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DECLARATION
for
THE TOWNHOUSES
a Condominium

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VERNER H. LEE, AUDITOR
DEPUTY
RECORDED IN VOL. 389

Declarant is the owner of a parcel of land at Van Giesen and Cherry Lane upon which is situate three residential buildings, a swimming pool and recreation room, now all or part of a rental complex, which he intends to convert into a 16 Unit Condominium.

DEDICATION

Pursuant to the laws of the State of Washington, Laws of 1963, Chapter 156, and the amendments thereof (RCW64.32) hereinafter referred to as "The Act", for the purpose of submitting the real property hereinafter described to the provisions of the Act, the undersigned, hereinafter referred to as "Declarant", makes the following Declaration. It is agreed by Acceptance of a Conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the property of any unit in the horizontal property regime created by this Declaration that this Declaration, together with the Survey Map and Plans referred to herein, states covenants, conditions, restrictions and reservations effecting a common plan for the condominium development mutually beneficial in all of the described units, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire property and upon each such unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transferees of all or part of the property or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts, or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of units under security instruments.

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ARTICLE 1. DESCRIPTION OF LAND

1.1 Description of Land

The land on which the buildings and improvements provided for in this Declaration are located is described in Schedule "A" attached hereto. This Condominium shall be known as THE TOWNHOUSES. The property has the address of 140 to 148 Van Giesen, Richland, Washington and 1630 to 1640 Cherry Lane, Richland, Washington.

ARTICLE 2. DESCRIPTION OF BUILDING AND IMPROVEMENTS

2.1 Building

There are three residential buildings on the site. The principal building material of each is frame on concrete foundations. The building will be designated on the survey as buildings I, II and III. All said buildings have two stories and no basement.

Building I is the most easterly; building II lies westerly of building I and south of building III; building III north of building II and north westerly of building I.

ARTICLE 3. DESCRIPTION OF APARTMENTS, LOCATION, AREA AND NUMBER OF ROOMS

3.1 Unit Location

Schedule "B" attached shows the location of each unit (apartment) and the numbering employed to identify each unit.

3.2 Unit Description

Also in Schedule "B" attached, each unit is described by number, kind and number of rooms, and total square foot floor area.

ARTICLE 4. ACCESS

4.1 Access to Common Ways

The common condominium areas have direct access to a public right of way. Each unit has direct access to common areas.

ARTICLE 5. DESCRIPTION OF COMMON AREAS AND FACILITIES:
CERTAIN ITEMS MAY BE MADE OWNER'S RESPONSIBILITY

5.1 Except as otherwise specifically reserved, assigned or limited by the provision of Article 6 hereof, the common areas and facilities consist of the following:

5.1.1 The land above described.

5.1.2 The roofs, foundations, columns, girders, studding, joists, beams, supports, main walls (excluding only nonbearing interior partitions or units) and all other structural parts of the buildings, to the interior surfaces of the apartments perimeter walls, floors, ceilings, windows and doors; that is, to the boundaries of the units as the boundaries are defined in the Act and any replacements thereto, provided, that the term "interior surfaces" shall not include paint, wall paper, carpeting, tiles, or other such decorative surface coverings or finishes.

5.1.3 Installations of central services such as power, light, gas, hot and cold water, pipes, conduits, and wires, wherever they may be located whether in partitions or otherwise: ducts, chimney, flues, intercoms, antennae, TV cables and in general all apparatus and installations existing for common use.

5.1.4 The driving areas which provide access to the limited common areas for parking, and any guest parking or other parking areas not assigned to units.

5.1.5 The yards, gardens, landscaped areas, walkways and open spaces which surround, and/of provide access to the buildings or are used for recreational purposes.

5.1.6 The pool and recreational building.

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

5.1.8 Certain items which could ordinarily be considered common areas such as but not limited to screen doors, window screens, awnings, storm windows, planter boxes, and the like may, pursuant to decision of a majority of owners and specification in the By-Laws or administrative rules, be designed as items to be furnished and maintained by unit owners at their individual expense, in good order, according to standards and requirements set by the Board by rule, regulation or By-Laws.

ARTICLE 6. DESCRIPTION OF LIMITED COMMON AREA: EASEMENT FOR EXCLUSIVE USE RESERVED FOR CERTAIN UNITS

6.1 Limited Common Areas

The limited common areas and facilities are reserved for the exclusive use of the unit or units to which they are adjacent or assigned and consist of:

6.1.1 The patio area and balcony, which are adjacent to each unit as more particularly shown on the Survey Map and Plan.

6.1.2 The parking space which is assigned to each unit as more particularly shown on the Survey Map and Plans, the boundaries of said parking space being defined by the striping.

6.1.3 The storage rooms which are adjacent to each unit as more particularly shown on the Survey Map and Plans.

6.2 Declarant reserves the right to make the initial assignment of space.

ARTICLE 7. VALUE AND PERCENTAGE OF UNDIVIDED INTEREST IN COMMON AREAS

The value of the entire property is established as \$720,000.00. Values and percentages of interest for each unit are expressed in Schedule "C" attached hereto. Each unit includes all the limited common areas appertaining thereto and the percentage of undivided interest in the common and limited common areas appertaining thereto. The values are schedules to establish the percentages required by the Act and so not reflect, necessarily, the amount for which and apartment will be sold, from time to time by Declarant or others.

