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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LOCKED AND LOADED GARAGE CONDOS**

**KOOTENAI COUNTY, IDAHO**

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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR LOCKED AND LOADED GARAGE CONDOS**

THIS DECLARATION is made and entered into this 11 day of February 2022 by  
LOCKED AND LOADED GARAGE CONDOS, LLC, an Idaho limited liability company, hereinafter  
referred to as "Declarant."

WHEREAS, Declarant is the owner of all that certain property subject to this Declaration,  
located in the County of Kootenai, State of Idaho, hereinafter referred to as the "Property" and  
more particularly described in Exhibit "A" attached hereto and incorporated herein as though  
fully set forth.

WHEREAS, Declarant hereby declares that all of the Property is and shall be held,  
conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used,  
improved or transferred in whole or in part, subject to this Declaration ("Declaration") and any  
recorded amendments or modifications from time to time.

WHEREAS, Declarant may develop additional properties adjacent to the Property and  
Declarant reserves the right to amend this Declaration to annex said lands ("Annexation") for a  
period of thirty (30) years following the recording of this Declaration. Said Annexation shall be  
permissible even though such future developments may have different permitted uses and be  
known by different names or tract numbers.

WHEREAS, Declarant has determined that the initial project name covered by this  
Declaration shall be LOCKED AND LOADED GARAGE CONDOS. Declarant may establish different  
names for the Property, or any portion of the Property, all of which will continue to be  
considered Property and subject to this Declaration, and any recorded amendments. All  
literature and signage prepared for sale or lease of the storage units covered during the term of  
this Declaration are to promote the name established by the Declarant.

WHEREAS, Declarant will cause the Association (as defined below), to be incorporated  
under the laws of the State of Idaho for the purpose of exercising the Association functions as  
set forth herein. Declarant desires to create a condominium common interest community  
which will be designated for common ownership solely by the owners of the separate  
ownership portions. Declarant executes this Declaration to define the character, duration,  
rights, duties, obligations, and limitations of condominium ownership and of Declarant.

WHEREAS, Declarant desires to establish the nature, use and enjoyment of Property,  
and any other property which hereafter shall be annexed thereto, in accordance with a uniform  
plan, and does hereby declare all of said Property subject to the following covenants,  
conditions, and restrictions as to the use and enjoyment thereof, all of which are to be  
construed as restrictive covenants running with the title to all of said Property and each and  
every part thereof and shall be binding upon each and every owner and shall run with the land.

## ARTICLE I DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meaning:

- A. **"Act"** shall mean the Condominium Property Act, Sections 55-1501, et seq., of the Idaho Code, pertaining to Condominiums in the State of Idaho.
- B. **"Association"** shall mean the Association of the Owners of the Units acting as the group pursuant to this Declaration, to the Bylaws for such Association (attached hereto as Exhibit B) and to the Act. The Association shall be called **"Locked and Loaded Garage Condominium Association."**
- C. **"Association Rules"** shall mean and refer to the rules and regulations adopted by the Association pursuant to this Declaration and in furtherance of the Bylaws and in accordance with the Act (attached hereto as Exhibit B).
- D. **"Assessments"** shall mean the charges against Owners to defray the Common Expenses as well as miscellaneous special assessments, special assessments for capital improvements, and special assessments for the purpose of restoring and reconstructing the Property in the event of casualty, as provided in this Declaration.
- E. **"Board"** shall mean the Board of Directors of the Association elected pursuant to the Bylaws and serving as the governing body of the Association.
- F. **"Building"** shall mean and refer to each of the principal structures containing Condominium Storage Units located on the Property, as shown on the Plat.
- G. **"Bylaws"** shall mean the Bylaws adopted by the Association pursuant to the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time (attached hereto as Exhibit B).
- H. **"Common Expenses"** shall mean the actual and estimated costs for but not limited to:
  - 1. Maintenance Equipment, snow removal, management, operation, repair and replacement of the Common Elements which are maintained by the Association;
  - 2. Deficiencies arising by reason of unpaid Assessments;
  - 3. Management and administration of the Association, including but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

4. Utilities, including, but not necessarily limited to electricity, gas, water, electricity, landscaping services & related services.
5. Insurance and required by this Declaration, or any additional insurance and bonds obtained by the Board in its discretion; and
6. the establishment of reasonable reserves as the Board shall deem appropriate in its discretion.

I. **"Common Elements"** or **"Common Area(s)"** shall mean the entire Property excluding Buildings A Units 1-26, B Units 1-22, C Units 2-18, D units 1-10, and E Units 1-5 that parcel of land shall ONLY BE USED FOR UNASSIGNED STORAGE OF BOATS, RV'S OR OTHER VEHICLES AND STORAGE CONTAINERS OR TRAILERS, other than the Condominium Storage Units deeded separately as recorded on the condominium plat. The percentage of interest in the common areas shall be stated on the Condo Plat. The undivided interest in the common area upon the recording of this Declaration shall be 1/79 or 1.27 percent, as set forth for each Unit in the attached Exhibit C.

