “Notice of Rental Termination”) to the Association if a Lease for the O Unit has terminated or expired and is not being renewed (herein referred to as Rental Termination). The Owner shall give this notice to the Association within thirty (30) days following the termination or nonrenewal.

An Owner giving a Notice of Rental Termination may have his or her name placed on the Rental Waiting List.

14.15 Rental Waiting List. Except as provided in Subsections 14.9.1 and 14.9.2, if a Rental Waiting list exists no Lease or Lease renewal shall be approved for a Rental Unit until all Owners who are on the Rental Waiting List have been given the opportunity to apply for Lease Approval. Within ten (10) days of receipt of a Notice of Rental Termination, but not more than sixty (60) days prior to a scheduled Rental Termination, the Association shall notify the Owner in the top position on the Rental Waiting List of the opportunity to apply for Lease Approval. That opportunity to apply for Lease Approval shall be available to that Owner for a period of sixty (60) days from the date of that notice. If the Owner does not submit a request for Lease Approval during that period, that Owner’s name shall be placed at the bottom of the Rental Waiting List, and the opportunity to apply for Lease Approval shall be offered to the next highest person on the Rental Waiting List.

14.16 Hardship Exception. Where, on written application from a resident Owner, the Board determines that a hardship exists whereby that Owner would suffer serious harm by virtue of the limitation on renting contained in Subsections 14.7, 14.9 and 14.10, and where the board further determines that a variance from the provisions contained therein is ‘fairly’ in keeping with the purpose of this Subsection to limit investor ownership of O Units and would not detrimentally affect the other Owners or quality of life in the community, the Board may, in its sole discretion, grant an owner a waiver of the Rental Ceiling for a temporary period not to exceed twelve (12) months. In the sole discretion of the Board this hardship exception may be extended on written application of an Owner for one (1) additional period not to exceed six (6) months for good cause shown. An O Unit rented under a hardship exception granted by the Board under this Paragraph

shall not be counted as a non-Owner occupied Unit for the purpose of determining whether a rental would cause the number of non-Owner occupied Units to exceed the Rental Ceiling.

Consent by the Board allowing the leasing or rental of a house under a hardship exception shall not be freely given. The determination of whether to allow or deny any proposed leasing or rental arrangement shall be in the sole discretion of the board. The Board shall only allow a leasing or rental arrangement when in its sole discretion the owner is under an extreme and/or unique hardship, and only for a defined, limited time period. The Board shall have the absolute right, in its sole discretion, to approve or disapprove the proposed tenant or lessee, provided, however, that no disapproval of any proposed tenant or lessee shall be based upon sex, marital status, race, color, creed, religion, sexual orientation, gender identity or national origin or any other legally protected class distinction. The Board may additionally impose such restrictions or conditions upon any such leasing or renting arrangement which it considers in its sole discretion reasonable and necessary to protect the best interests of the Association and/or the other owners. The decision of the Board in these regards and as to all these matters shall be conclusive.

14.17 Rental Processing Fees. The Board shall be authorized from time to time to establish Rules and establish and charge reasonable fees in connection with the rental of O Units, the maintaining of Tenant information and the rental waiting list, and the screening of Tenants to defray the added administrative costs of such activities. Such fees shall be collectable as a special Assessment against the O Unit and its Owner.

14.18 Governing Documents to be Provided to Tenants. Each O Unit Owner who Rents or Leases an O Unit to a Tenant or allows the occupancy of an O Unit by a Related Party shall provide that Tenant or Related Party with a copy of the Governing Documents. If the Unit Owner fails to provide written evidence to the Association that it has done so, the Association may furnish a copy of these documents to the Tenant or Related Party and charge the Owner an amount to be determined by the Board for each document provided. Unless otherwise set by the Board, the copying charge shall be twenty-five cents (\$.25) for each page. The copying charge shall be collectable as a special Assessment against the Unit and its Owner.

14.19. Tenant Violations/Eviction. If any Tenant of an O Unit continues to violate or permit violations by his family members, guests or invitees of any of the significant provisions of the Association's Governing Documents after written notice to the Tenant and Owner of such violations, the Association may, on behalf of and at the expense of the Owner, proceed to evict the Tenant or occupant if the Owner fails or refused to do so after written request for eviction is made by the Board. Owner grants to the Association and its Board a permanent, irrevocable power of attorney coupled with an interest for this purpose. The Board shall have no

liability to an Owner or Tenant for any eviction or enforcement actions undertaken or made in good faith. The Association shall have a lien against the Owner's Lot for any costs incurred by it in connection with such eviction, including reasonable attorney fees, which may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed under the Declaration of the Association.

14.20 **Tenant Screening.**

14.20.1 **Applicability.** Subsection 14.20 shall be applicable to the Rental of any O Unit other than to a Related Party.

14.20.2 **Tenant Screening Required.** Any O Unit Owner who desires to rent an O Unit to a person (referred to herein as an "Applicant"), other than a Related Party, shall, prior to entering into a Lease, submit to the individual designated by the Association (referred to herein as the "Association's designee") for each Applicant a fully completed rental application and consent to obtain a consumer credit report in the form provided by the Association, together with payment of the tenant screening fee prescribed by the tenant screening service with which Association has contracted (referred to herein as the "Service").

14.20.3 **Nature of Screening Required.** The Association's designee shall forward the application and consent to the Service which shall take the following steps with regard to each Applicant.