ARTICLE 8. PURPOSE OF USE

8.1 Residential Use

The building and the property are solely for the purpose of residential non-commercial occupancy. Each apartment unit is solely restricted to a single family, residential, non-commercial occupancy. None of the limited common areas is to be devoted to any use other than in service for and consistent with the apartment units and their appropriate use.

8.2 Sales Facilities of Declarant

Notwithstanding any provision in Section 8.1, Declarant, its agents, employees and contractors shall be permitted to maintain during the period of sale of the condominium upon such portion of the property as Declarant may choose, such facilities as in the sole opinion of the Declarant may be reasonable required, convenient or incidental to the sale or rental of condominium unit and interest.

8.3 Regulation of Use and Conduct

The Association may by its By-Laws and its Rules regulate the general use of the condominium, its parking areas, drives, interior maintenance, exterior appearance, noise and conduct and such other matters for the common good.

ARTICLE 9. SERVICE OF PROCESS AND NOTICE

9.1 Service of Process

ROBERT O. HOLLAND, whose address is 5100 W. Clearwater Ave. Suite #1 Kennewick, Wa. 99336 is the person upon whom process may be served as provided for in the Act. After organization of the Association, service of process for the purposes provided in the Act may also be made upon the president of the Association. The Board may at any time designate a new or different person or agency for such purposes by filing an amendment to this Declaration limited to the sole purpose of making such change, and such amendment need only be signed and acknowledged by the then president of the Association. The Declarant may, at any time before the board is organized, change such designation by amendment to the Declaration signed and acknowledged only by Declarant.

9.2 Delivery of Notice

Any notice permitted or required to be delivered under the provisions of this Declaration or the By-Laws may be delivered either personally or by mail. If delivery is made by mail, any such notice shall be deemed to have been delivered forty-eight (48) hours after a copy has been deposited in the United States mail, postage prepaid, for first class mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board in writing, for the purpose of service of such notice, or to the most recent address known to the Board. Notice to the owner or owners of any unit shall be sufficient if mailed to the apartment of such person or persons if no other mailing address has been given to the Board by any of the persons so entitled. Mailing addresses may be

changed from time to time by notice in writing to the Board. Notice to be given to the Board may be given to Declarant until the Association and Board have been constituted and thereafter shall be given to the president or secretary of the Board.

ARTICLE 10. SPECIAL VOTING REQUIREMENTS IN THE EVENT OF DESTRUCTION

If all or substantially all of the building has been destroyed by fire or other calamity, a decision to rebuild, repair or restore or to sell the property shall be by vote of the majority of the percentage votes of owners as established in Article 7.

If less than all or substantially all of the building has been destroyed by fire, the building will be restored unless by a unanimous vote, the unit owners elect to do otherwise.

ARTICLE 11. PROCEDURES FOR SUBDIVIDING OR COMBINING

11.1 Procedure

Subdivision and/or combining of any unit or units, common areas and facilities, or limited common areas and facilities are authorized as follows:

11.1.1 Any owner of any unit or units may propose any subdividing or combining of a unit or units, and appurtenant common areas or limited common areas in writing, together with complete plans and specifications for accomplishing the same and a proposed amendment to the Declaration, Survey Map and Plans covering such subdividing or combining, to the Board, which shall then notify all other unit owners of the requested subdivision or combination.

11.1.2 Upon written approval of such proposal by seventy-five percent (75%) of the owners, the owner making the proposal may proceed according to such plans and specifications; provided that the Board may in its discretion (but it is not mandatory that the Board exercise this authority) require that the Board administer the work or that provisions for the protection of other units or common areas or reasonable deadlines for completion of the work be inserted in the contracts for the work

11.1.3 The changes in the Survey Map, if any and the changes in the Plans and Declaration shall be placed of record as amendments to the Survey Map, Plans and Declaration of Condominium in accordance with the provisions of Article 13.

11.1.4 In any such combination of subdivision the percentage interests of the unit owners whose units are not directly involved shall remain the same as set forth in this Declaration without diminution unless changed by the unanimous vote of all the unit owners.

ARTICLE 12. ASSOCIATION AND BY-LAWS

12.1 General Provision

The owners, including contract vendees (but excluding lessees and licensee-occupants) of the units by their ownership, are members of THE TOWNHOUSES HOME OWNERS ASSOCIATION, which association shall adopt By-Laws providing for management of the property, a board of directors elected from among the owners, said board electing officers and recommending to the members of the Association for adoption a budget of common expenses as provided by law, subject to monthly assessment and collection thereof by the Board of Directors proportionally to the percentage interest of the owners as per Article 7 hereof. The said By-Laws are to be adopted by the affirmative vote of a majority of the percentage interest in the property as established in Article 7 above, and shall be subject to amendment at a meeting of such owners called upon notice and for the notified purpose of adopting such amendment or amendments. Said By-Laws may provide (and may be enforced in respect to) other rules and regulations for the use, occupancy and management of the property not inconsistent herewith and not inconsistent with the provision of the Horizontal Property Regimes Act of the State of Washington as now in effect or hereafter amended.