- a. Percentage shall be amended with the completion of additional Phases of the project using the same formula.
- b. That interest will be reduced to a smaller percentage upon the recording of an amended Condominium Plat and/or Amendment to this Declaration.
- c. Unit 1A is designated as the Office and Unit C1 is designated as the Common Area Bathroom and are not included in the allocation of percentage of ownership interest.

J. **"Common Wall or Walls"** shall mean the wall(s) located between two (2) Condominium Storage Units.

K. **"Condominium Storage Unit"** shall mean a part of the property, designed or intended for independent use as a storage unit, together with the pro rata fractional interest in the Common Elements and any exclusive and non-exclusive easements appurtenant thereto. Each Condominium Storage Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat; provided, however, that no structural components of the Building in which each Condominium Storage Unit is located and no pipes, wires, conduits, ducts, flues, shafts or utility, water or sewer lines (if any) situated within such Condominium Storage Unit and forming part of any system serving one or more other Condominium Storage Units, shall be a part of the Condominium Storage Units. The (Office/Common Area Facilities) which is technically not a storage unit shall be considered a Condominium Storage Unit for the purpose of rights and obligations of condominium units. The Owner of the "Office unit or Common Area Facilities Unit" is, by the inclusion of this definition granted the same rights and

obligations of any condominium storage unit, unless stated otherwise in this Declaration.

- L. **"Declarant"** shall mean Locked and Loaded Garage Condos, LLC, its successors and assigns, transferees and any successor party to whom Declarant shall expressly assign its rights, powers, privileges, duties and obligations in a writing recorded as required by the Act. Any such successor shall be required to assume all obligations and duties of a Declarant under this Declaration. The conveyance of a Unit to an Owner will not be deemed to constitute the conveyance of any Declarant right, privilege, power, duty or obligation under this Declaration.
- M. **"Declaration"** shall mean this entire document, as the same may from time to time be amended.
- N. **"Development Rights"** means any right or combination of rights reserved by the Declarant to add real property to the project, to create Units, Common Elements or Easements; to combine or subdivide Units or convert Units into Common Elements; to relocate the Unit boundaries, enlarge or reduce Unit or Common Element sizes; to exercise any development right set forth in this Declaration, to complete or renovate buildings; to withdraw real estate or improvements from the project; or to exercise other rights provided for by the Act and this Declaration. The Declarant reserved Development Rights may only be exercised subject to the Act and/or applicable law while Declarant owns any Unit or other real property interest in the Condominium or for any longer time period permitted by law.
- O. **"Lender"** shall mean: (1) an institutional holder, or individual holder, of a first mortgage or first deed of trust on a Condominium Storage Unit.
- P. **"Limited Common Elements"** or **"Limited Common Areas"** shall mean those common areas and facilities designated in the Declaration for use of a certain condominium owner or owners to the exclusion, limitation or restriction of others.
- Q. **"Occupant"** shall mean a Person or Persons, other than an Owner, in possession of a Condominium Storage Unit.
- R. **"Office/common area facilities"** shall mean any office/common area facilities, storage or other structures constructed on that portion of the condominium project designated for such use on the plat for the use of the Declarant or Association. For the avoidance of doubt, Unit A1 shall be designated as the Office and shall be owned by the Declarant and excluded from the Common Elements.

S. "**Owner**" shall mean the Person or Persons who are vested with record title to a Condominium Storage Unit according to the records of the County Recorder of Kootenai County, Idaho. However, Owner shall not include a Person who holds an interest in a Condominium Storage Unit merely as security for the performance of an obligation. Declarant shall be considered the record Owner of any Condominium Storage Unit prior to its initial conveyance by Declarant.

T. "**Plat**" means the recorded final condominium plat of the Property and showing thereon the Condominium Storage Units, each of which is identified by a number. The original Plat is recorded in the records of the County Recorder of Kootenai County, Idaho, and any amendments, supplements or corrections thereto.

U. "**Period of Declaration Control**" means the time period commencing on the date this Declaration is recorded and ending: (1) five (5) years, after the Declaration is recorded; (2) at the sole option of the Declarant, after the conveyance of ninety percent (90%) of the Condominium Storage Units, which may be created, to Owners other than the Declarant, (3) or thirty (30) days after Declarant's notification to the Owner of each Condominium Storage Unit that the Declarant has resigned.

V. "**Person**" shall mean a natural individual, corporation, partnership, limited liability company trustee or other legal entity capable or holding title to real property.

W. "**Property**" shall mean the real property described on Exhibit "A" attached hereto, the Buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

X. "**Restrictions**" shall mean the covenants, conditions, assessments, easements, liens and restrictions set forth in this Declaration.

Y. "**Unoccupied**" with reference to any Condominium Storage Unit or Condominium Storage Units shall mean any Condominium Storage Unit that has been constructed but not yet conveyed by Developer or Declarant.