14.20.3.1 Obtain a consumer credit report on the Applicant;

14.20.3.2 Verify the Applicant's employment for the last two years;

14.20.3.3 Check the Applicant's rental history in its database and with all landlords during the last two years, either as reported by the Applicant or disclosed by the Service's investigation;

14.20.3.4 Check the public records in the counties of the Applicant's residence for bankruptcy and unlawful detainer actions and criminal convictions involving the Applicant;

14.20.3.5 Report such information as is disclosed by its investigation directly and only to the Unit Owner, and send written confirmation to the Association's designee that such report was provided to the Unit Owner.

14.20.4 **Responsibility for Tenant Selection.** Neither the Association's designee nor the Association shall evaluate any information provided by the Service or in any way make a determination or recommendation as to the suitability of any Applicant. The selection of a suitable and appropriate Tenant shall be the sole responsibility of the Owner.

14.20.5 **Confidentiality.** The Association's designee and the Owner shall treat all information received in accordance with the requirements of the Federal Fair Credit Reporting Act and any other applicable state or federal laws and not disclose the contents of any report to the Applicant or any other person not permitted access to such information provided by the Service. The Association's designee and each Owner submitting an application shall sign a Non-Disclosure Agreement which spells out the signer's duties under the law with regard to the information provided by the Service.

14.20.6 **Owner's Use of Alternative Service.** In lieu of obtaining the required information with regard to an Applicant through the Association, an Owner may obtain such information directly from a comparable tenant screening service. In lieu of providing a means for the Owner to obtain a screening report through the Association, the Board may require the Owner to obtain such information directly from a tenant screening service which provides the information required by Subsection 14.20.3. In either such event, the Owner shall transmit a copy of the Applicant's application and the screening service's report for the Application to the Association's designee along with the Lease.

14.21 **Rules and Regulations.** The Board may adopt such additional rules and regulations governing the leasing of O Units from time to time as it deems necessary, in order to refine and better control rentals and tenant requirements within the framework of Section 14, including without limitation rules establishing standards of conduct of tenants, their family members and invitees. Such rules and regulations may include the right of the Association to impose fines upon Owner's who do not comply with these rental restriction provisions or the rules and regulations adopted by the Board, subject to notice of the right to Owner of the opportunity to request a hearing regarding such imposition of fines.

14.22 **Notice Requirements.** Any non-occupying Owner of an O Unit who has been approved to Lease shall be responsible for providing the Association with current contact information, including, without limitation, a mailing address, email address, home phone number, work phone number and emergency contact for himself/herself and for the tenant.

14.23 **Delinquent Assessments/Right to Rent Payments.** If an O Unit is rented by its Owner, the rent is hereby pledged and assigned to the Association as security for the payment of all Assessments due by that Owner to the Association. If the Assessments owed by the Owner of a rented O Unit are

delinquent, the Board may collect, and the Tenant shall pay to the Board, the rent for any O Unit owned by the delinquent Owner, or that portion of the rent equal to the amount due to the Association. The Tenant shall not have the right to question the Board's demand for payment. Payment by the Tenant to the Association will satisfy and discharge the Tenant's duty of payment to the Owner for rent, to the extent of the amount paid to the Association. No demand or acceptance of rent under this subsection shall be deemed to be a consent or approval of the O Unit rental or a waiver of the Owner's obligations as provided in this Subsection 14. The Board shall not exercise this power where a receiver has been appointed with respect to an O Unit, or Unit Owner; nor in derogation of the exercise of any rights to rents by a Lender. If a Tenant fails or refuses to pay rent to the Association as provided for in this subsection, the Association shall have the right to bring an action for unlawful detainer for non-payment of rent under RCW 59.12.030, and the costs and attorney's fees incurred by the Association in connection with that action shall be collectable from the Tenant in that action, and from the Owner of the Unit in the same manner as any other Assessment under the Declaration.

14.24 Obligations of Owner and Tenant. Nothing in this Article shall relieve the Owner of other obligations he or she may have under the Governing Documents. Nothing in this Article shall modify the obligations of the Owner and Tenant under state landlord-tenant law, including the obligation to maintain the premises and to respect the rights of neighbors.

(c) Prohibited Conditions. The following shall be prohibited within the Property:

(1) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property.

(2) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(3) Open-air burning or use of wood stoves except in compliance with applicable ordinances; provided, that outdoor cooking facilities, such as barbecues, are permissible subject to Rules the Board may adopt, and ordinances of the City of Tacoma; and

(4) Any activity by an Owner or occupant in violation of the City of Tacoma land use restrictions governing sensitive areas and perimeter or wetland buffers, or removal, or alteration of vegetation or fauna in such areas.

(5) Any activity involving hazardous substances, beyond normal household use, in violation of federal environmental laws.

EXHIBIT “H” RULES OF ARBITRATION

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant’s submission of the Claim to arbitration (“Arbitration Notice”).

2. The Parties shall select arbitrators (“Party Appointed Arbitrators”) as follows: all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator (“Neutral”) so that the total arbitration panel (“Panel”) has three arbitrators.

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the JAMS/Endispute, or such other independent body providing arbitration services, for any dispute relating to the design or construction of improvements at the Properties, which shall appoint one Neutral (“Appointed Neutral”), notifying the Appointed Neutral and all Parties in writing of such appointment. If either agency is unavailable or unable to provide such arbitration services, the Association or any Party may apply to any court of competent jurisdiction to appoint an arbitrator in accordance with Washington law. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration (“Bias Disclosure”). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral’s Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.

5. The Appointed Neutral or Neutral, as the case may be (“Arbitrator”) shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant’s damages accurately.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during the arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in that Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

12. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

13. There will be no post-hearing briefs.

14. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

15. If there is more than one Arbitrator, all decisions of the Panel and the Award shall be by majority vote.

16. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.