12.2 Managing Agent

The By-Laws of the Association may provide that the Board of Directors may employ a managing agent for the Association.

12.3 Initial Board

The Declarant or his successor shall have the right to elect all members of the Board of Directors of the Home Owners Association during such time as they shall serve as

an interim board.

The initial board will consist of from three to five members. The initial three board members shall adopt the By-Laws and act alone until the size of the board is enlarged as provided in the By-Laws. While the board serves as an interim board, the Declarant shall have the right to remove any member from the interim board and substitute another person in his place.

12.3.1 The interim board shall serve as an interim board no more than two years after the filing of this Declaration or until unit sales totalling more than seventy-five percent (75%) of the total percentage interest have been closed, whichever occurs sooner. While Declarant has remaining unsold units, the board shall not deprive him of rights otherwise reserved herein.

12.3.2 These requirements and covenants are made in order to assure that the property and condominium will be adequately administered in the initial phases of development, and to assure an orderly transition of the Association operations.

ARTICLE 13. AMENDMENT OF DECLARATION, SURVEY MAP, PLANS

13.1 Declaration Amendment

Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the owners. Amendments may be adopted at a meeting of the owners of seventy-five (75) percent of the owners vote for such amendment, or without any meeting if all owners have been duly notified and seventy-five (75) percent of the owners consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the president of the Association and shall be attested by the secretary, who shall state whether the amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording in the appropriate governmental offices. Any decision changing the values and percentage of interest expressed herein, except as provided herein shall require the unanimous consent of the unit owners and their mortgagees. It is specifically covenanted and understood that any amendment to this Declaration properly adopted will be completely effective to amend any or all of the covenants, conditions and restrictions contained herein

which may be affected and any or all causes of this Declaration or Survey Map and Plans unless otherwise specifically provided in the section being amended or the amendment itself.

13.2 Map and Plans Amendment

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

13.3 Amendments to Conform to Construction

In addition, Declarant, upon Declarant's sole signature, may file an amendment to the Declaration and to the Survey Map and Plans, from time to time, to conform them to the actual location and certification "as built" of any of the constructed improvements and to establish, vacate and relocate utility easements, access road easements and parking areas.

13.4 The Board of the Association at any time is authorized to amend the Declaration and By-Laws, to correct typographical errors and to correct manifest errors not affecting the rights, duties of the unit owners without referral to the unit owners. If the unit owners deem the corrections beyond the scope of the authority granted above they may by vote reverse or modify such Board action.

ARTICLE 14. COMMON EXPENSES AND ASSESSMENTS

14.1 Estimated Expenses

Within thirty (30) days prior to the beginning of each calendar year, the Board: shall estimate the charges (including common expenses, and any special assessments for particular units) to be paid during such year; shall make provision for creating, funding and maintaining reasonable reserves for contingencies, operations, and repair, replacements and acquisition of common areas and facilities; and shall take into account any expected income and any surplus available from the prior year's operating fund. The Declarant or initial Board may at any suitable time establish the first such estimate. If the sum estimated and

budgeted at any time proves inadequate for any reason (including non-payment for any reason of any owner's assessment); the board may at any time levy a further assessment, which shall be assessed to the owners in like proportions. No reserve fund for repairs and replacement of common elements need be funded until the first month of the second year following the calendar year of first occupancy of a unit.

14.2 Payment of Owners

Each owner shall be obligated to pay assessments made pursuant to this Article to the treasurer for the Association in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board shall designate, and any unpaid assessments shall bear interest at the rate of ten (10) percent per annum from due date until paid. The budget may be reviewed and revised by the membership at any annual meeting, or any special meeting called for such purpose, but if not so reviewed or if no change is made shall be deemed approved.

14.3 Purpose

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

14.4 Separate Accounts

The Board shall require that the Association maintain separate accounts for current operations, reserves and a special separate reserve account for payment of insurance. Each month the board shall first deposit to the insurance reserve account that portion of the common expense assessment necessary to pay at least one-twelfth of the total cost of all of the insurance policies provided regarding the condominium and such insurance reserve account shall be held separately and inviolate until utilized for payment of insurance premiums. Thereafter the remainder of the assessments collected may be utilized for payment of other expenses or deposited or credited to other accounts. All such assessments shall be collected and held in trust for, and administered and expended for the benefit of, the unit owners.

14.5 Based on Percentage

Except for certain special assessments which may be levied against particular units under the provisions of this Declaration, all assessments for common expenses shall be assessed to units and the owners thereof on the basis of the percentages set forth in Schedule "C" hereof and any amendments thereto.

14.6 Omission of Assessment

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

14.7 Records

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

14.8 Declarant Liability

The assessments provided for in this Declaration shall be imposed on apartments owned by Declarant on the same basis as imposed on all other apartments, regardless of whether Declarant-owned apartments are vacant or have been sold, leased or rented.

14.9 Lien Indebtedness

Each monthly assessment on each special assessment shall be joint and several personal debts and obligations of the owner or owners and contract purchasers of units for which the same are assessed as of the time the assessment is made and shall be collectible as such. The amount of any assessment, whether regular or special, assessed to any unit and the owner and/or purchaser of any apartment, plus interest at the rate of ten (10) percent per annum, and costs, including reasonable attorney's fees, shall be a lien upon such unit, the appurtenant limited common area and the exclusive use thereof. The said lien for payment of such assessments shall have priority over all other liens and encumbrances, recorded or unrecorded, except that such priority shall be limited as provided in RCW 64.32.200 (2). Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosure or waiving the lien securing the same.