## ARTICLE II DECLARATION OF CONDOMINIUM

### **Section 2.1. Property Subject to this Declaration.**

Declarant is the owner of the real property which is to be the subject of this Declaration and which is to be held, transferred, sold, conveyed and/or occupied subject to this Declaration and which is more particularly described in Exhibit "A" attached hereto and incorporated by reference herein ("Property").

Notwithstanding any language herein to the contrary, Declarant expressly reserves the right to add additional real property, which would be subject to this Declaration, to the extent the same is permitted under applicable laws of the State of Idaho.

**Section 2.2. Submission of Property.**

Declarant hereby submits and subjects the Property to a condominium pursuant to the Act, and in furtherance thereof makes and declares the restrictions contained in this Declaration, and Declarant hereby declares and agrees that the Property and all of the Condominium Storage Units shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used, and improved subject to the restrictions, which restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of Declarant, the Association and each Owner, including their respective heirs, executors, administrators, personal representatives, successors and assigns.

**Section 2.3. Description of the Project.**

- A. Name.** The name of the condominium created by this Declaration Is "Locked and Loaded Garage Condos."
- B. Boundaries of Condominium Storage Units.** Each Condominium Storage Unit is shown on the recorded Plat and identified numerically by a building number and a unit number. The boundaries of Condominium Storage Buildings A units 1-26, (Unit 1 is main office) B Units 1-22, C Units 1-18 (Unit 1 is common area bathroom) D units 1-10, E Units 1-5 and a parcel of land noted "Common Area" shall generally be the inside space of the unit within the finished surfaces, as follows:
  1. The horizontal boundaries shall be the finished but undecorated surface of the interior perimeter walls.
  2. The vertical boundaries shall be the top of the finished, but undecorated, floor and the bottom or underside of the ceiling/roof system.
  3. "Common Area" shall be as defined in this declaration.
  4. The recorded Plat shows the square footage and the floor elevations of each Condominium Storage Unit. The ceiling elevations vary; therefore, the inside space will vary depending on the ceiling elevation and the as-constructed location of the walls.
  5. Office and Common Area as shown on the Plat, is limited to use for the manager's office, Common Area traffic, and parking facilities.
  6. The horizontal boundaries of Office and Common Area shall be the courses and distances as shown on Plat the detail on Sheet of the Plat.

- C. Description of Common Elements.** The Common Elements shall consist of the entire Property excluding the individual Condominium Storage Units and the Office.
- D. Description of Limited Common Elements.** The Limited Common Elements shall consist of all the Property within the boundaries of Office and Common Area as described on the face of the Plat.
- E. Fractional Interest.** Each Condominium Storage Unit shall include an undivided fractional interest in the Condominium project. The undivided fractional interest in the Condominium project held by each Condominium Storage Unit Owner shall be 1/79, as set forth in Exhibit C.
- F. Maintenance by Owners.** Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Condominium Storage Unit, excluding any portion of the roof system, except as herein provided. Such obligation shall include, but not be limited to, the maintenance of all finished flooring and any other materials constituting the finished surface of floors, interior finished surfaces of interior walls, repair and replacement of all doors, and shall also include the maintenance of all utility lines serving in each Owner's Condominium Storage Unit between the point at which the same enters the respective Condominium Storage Unit and the points where the same joins the utility line serving other Condominium Storage Units. An Owner may make non-structural alterations within his Condominium Storage Unit, but an Owner shall not make any structural or exterior alterations of the Common Elements.
- G. Utilities.** Water utilities for individual Condominium Storage Units will be metered to the Association with such utility charges to be the responsibility of the Association in accordance with Section 6.4. Any additional utilities to a unit, including gas, electrical, and sewer, if any, shall be separately metered, such utility charges to be the responsibility of the unit owner. Additional utilities added to any unit shall be performed by the association, payment to be paid to the association in advance of installation. Reasonable and complete charges shall apply.

### **ARTICLE III OWNERS ASSOCIATION**

#### **Section 3.1 Establishment of Association.**

The name of the Association is "Locked and Loaded Garage Condominium Association" a non-profit corporation to be organized under and by virtue of the laws of the State of Idaho governing non-profit corporations. The Association shall be responsible for and provide such necessary and appropriate action for the proper maintenance, repair, replacement, operation, management, beautification and improvement of that certain Property and improvements to be used in common by and for the benefit of the Owners of the Condominium Storage Units constructed on the property. The Association will be governed consistent with the nonprofit laws of the State of Idaho. The Bylaws of said Association are attached hereto as Exhibit "B," and by this reference are hereby incorporated herein ("Bylaws").

**Section 3.2 . Authority of Declarant During Period of Declarant Control.**

During the period of Declarant Control, as that phrase is defined herein, all right, discretion, power and authority herein granted to the Association and the Condominium Storage Unit Owners through said Association, including the right to collect assessments (excepting reserves for replacement) shall, at the option of Declarant, remain with Declarant directly or through the Association. Further, during the period of Declarant Control, as that phrase is defined herein, the Declarant shall have the right to appoint and remove members of the Board of Directors and the Officers of the Owners Association. Further, directors and officers during the period of Declarant control need not be Condominium Storage Unit Owners.

**Section 3.3. Responsibilities of Declarant During Period of Declarant Control.**

During the period of Declarant Control, Declarant shall be liable for any assessment referred to herein for any Unoccupied Condominium Storage Unit. In lieu of payment of such assessment, Declarant will assume responsibility for month-to-month maintenance, repair and the management of Common Elements until these functions are assumed by the Owners. In the event Declarant shall not convey any Condominium Storage Unit but shall utilize any Condominium Storage Unit for rental use or any other beneficial use (except as a model), Declarant shall be liable for assessments referred to herein. For purposes of this paragraph, assumption of control of the Association is defined as having passed, conclusively, to the Owners, collectively, upon completion of the following requirements:

- A. Declarant shall notify the Owner of each Condominium Unit that the Declarant has resigned, in accordance with the terms set out in the definition of the phrase "Period of Declaration Control" as defined herein, and the Association shall assume control, effective thirty (30) days after the date of notice.**

**B.** Declarant shall deliver the Association corporate minutes, records and seal, to any one of the Owners of record receiving such notice, or to a committee organized by the Owners of record for such purpose.

There shall be no outstanding or accrued debts against the Association at the time of assumption of control by the Owners beginning with the date of control of the Association by the Owners with the exception of ordinary office expense debt. Declarant or its successor shall at no time be responsible for any assessment against Condominium Storage Units or land not available for occupancy or available for occupancy but unsold, except as provided herein.

Except as provided by statute in case of condemnation or substantial loss to the Condominium Storage Units and/or Common Elements, the Association shall not be entitled to:

- A.** By act or omission, seek to abandon or terminate the Condominium project;
- B.** Change the pro rata interest or obligations of any individual Condominium Storage Unit for the purpose of;
  - 1. Levying assessments or charges or allocation distributions of hazard insurance proceeds or condemnation awards, or
  - 2. Determining the pro rata share of ownership of each Condominium Storage Unit in the Common Elements.
- C.** Partition or subdivide any Condominium Storage Unit;
- D.** By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause);
- E.** Use hazard insurance proceeds for losses to any portion of the Property (whether to Condominium Storage Units or to Common Elements) for other than the repair, replacement or reconstruction of such Property. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall apply only to the individual Condominium Storage Units and not the Property as a whole.

## **ARTICLE IV** **PROPERTY RIGHTS**

**Section 4.1. Owners' Easements of Enjoyment.**

Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with title to every Condominium Storage Unit subject to the following provisions:

- A. The rights of the Association to suspend voting rights and right to use the Common Elements by an Owner for any period during which any assessment against his Condominium Storage Unit remains unpaid and for a period not to exceed sixty (60) days for any infraction of this Declaration;
- B. The right of the Association to dedicate or transfer all of any part of the Common Areas to any public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed by Owners entitled to vote not less than seventy- five percent (75%) of the total voting power of the Association agreeing to such dedication or transfer;
- C. The right of Declarant (and his sales agents and representatives) to the non-exclusive use of the Common Area and the facilities thereof for display and exhibit purposes in connection with the sale of Condominium Storage Units which right Declarant hereby reserves. No such use by Declarant or its sales agents or representatives shall otherwise restrict the Owners' use and enjoyment of the Common Areas;
- D. The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Areas.
- E. The right of the Association in accordance with its Articles and Bylaws to borrow money for the purpose of improving the Common Areas and facilities thereon.

**Section 4.2. Delegation of Use.**

Any Owner may delegate, in accordance with this Declaration, Owner's right of enjoyment to the Common Areas and facilities to the members of his family, guests or his tenants.

**ARTICLE V**  
**MEMBERSHIP AND VOTING RIGHTS**

**Section 5.1. Membership.**

Every Owner of a Condominium Storage unit shall be a member of the

Association. Membership shall be appurtenant to and may not be separated from ownership of any Condominium Storage Unit. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership to such Condominium Storage Unit, including transfer of ownership by Intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process that is now in effect or as may hereafter be established under or pursuant to the laws of the State of Idaho. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership shall operate to transfer said membership to the new Owner, and a reasonable charge may be assessed by the Association for each such transfer.

**Section 5.2. Voting Rights.**

All Owners shall be entitled to one vote for each Condominium Storage Unit owned. When more than one person holds an interest, all such persons shall become Members. The vote for such Condominium Storage Unit shall be exercised as they among themselves determine, but, in no event, shall more than one vote be cast with respect to any Condominium Storage Unit, and fractional votes shall not be allowed. In the event more than one vote is cast for a particular Condominium Storage Unit, none of the votes shall be counted and said votes shall be deemed void.