14.10 Certificate of Assessment

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

14.11 Security Deposit

A unit owner may be required by the Board or by the managing agent, from time to time, to make and maintain a security deposit not in excess of three (3) months estimated assessments, which may be collected as are other assessments. Such deposit shall be held in a separate fund, credited to such owner, and resort may be had thereto at any time when such owner is ten (10) days or more delinquent in paying his monthly or other assessments.

14.12 Foreclosure of Assessment Lien; Attorney fees and Cost

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

14.13 Rental Value

From the time of commencement of any action to foreclose a lien against a unit for nonpayment of delinquent assessments, the owner or purchaser of such unit shall pay to the Association the reasonable rental value of the unit to be fixed by the Board, and the plaintiff in any such foreclosure shall be entitled to the appointment of a receiver to collect the same, who may, if said rental is not paid, obtain possession of the unit, refurbish it for

rental up to a reasonable standard for rental units in this type of condominium, rent the unit or permit its rental to others, and apply rents first to costs of refurbishing the unit, then to costs, fees and charges, for the foreclosure action, then to the payment of the delinquent assessment charges.

14.14 Rental Units

IF a unit is rented by its owner, the Board may collect and the tenant or lessee shall pay over to the board so much of the rent for such unit as is required to pay any amounts due the Board hereunder plus interest and costs, if the same are in default over thirty (30) days. The renter or lessee shall not have the right to question payment over to the Board, and such payment will discharge the lessee's or renter's duty of payment to the owner for rent, to the extent such rent is paid to the Association, but will not discharge the liability of the owner or purchaser and the unit under this Declaration for assessments, or operate as an approval of the lease. The board shall not exercise this power where a receiver has been appointed.

14.15 Remedies Cumulative

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

ARTICLE 15. PROVISIONS RELATING TO SALE OR LEASE OF APARTMENT

The right of a unit owner to sell, transfer, or otherwise convey the owner's unit will not be subject to any right of first refusal or any similar restriction in favor of the Home Owners Association. With the exception of a lender in possession of a unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure no unit owner may lease his unit for transient or hotel purposes. No unit owner may lease less than his entire unit. All lessees are subject to the rules of the Association. Unit owners are responsible to the Association for any conduct of a lessee in violation of the Declaration, By-Laws and Rules. Leases shall be required to be in writing.

ARTICLE 16. PROVISIONS PRIMARILY FOR THE BENEFIT OF MORTGAGE HOLDERS

It is essential to the viability of any project that the developer (usually declarant) obtain construction financing and that the purchasers of units be able to secure financing with their respective units being the primary se-

curity. Mortgage lenders and the secondary mortgage market require certain special provisions to protect the lenders. Accordingly the following provisions will be applicable and take precedence over any contrary provisions herein. (Some provisions may be repetitive).

16.1 The prior written approval of all affected holders of first mortgages must be obtained for the following:

(a) The abandonment of the condominium status of the project, except for abandonment provided by statute in case of substantial loss to the units and common elements.

(b) The partition or subdivision of any unit or of the common elements;

(c) A change in the percentage interests of the unit owners.

16.2 Any lien of the Owners Association resulting from non-payment of assessments is subordinate to any first mortgage lien.

16.3 The officers of the Owners Association shall, during the first month of the second year following the calendar year of first occupancy of a unit, provide for the establishment of a reserve fund from the monthly assessments for replacement of common element components. The Declarant or the Home Owners Association shall cause to be provided a working capital fund for the initial months of operation equal to two months estimated common area charge for each unit.

16.4 Holders of first mortgages, upon request, shall be given written notification from the Association of Owners of any default in the unit mortgagor's obligations under the condominium documents not cured within thirty days of default. Such mortgagees may, upon request, attend annual meetings.

16.5 Institutional first mortgagee shall be allowed at all reasonable hours of weekdays to inspect all of the books and records of the Owners Association and upon request are entitled to a copy of annual reports and other financial data within ninety days of the end of the fiscal year.

16.6 In the event any of the property be subject to condemnation proceedings in whole or in part, the Board of the Owners Association shall provide each owner and each first mortgagee written notice of any such proceedings.

The first mortgagee's first security lien shall not be disturbed by such proceedings. All unit owners agree to submit to binding arbitration among themselves all matters in which, because of the proceedings, the owners may have conflicting interests.

16.7 The Owners Association has the right to maintain existing improvements regardless of any present or future encroachment of the common elements upon another unit.

16.8 As used herein, the term "mortgage" and forms thereof shall include "deed of trust" and its attendant terms.

16.9 The directors of the Owners Association (including those appointed by Declarant) shall have the authority in behalf of all unit owners to authorize the president of the Owners Association to execute an amendment to this Declaration amending these provisions for the benefit of mortgagees in order to bring them within the requirements of Federal National Mortgage Association ("FNMA").