**ARTICLE VI**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 6.1. Personal Obligation of Assessments.**

Each Owner of a Condominium Storage Unit, except as otherwise set forth herein, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, the following assessments which may be charged in accordance with the restrictions and requirements contained herein and in the Bylaws. Those assessments include:

1. Regular assessments;
2. Special assessments;
3. Extraordinary assessments;
4. Correction assessments; and
5. Fine assessments.

The assessments, late payments, penalties, if any, together with interest thereon, and reasonable attorney's fees and costs of collection thereof, is a continuing lien on the Condominium Storage Unit. Each such assessment, together with interest, costs, reasonable attorney's fees and costs of collection,

shall also be the personal obligation of the person who was the Owner of such Condominium Storage Unit at the time when the assessment fell due.

**Section 6.2. Purpose of Assessments.**

The regular assessments levied by the Association shall be used to pay utility charges and for the improvement and maintenance of the Common Areas, and for all purposes set forth in the Articles and Bylaws Including but not limited to, management fees, insurance premiums unless otherwise provided for, expenses for maintenance, maintenance equipment, repairs and replacements of Common Areas, reserves for contingencies, taxes, and charges for water and other utilities for the Common Areas.

By appropriate action, the Association may establish and maintain a reserve fund for replacement by the allocation and payment monthly to such reserve fund an amount to be designated from time to time by the Board of Directors of the Association. Such fund shall be depository and may be in the form of a cash deposit or Invested in obligations of or fully guaranteed as to principal by the United States of America. The reserve fund is for the purpose of effecting replacement or repair because of damage, depreciation or obsolescence to Common Area elements.

**Section 6.3. Uniform Rate of Assessment.**

Except as otherwise provided herein, both regular and special assessments must be fixed at a uniform rate for all Condominium Storage Units and may be collected on a monthly basis or upon such other basis as shall be determined by the Board of Directors.

**Section 6.4. Date of Commencement of Regular Assessments.**

The regular assessments shall commence as to any Condominium Storage Unit upon close of escrow for sale for the conveyance to an Owner, partial months to be prorated, except as provided in Article III, Section 2. The first regular assessment shall be adjusted according to the number of days remaining in the calendar year. The Board shall fix the amount of the regular assessment against each Condominium Storage Unit at least thirty (30) days in advance of each regular assessment period. Written notice of the regular assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The initial assessment, per Condominium Storage Unit, shall be for units A12-26, B,C,D, and E shall be \$450.00 per year; units A2-11 shall be \$650.00 per year, provided however, that the Board of Directors or the Declarant may declare a different amount for the assessment at such time as they desire. Assessments may raise up to 15% per year based on association managers and board of director's annual evaluation of the associations needs and reserve requirements.

**Section 6.5. Special Assessment.**

In addition to the regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year for the

purpose of litigation, arbitration, mediation, defraying (in whole or in part) the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto or other special needs that may arise, provided that any such assessment shall have the assent of majority of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 6.6. Emergency Assessments.**

In addition to the regular and special assessments, the Board shall have emergency powers to assess an emergency assessment on Storage Units. The emergency assessment may be imposed with the consent of a majority of the members or by a vote of two-thirds (2/3) of the Board; however, any emergency assessment made by the Board of Directors shall not exceed fifty percent (50%) of the annual regular assessment per Condominium Storage Unit in any one (1) year. Further, the power of the Board to assess emergency assessments shall only occur in the case of a bona fide emergency.

**Section 6.7. Correction Assessments.**

In addition to other assessment and in the event any Condominium Storage Unit Owner, except Declarant, violates the Declaration and is given proper notice as per the Bylaws, yet fails to correct the violation in accordance, then the correction can be completed by the Association and the assessment shall become effective to reimburse the Association for the correction.

**Section 6.8. Fine Assessment.**

In addition to other assessments and in the event that an Owner violates the Declaration, the Bylaws or any properly adopted Rule or Regulation of the project on more than two (2) occasions following written notice of the violation, then a fine may be assessed against the Owner for each future similar violation. Fine assessment must be approved by two-third (2/3) of the Board and shall be a reasonable amount to discourage future violations.

**Section 6.9. Notice and Quorum for any Action.**

Written notice of any meeting called for the purpose of taking any action authorized under this Declaration, shall be sent to all members, at the address on record with the Board and posted on the Association bulletin board, not less than ten (10) days or more than thirty (30) days before the date of such meeting. At the first such meeting called, the presence of members or of proxies entitled to cast twenty percent (20%) of all votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement; and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6.10. Non-payment of Assessments - Remedies of the Association.**

Any assessment not paid within fifteen (15) days after the due date, an automatic late charge of one and one-half percent (1.5%) shall be assessed for each month until all late charges are paid. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the condominium Storage Unit. In the event a lawsuit or alternative dispute resolution is initiated to collect such assessments, the Association shall be entitled to payment of its attorney fees and costs as part of any judgment against Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Condominium Storage Unit.