The directors also shall have the authority with the consent of all first mortgage holders to remove or modify any provision for benefit of mortgage holders (Article 16) which is hereafter no longer required by or is modified by FNMA, so long as no unit owner is materially and adversely affected thereby.

16.10 Effect of Declaration Amendments

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

16.11 Insurance

16.11.1 Where a first mortgagee of an apartment has filed a written request with the Board, the Board shall:

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

(b) Require any insurance carrier to give the Board and any and all insureds (including such mortgagees) at least thirty (30) days written notice before cancelling, reducing the coverage or limits, or otherwise substantially modifying any insurance with respect to the property on which the mortgagee has a lien (including cancellation for a premium non-payment).

(c) Not make any settlement of any insurance claims for loss or damage to any such apartment, common area or limited common area exceeding Five Thousand Dollars (\$5,000) without the approval of such mortgagee; provided, that the withholding of such approval shall not be unreasonable.

(d) Give such mortgagee written notice of any loss or taking affecting common areas, if such loss or taking exceeds \$10,000.

(e) Give such mortgagee written notice of any loss, damage or taking affecting any apartment or limited common areas in which it has an interest, if such loss, damage or taking exceeds One Thousand Dollars (\$1,000).

16.11.2 In addition, the insurance policy required under Article 17 shall contain a standard mortgage clause which shall, if reasonably obtainable:

(a) Provide that any reference to a mortgage in such policy shall mean and include all holders of mortgages of any apartment or apartment lease or sublease of the project, in their respective order and preference, whether or not names therein;

(b) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board of apartment owners or any persons under any of them;

(c) Waive any provision invalidating such mortgage clause by reason of: the failure of any mortgagee to notify the insurer of any hazardous use or vacancy; any requirement that the mortgagee pay any premium thereon; and (if obtainable at a reasonable cost) any contribution clause.

16.12 Change in Manager

In the event that professional management is employed by the Association, at least thirty (30) days notice of any contemplated change in the professional manager shall be given to any first mortgagee which has requested to be notified, and the agreement with such professional manager shall permit cancellation by the Association for cause upon thirty (30) days written notice and shall have a term not in excess of one (1) year, renewable by agreement of the parties for successive one-year periods. The Association shall not elect to terminate professional management and assume self-management without the prior consent of seventy-five (75) percent of all first mortgagees who have requested to be advised of such election; provided that such prior consent shall not be required to change from one professional manager to another professional manager.

16.13 Obtaining Declarant's Powers

In the event the mortgagee of the condominium becomes bound by this Declaration by granting one or more partial releases or otherwise, and forecloses its mortgage or acquires a deed in lieu of foreclosure, and obtains possessory rights, legal title, or certificates of sale to the unsold apartment or apartments and appurtenant common

areas covered by the respective deed of trust or mortgage liens, then the mortgagee of the condominium may succeed to and assume, to the exclusion of the Declarant, the powers of the Declarant as set forth in this Declaration.

16.14 Extension of Declarant's Powers

In the event that the Declarant's obligation to the mortgagee of the condominium has not been paid in full at the time the declarant's management power has expired under Section 12.3 then said powers conferred upon the Declarant by said section and to which the mortgagee of the condominium may succeed, shall be extended for an additional two (2) years. The mortgagee of the condominium shall be entitled to appoint a receiver during the pendency of any foreclosure and said receiver shall immediately, upon appointment, succeed to and assume the rights and powers of the Declarant as set forth in this Declaration, and the receiver shall be entitled to sell unsold condominium units during the pendency of said foreclosure, and said sales shall be subject to confirmation by court order.

ARTICLE 17. INSURANCE

17.1 Insurance Coverage

The Board shall obtain and maintain at all times as a common expense a policy or policies and bonds required to provide:

17.1.1 Fire insurance, with extended coverage (including vandalism, malicious mischief, sprinkler leakage, debris removal, cost of demolition, windstorm and water damage) endorsement, in an amount as near as practicable to the full insurable replacement value (without deduction for depreciation) of the common and limited common areas and the apartments (including unit owner improvements such as carpets, drapes, built-in appliances and such items that may be part of the realty, or are initially sold with the unit), with the Board named as insured as trustee for the benefit of owners and mortgagees as their interest may appear, or such other fire and casualty insurance as the Board shall determine to give substantially equal or greater protection insuring the owners, and their mortgagees, as their interests may appear. Said policy or policies shall provide for separate protection for each apartment to the full insurable replacement value thereof, (limited as above provided), and a separate loss payable endorsement, in favor of the mortgagee or mortgagees of each apartment, if any, and further, a separate loss payable clause in favor of the mortgagee of the condominium, if any. All insurance shall be obtained from an insurance carrier rated A (and rated as in Class XI or better financial condition) by Best's Insurance Reports or equivalent rating service, and licensed to do business in the State of Washington.

17.1.2 General comprehensive liability insurance insuring the Board, the Association, the owners, Declarant and managing agent against any liability to the public or to the owners of apartments, and their invitees, or tenants, incident to the ownership or use of the common and limited common areas (including but not limited to owned and non-owned automobile liability, water damage, host liquor liability, liability for property of others and, if applicable, elevator collision and garagekeeper's liability), the liability under which insurance shall be in an amount determined by the Board after consultation with insurance consultants, but not less than \$1,000,000.00 covering all claims for personal injury and/or property damage arising out of a single occurrence (such policy limits to be reviewed at least annually by the Board and increased in its discretion). Such insurance shall include officers and directors legal liability. Such insurance shall contain appropriate provisions or endorsements precluding the insurer from denying the claim of an owner because of the negligent acts of the Association or another owner.