**Section 6.11. Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Condominium Storage Unit shall not affect the assessment lien. No sale or transfer shall relieve such Condominium Storage Unit from liability for any assessments thereafter becoming due or from the lien thereof.

**ARTICLE VII**  
**ARCHITECTURAL CONTROL**

**Section 7.1. Improvements.**

Except for any improvements constructed by Declarant, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Property. Nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Board of Directors of the Association.

**ARTICLE VIII**  
**COMMON WALLS- RIGHTS AND DUTIES OF OWNERS**

**Section 8.1. Common Walls.**

The rights and duties of Owners with respect to Common Walls shall be as follows:

- A. The Owners of contiguous Condominium Storage Units who have a Common Wall or Walls shall both equally have the right to use such wall or walls provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.

- B. In the event that any Common Wall or Walls are damaged or destroyed through the act of an Owner or any of his agents or tenants (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Common Wall or Walls without cost to the other adjoining Owner or Owners.
- C. In the event any such Common Wall or Walls are destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his agents, or tenants, it shall be the obligation of the Association to rebuild and repair such wall or walls.
- D. Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Common Wall or Walls without the prior consent of the Board of Directors of the Association.
- E. In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Common Wall or Walls, or with respect to the bearing of the cost thereof the Owners shall submit the dispute to the Board of Directors, the decision of which shall be final and binding on all Owners.

No Owner shall affix any load bearing item to any wall which adds load to the wall such as shelving and the like. Light duty loads excluded at the discretion of the Declarant or the board.

## ARTICLE IX REPAIR AND MAINTENANCE

### **Section 9.1. By Owner.**

Each Owner of a Condominium Storage Unit shall maintain, repair, replace and restore at his own expense all portions of the Condominium Storage Unit, including door(s) and skylight(s) and such maintenance, repair, replacement or restoration shall be subject to control and prior written approval of the Association. No Owner shall remove, alter, injure or interfere with any shrubs, trees, or planting placed upon the Property by Declarant or the Association without first obtaining the written consent of the Association.

### **Section 9.2. By the Association.**

The Association shall have full power and control and it shall be its duty to maintain, repair and make necessary improvements to and pay for out of the maintenance fund to be provided, all Common Areas and the improvements thereon, and all private roadways, streets, parking area, walks and other means

of ingress and egress within the Property. This shall include the exterior portions of the Condominium Storage Units, and the buildings {except for the Condominium Storage Units and doors}, the land upon which the buildings are located, the airspace above the buildings, all bearing walls, columns, floors, roofs, slabs, foundations, storage spaces, all water pipes, ducts, conduits, wires, the bathrooms, the bulletin board, and the mechanical equipment and storage room adjacent to the office and all other utility installations of the building, wherever located, except the outlets thereof when located within the Condominium Storage Units. The Association shall further be empowered with the right and duty to periodically inspect all Common Areas in order that minimum standards of repair, design, color and landscaping shall be maintained for appearance, harmony and conservation within the entire project. The Board of Directors shall be the sole judge as to the appropriate maintenance of the Common Areas.

**Section 9.3. General Maintenance.**

In the event that the Association determines that an improvement of the Common Area is in need of repair, restoration or painting, or that the landscaping is in need of installation, repair, or restoration, the Association shall undertake to remedy such condition and the cost thereof shall be charged to the Owners and shall be subject to levy, enforcement and collection by the Association in accordance with the assessment lien procedure provided for in this Declaration. The Association shall have a limited right of entry in and upon all Common Areas as defined above and the exterior of all Condominium Storage Units for the purpose of taking whatever corrective action may be deemed necessary or proper by the Association. Nothing in this Article shall in any manner limit the right of the Owner to exclusive control over the interior of his Condominium Storage Unit. Provided; however, that the Owner shall grant the right of entry therein to the Association or any other person or other Owner or Owners, or their authorized representatives, (i) in case of any emergency originating in or threatening his Condominium Storage Unit whether the Owner is present or not, or (ii) when so required to enter his Condominium Storage Unit for the purpose of performing installation, alterations or repair to the mechanical or electrical services, including water, and other utility services, provided that reasonable requests for entry are made and that such entry is at a time reasonably convenient to the Owner whose Condominium Storage Unit is to be entered. In case of an emergency, such right of entry shall be immediate without the necessity for a request having to be made.

**Section 9.4. Repair Necessitated by Owner.**

In the event that the Association determines that the Common Areas are in need of improvement, repair, restoration or painting, or that the landscaping is in need of installation, repair, or restoration which has been caused by an Owner, or any person designated or authorized by the Owner, then the Association shall

give written notice to the Owner of the conditions complained of. Unless the Board of Directors has approved in writing corrective plans proposed by the Owner to remedy the condition complained of within such reasonable period of time as may be determined by the Board after said written notice is first given, and such corrective work so approved is completed thereafter within the time allotted by the Board, the Association shall undertake to remedy such condition or violation complained of. The cost thereof shall be deemed to be an assessment to such Owner and his Condominium Storage Unit and subject to levy, enforcement and collection provided for herein or in the Association's Articles or Bylaws. The Association shall have the same right of entry in and upon all Common Areas and Condominium Storage Units as detailed above. The Board shall have the sole right to determine whether any such costs expended by the Association were related to general maintenance or were repairs necessitated by an Owner, and the determination of the same shall be binding and final as to an Owner.