17.1.3 Workmens compensation insurance to the extent required by applicable laws.

17.1.4 Fidelity bonds naming the members of the Board, the manager and its employees and such other persons as may be designated by the Board as principals and the Association as obligee, in an amount equal to at least 150% of the total estimated cash (including reserves) to be collected as assessment each year. Such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definitions of "employee" or similar expression.

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

17.1.6 If the condominium contains a steam boiler, a broad form policy of repair and replacement boiler and machinery insurance of at least \$50,000 per accident per location.

17.1.7 Such other insurance as the Board deems advisable: provided, that notwithstanding any other provisions herein, the Association shall continuously maintain in effect such property and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by Federal National Mortgage Association and Government National Mortgage Association, so long as either is a mortgagee or owner of an apartment within the project, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association or Government National Mortgage Association.

17.2 Owner's Additional Insurance

Each owner shall obtain personal liability insurance of not less than \$100,000 per occurrence and may obtain additional insurance respecting his apartment or its contents at his own expense (RCW64.32.200); no owner shall, however, be entitled to exercise his right to maintain insurance coverage in any manner which would decrease the amount which the Board, or any trustee for the Board, on behalf of all of the owners, will realize under any insurance policy which the Board may have in force on the condominium at any particular time.

17.3 Insurance Proceeds

Insurance proceeds for damage or destruction to any part of the property shall be paid to the Board on behalf of the Association which shall segregate such proceeds from other funds of the Association. The Association acting through its Board shall have the authority to settle and compromise any claim under insurance obtained by the Association and the insurer may accept a release and discharge liability made by the Board on behalf of the named insureds under the policy.

17.4 Additional Provisions

The Board shall exercise its reasonable best efforts to obtain insurance policies containing the following provisions:

(a) Contain no provision relieving the insurer from liability for loss because of any act or neglect is not within the control of the Association or because of any failure of the Association to comply with any warrant or condition regarding any portion of the premises over which the Association has no control;

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

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

ARTICLE 18 DAMAGE OR DESTRUCTION: RECONSTRUCTION

18.1 Initial Board Determinations

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

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

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

18.1.3 The anticipated insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insured.

18.1.4 The amount, if any, that the estimated cost of repair and restoration exceeds the anticipated insurance proceeds therefor and the amount of assessment to each apartment if such excess was paid as a maintenance expense and specially assessed against all the apartments in proportion to their percentage of interest in the common areas.

18.1.5 The provisions of Article 10 apply as to whether such damage or destruction should be repaired or restored.

18.2 Restoration by Board

18.2.1 Unless prior to the commencement of repair and restoration work (other than emergency work) the owners shall have decided not to repair and reconstruct, the Board shall promptly repair and restore the damage and destruction to all common areas, use the available insurance proceeds therefor, and pay for the actual cost of repair and restoration in excess of insurance proceeds secured as a common expense which shall be specially assessed against all apartments in proportion to their percentages of interest in the common areas. Any funds not required to restore the common area shall be used to repair and restore the damage and destruction to any damaged units on an equitable basis.

18.2.2 The Board shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors and others, and to take such other action as is reasonably necessary to effectuate the repair and restoration. Contracts for such repair and restoration shall be awarded when the Board, by means of insurance proceeds and

sufficient assessment, has provisions for the cost thereof. The Board may further authorize the insurance carrier to proceed with repair and restoration upon satisfaction of the Board that such work will be appropriately carried out.

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

18.3 Decision Not to Restore; Disposition

In the event of a decision not to repair and restore damage and destruction, the Board may nevertheless expend such of the insurance proceeds and common funds as the Board deems reasonably necessary for emergency work (which emergency work may include but is not necessarily limited to removal of the damaged or destroyed buildings and clearing, filling and grading the real property), and the remaining funds, if any and property shall thereafter be held and distributed as follows:

18.3.1 The property shall be owned in common by the apartment owners and shall no longer be subject to this Declaration or to condominium ownership;

18.3.2 The undivided interest in the property owned in common which appertains to each apartment owner shall be the percentage of undivided interest perviously owned by such owner in the common areas and facilities;

18.3.3 Any mortgages or liens affecting any of the apartments shall be deemed transferred in accordance with the existing priorities to the percentage of the undivided interest of the apartment owner in the property as provided herein; and

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

18.4 Miscellaneous

The provisions of this Article 18 shall constitute the procedure by which a determination is made by the apartment owners to repair, restore, reconstruct or rebuild as provided in the Act. By the act of accepting an interest in the property, each apartment owner and party claiming by through or under such owner hereby consents and agrees to the provisions hereof. In the event that any provision of this Article 18 shall be determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not effect the validity of any other provision of this Declaration. The purpose of this Article 18 shall be to provide a fair and equitable method of allocating the costs of repair and restoration and making a determination for repair and restoration if all or a portion of the improvements are damaged or destroyed. The provisions of this Article 18 shall be liberally construed to accomplish such purpose. By unanimous vote the apartment owners, which vote shall be taken within ninety (90) days after the damage or destruction, the owners may determine to do otherwise than provided in this Article 18.

ARTICLE 19. COMPLIANCE WITH DECLARATION

19.1 Enforcement

Each owner shall comply strictly with the provisions of this Declaration and with the By-Laws and administrative rules and regulations passed hereunder, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to this Declaration and the By-Laws and administrative rules and regulations. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both maintainable by the Board acting through its officers on behalf of the owners, of by the aggrieved owner on his own.

19.2 No Waiver of Strict Performance

The failure of the Board in any one or more instances to insist upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or of the By-laws, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction, shall remain in full force and effect. The receipt by the Board of any assessment from an owner, with knowledge of any breach shall not be deemed a waiver of

such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed for the Board. This section also extends to the Declarant or Declarant's managing agent exercising the power of the Board during the initial period of operation of the Board during the initial period of operation of the Association and the condominium development.

ARTICLE 20. LIMITATION OF LIABILITY

20.1 Liability for Utility Failure, etc.

Except to the extent covered by insurance obtained by the Board, neither the Association nor the Board (or the Declarant or Declarant's managing agent exercising the powers of the Board) shall be liable for: any failure of any utility or other service to be obtained and paid for by the Board; or for injury of damage to person or property caused by the elements or resulting from electricity, water, rain, dust or sand which may lead or flow from outside or from any parts of the building, of from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, or for inconvenience or discomfort resulting from any action taken to comply with any Law, ordinance or orders of a governmental authority. No diminution or abatement of common expense assessments shall be claimed or allowed for any such utility or service failure, or for such injury or damage, or for such inconvenience or discomfort.

20.2 No Personal Liability

So long as a Board member, or Association committee member or Association officer, or Declarant or Declarant's managing agent exercising the power of the Board has acted in good faith, without willful or intentional misconduct, upon the basis of such information as may be possessed by such person, then no such person shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of such person; provided, that this section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the Board pursuant to Article

20.3 Indemnification of Board Members

Each Board member of Association committee member, or Association officer, or Declarant or Declarant's managing agent exercising the power of the Board, shall be indemnified by the owners against all expenses and liabilities including attorney fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party,

or in which he may become involved, by reason of being or having held such position, or any settlement thereof, whether or not he holds such position at the time such expenses or liabilities are incurred, except in such cases wherein such person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association. This section shall extend to and apply also for the indemnification of the Declarant of for the indemnification of the manager, if any.

ARTICLE 21. INTERPRETATION

21.1 Liberal Construction

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

21.2 Consistent with Act

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

21.3 Reference to Survey Map and Plans

The Survey map and Plans of the building referred to herein were filed with the Recorder of County, Washington, simultaneously with the recording of this Declaration under File No. _____ in Volume _____ of Condominiums, pages _____ through _____

ARTICLE 22, PHASE II DEVELOPMENT

The swimming pool and clubhouse located on the townhouse property, herein described, are large enough to serve 28 units of townhouses. The declarant is negotiating with the owner of the vacant land adjoining the presently existing property for the purpose of developing up to an additional 12 units of similar design and construction.

In the event that the declarant proceeds with this Phase II Development it is understood and agreed that the common areas of the Phase II Development will be incorporated into the presently existing common area and facilities, and that each person and/or party that becomes an owner of the Phase II Development will share an equal proportionate share of the common ownership of the then combined present phase together with the additional common area and facilities of Phase II. If Phase II is developed each of the owners of the Phase II Development will be entitled to the same ownership rights, voting rights, and membership rights as the purchasers of the present existing units.

Each unit of Phase II will have a value of \$45,000.00. Therefore, if 12 units are added, the combined value of Phase I and of Phase II will be \$1,260,000.00 and the percentage of each owner in the combined Phase I and Phase II common area and facilities would be 3.57%; If only 10 units are developed in Phase II the undivided ownership would be 3.85%.

If Phase II is developed, the declarant has the unqualified right to amend these declarations to include the Phase II development. Each purchaser, under these declarations for the existing units, agrees to execute any special power of attorney or other documents required to accomplish Phase II. However, such development shall be without cost or expense to any Phase I owner.

Further, this Section 22 becomes null and void if development is not commenced on or before January 2, 1983.

If Phase II is developed, the perimeter description of the combined Phases will be as follows, to wit:

That description for Phase I set out on Schedule "A", attached hereto and made a part hereof and

That description for Phase II set out on Schedule "D", attached hereto and made a part hereof.

DATED this 3rd day of January, 1980.

WINDMILL PROPERTIES II
A limited partnership

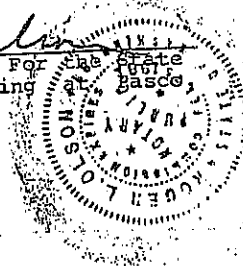
BY *Robert O. Holland*
ROBERT O. HOLLAND, General Partner

STATE OF WASHINGTON)
) ss
COUNTY OF FRANKLIN)

On this day personally appeared before me ROBERT O. HOLLAND, general partner of Windmill Properties II, a limited partnership, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledge that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 3rd day of January, 1980.