## ARTICLE X EASEMENTS

### **Section 10.1. General Easements to Common Elements.**

Subject to this Declaration and the Association Rules, non-exclusive reciprocal easements are hereby reserved and created for the purpose of support, ingress and egress, access, use and enjoyment in favor of each Owner, upon, across, over, under and through the Common Elements, including the use of all pipes, wires, ducts, cables, conduits, and public utility lines, which easements shall be appurtenant to each Condominium Storage Unit. The Association, acting through the Board or its authorized agent, and public utility companies providing service to the Property, shall have non- exclusive easements with the right of access to each Condominium Storage Unit to make inspections, to remove violations, to maintain, repair, replace or effectuate the restoration of the Common Elements accessible in such Condominium Storage Unit provided, however, such rights shall be exercised in a reasonable manner and at reasonable times with prior notification unless emergency situations demand immediate access.

### **Section 10.2. Public Utilities.**

Easements and rights over the Property or the installation and maintenance of electricity lines, telephone lines, water lines, drainage facilities, and such other public utilities needed to serve the Property are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use of the Common Elements and the Condominium Storage Units by the Owners or their tenants.

### **Section 10.3. Easements for Encroachments.**

If any portion of the Common Elements encroaches upon any Condominium Storage Unit, or if any Condominium Storage Unit encroaches on the Common Elements, or if any such encroachment shall occur hereafter as a result of the manner in which the Buildings have been constructed or due to settling, shifting, alteration, replacement, repair, or restoration by Declarant or the Association, a valid easement for encroachment shall exist so long as the Buildings stand.

**Section 10.4. Development Easements for Declarant.**

Until all phases of the project are constructed and all Condominium Storage Units have been sold by Declarant, there are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including Declarant's sales agents, representatives and assigns, easements and rights upon, across, over, under and through the Property for construction, display (including the use of the Condominium Storage Units as models), maintenance, sales and exhibit purposes, including the use of signs and other advertising devices, in connection with the erection and sale or lease of Condominium Storage Units within the Property: provided, however, that no such use by Declarant or its agents shall otherwise restrict Owners in the reasonable use of their Condominium Storage Units.

## **ARTICLE XI** **USE RESTRICTIONS**

**Section 11.1. Storage Use.**

A Condominium Storage Unit shall be used, improved and devoted exclusively to storage uses. Notwithstanding the foregoing, however, any Office/Common Area Facilities to be completed and owned by Declarant, including Declarant's assignee or tenant, may be used for any ordinary Office-Type/Common Area Facilities use, whether or not that use is related to the project, provided any such use shall not interfere with the free use of the Condominium Storage Units. No Condominium Storage Unit shall be allowed to be used, at any time, for living quarters or any residential use. Storage or use of flammable materials must be minimal and stored in a fireproof cabinet approved by the Kootenai County Fire.

**Section 11.2. Animals.**

No animals, whether fowl, poultry, dogs, cats, pigs, birds, livestock or other animals shall be allowed to reside or be maintained in any Condominium Storage Unit. This restriction shall not apply to the Office and any guard animals used for the common benefit of the Property.

**Section 11.3. External Fixtures.**

No external items such as, but not limited to, television and radio antenna, flag poles, clotheslines, wiring, insulation, air conditioning equipment, water

softening equipment, herrings, fences, signs, awnings, ornamental screens or sunshades, shall be constructed, erected or maintained on the Property, including any Buildings thereof unless approval is obtained in writing from the Board. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Property. The exception being lighting, fire and or security alarms and cameras, communications or entertainment equipment installed by the declarant or the owner's association.

**Section 11.4. Utility Service.**

No lines, wire, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon the Property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Declarant or the Board. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures by Declarant or approved by the Board.

**Section 11.5. Temporary Structures.**

No temporary buildings or structure of any kind shall be used at any time for a residence on the Property.

**Section 11.6. Parking.**

Except for any specified parking for the Office/Common Area Facilities, unless otherwise permitted by the Board, no motor vehicle, including a motorcycle, trailer, camper, boat, or similar item, and no bicycle shall be permitted to remain placed upon the Property unless parked or placed within the Condominium Storage Unit; provided, however, temporary parking of motor vehicles may be permitted. For purposes hereof "temporary parking" shall mean parking of vehicles belonging to Owners or agents, parking of delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of goods and services to the Association or the Owners or Occupants as well as parking of vehicles belonging to and being used by Owners, agents or Occupants for loading and unloading purposes. The Board may adopt Association Rules relating to the admission and temporary parking of vehicles within the Property, including the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges to be assessed shall be Special Assessments. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Property.