Robert O. Holland
Notary Public In and For the State
of WASHINGTON, Residing at Pasco



SCHEDULE "A"

LEGAL DESCRIPTION

Parcel A:

Lots 1, 2 & 3, Plat of Cherry Creek No. 1, according to the plat thereof recorded in Volume 8 of Plats, page 177, records of Benton County, Washington.

PARCEL B:

That portion of land situated in Lot 1, Block 733, Plat of Richland, is recorded in Volumes 5 and 7 of Plats, records of Benton County, Washington, more particularly described as follows:

Beginning at the intersection of the Easterly projection of the North line of Lot 2 of Plat of Cherry Creek No. 1 as recorded in Volume 8 of Plats, page 177, records of Benton County, Washington, and the Westerly right of way of that certain 30 foot drainage easement as delineated on the Plat of said Cherry Creek; thence South $89^{\circ}12'04''$ West along said Easterly projection to the Northeast corner of said Lot 2; thence South $00^{\circ}47'56''$ East 112 feet to the Southeast corner of said Lot 2; thence North $89^{\circ}12'04''$ East 28.80 feet; thence North $00^{\circ}47'56''$ West 5 feet; thence North $89^{\circ}12'04''$ East to a point on the Westerly right of way of said drainage easement; thence Northwesterly along said right of way to the point of beginning.

SCHEDULE "B"

Location of Units:

Building I- Units 1 through 4 are with Building I

Unit 1 (#140) - both floors-easterly end
Unit 2 (#142) - both floors-west of Unit 1
Unit 3 (#144) - both floors-west of Unit 2
Unit 4 (#146) - both floors-west end

Building II-Units 5 through 10 are within Building II

Unit 5 (#148) - both floors- easterly end
Unit 6 (#150) - both floors- west of Unit 5
Unit 7 (#152) - both floors- west of Unit 6
Unit 8 (#154) - both floors- west of Unit 7
Unit 9 (#156) - both floors- west of Unit 8
Unit 10 (#158) - both floors- west end

Building III-Units 11 through 16 are located in Building III

Unit 11 (#1630)- both floors- south end
Unit 12 (#1632)- both floors- north of Unit 11
Unit 13 (#1634)- both floors- north of Unit 12
Unit 14 (#1636)- both floors- north of Unit 13
Unit 15 (#1638)- both floors- north of Unit 14
Unit 16 (#1640)- both floors- north end

SCHEDULE "B" (Continued)

The interior square footage and kind and number of rooms:

UNIT	NUMBER OF ROOMS	KITCHEN/ DINING	LIVING	BEDROOMS	BATH	SQUARE FOOTAGE
1	6	1	1	2	2	960
2	6	1	1	2	2	960
3	6	1	1	2	2	960
4	6	1	1	2	2	960
7	6	1	1	2	2	960
8	6	1	1	2	2	960
9	6	1	1	2	2	960
10	6	1	1	2	2	960
11	6	1	1	2	2	960
12	6	1	1	2	2	960
13	6	1	1	2	2	960
14	6	1	1	2	2	960
15	6	1	1	2	2	960
16	6	1	1	2	2	960

SCHEDULE "C"

The value of each apartment unit and the percentage of the undivided interest in the common area and facilities pertaining to each unit and its owners for all purposes including voting are as follows:

UNIT:	VALUE:	PERCENTAGE	
		Decimals:	Rounded Percentage:
1	\$45,000	.0625000	6.250
2	45,000	.0625000	6.250
3	45,000	.0625000	6.250
4	45,000	.0625000	6.250
5	45,000	.0625000	6.250
6	45,000	.0625000	6.250
7	45,000	.0625000	6.250
8	45,000	.0625000	6.250
9	45,000	.0625000	6.250
10	45,000	.0625000	6.250
11	45,000	.0625000	6.250
12	45,000	.0625000	6.250
13	45,000	.0625000	6.250
14	45,000	.0625000	6.250
15	45,000	.0625000	6.250
16	45,000	.0625000	6.250
	<u>\$720,000</u>	<u>100.0000000</u>	<u>100.000%</u>

SCHEDULE "D"

That portion of land situated in Lot 1, Block 733, Plat of Richland, as recorded in Volume 6 and 7 of Plats, records of Benton County, Washington, more particularly described as follows:

Beginning at the intersection of the Easterly projection of the North line of Lot 2 of Plat of Cherry Creek No. 1, as recorded in Volume 8 of Plats, page 177, records of Ben-

ton County, Washington, and the centerline of a 30 foot drainage easement as delineated on the Plat of said Cherry Creek; thence South $89^{\circ}12'04''$ West along said Easterly projection to a point on the Westerly right of way of said drainage easement; thence Southeasterly along said right of way to a point on the North line of Lot 3 of said Cherry Creek; thence Easterly along the North line of said Lot 3 to the Northeast corner of said Lot 3; thence South along the East line of said Lot 3 to a point on the South line of said Block 733; thence Easterly along said South line to a point which is 160 feet West of the Southeast corner of said Block 733; thence North parallel with the East line of said Block 733, 160 feet; thence Westerly parallel with the South line of said Block 733 to a point on the centerline of said drainage easement; thence Northwesterly along said centerline to the point of beginning.