**Section 11.7. Outside Speakers and Amplifiers.**

No radio, stereo, broadcast or loudspeaker units and no amplifiers of any kind shall be placed upon or outside or be directed to the outside of any Building without prior written approval of the Board.

**Section 11.8. Repairs.**

No repairs of any detached machinery, equipment or fixtures, including, without limitation, motor vehicles, shall be made upon the Property. Repairs or fabrication of owner's property inside the owner's unit is acceptable. Storage or use of flammable materials must be minimal and stored in a fireproof cabinet approved by the Kootenai County Fire.

**Section 11.9. Unsightly Items.**

All rubbish, debris or unsightly material or objects of any kind shall be regularly removed from Condominium Storage Units and shall not be allowed to accumulate therein or thereon. Refuse containers, machinery, and equipment not part of the Condominium Storage Units, shall be prohibited upon any Condominium Storage Unit unless obscured from view of adjoining Condominium Storage Units and Common Elements. No outside storage or overnight parking allowed in front of storage units. Trash and garbage shall be placed in containers by Owners and Occupants for removal from the Property in accordance with Association Rules applicable thereto adopted by the Board. Declarant will not provide for trash or refuse removal. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be special Assessments. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents from engaging in all forms of construction and sales activities within the Property.

**Section 11.10. Oil, Water and Mineral Activity.**

No oil or water drilling, oil development operations, oil refining, quarrying or mining operations of any kind, including searching for buried treasure-trove, shall be permitted upon or under the surface of the Property. Nor shall oil wells, tanks, tunnels, mineral excavations or shafts be installed upon the surface of the Property or below the surface of the Property. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Property.

**Section 11.11. Declarant Exemption.**

Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant or its duly authorized agents, of structures, improvements or signs necessary or convenient to Declarant, for completion of both phases of the project, sale, operation or other disposition

and use of the Property, including but not limited to Declarant's office, storage area and manager's office area.

**Section 11.12. Nuisances.**

No nuisance shall be permitted to exist or to operate upon the Property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. No rubbish, debris, material, or containers of any kind shall be placed or permitted to accumulate upon or adjacent to the Property and no odors shall be permitted to arise there from, so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No political or religious signage, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property. The Board or declarant in its sole discretion shall have the right to determine the existence of any nuisance.

**Section 11.13. Renting.**

Subject to the foregoing obligations, the Owners of the Condominium Storage Units shall have the right to lease the same provided that said lease is made subject to the covenants and restrictions contained in this Declaration and further subject to the Bylaws and Association Rules. Each Owner shall be responsible for compliance by said Owner's agent, tenant, guest, invitee, licensee, their respective servants and employees with the provisions of said Declaration, Bylaws and Association Rules. The Owner's failure to so ensure compliance by such persons shall be grounds for the same action available to the Board, including entitlement to attorney fees and costs, by reason of said Owner's own non-compliance.

**Section 11.14. Noise.**

No Owner, his agents, tenants, employees or visitors shall be allowed to make or cause improper noises in the Building or Common Areas, or to in any way interfere with the use and enjoyment of other Condominium Storage Units by other Owners in accordance with the county noise ordinance.

**Section 11.15. Explosives and Flammable Items.**

No Condominium Storage Unit shall be used for storage of any explosive or flammable substances, except as to petroleum products (gasoline or diesel) which might be located in fuel tanks of motor vehicles or boats incidental to their use. No other petroleum products shall be allowed to be stored on the premises except contained in a legally authorized and approved container, not to exceed 50 gallons per Condominium Storage Unit. No explosive devices of any nature whatsoever may be stored within any Condominium Storage Unit. Exception, hobbyist reloading of ammunition for their personnel use, not to exceed 5 pounds of stored gun powder stored in an approved container.

**Section 11.16. Odors.**

No Owner shall permit any Condominium Storage Unit to be used for or to contain any substance, which shall emit noxious and/or offensive odors, whether toxic, or otherwise, which may permeate and/or affect the use and enjoyment of any other Condominium Storage Unit.

**Section 11.17. Fire Hazards.**

No Owner shall occupy, use or store any materials in any Condominium Storage Unit, nor permit any Condominium Storage Unit to be occupied or used for any purpose which would increase the premium for fire insurance on the Common Areas over the normal rates applicable to mini storage facilities. Upon notice that any such activity is or has been taking place, or that any such materials have been, are, or will be stored upon said premises, the Owner of the respective Condominium Storage Unit(s) shall immediately cause the same to be removed.

**Section 11.18. Compliance with Law.**

Each Condominium Storage Unit shall be used and occupied solely for storage purposes or approved use. No Condominium Storage Unit shall be used for any purpose in violation of any state, federal or local statute or ordinance or of any regulation, order, or directive of a governmental agent as such statutes, ordinances, regulations, or orders or directives now exist or may hereafter provide concerning the use and safety of the Condominium Storage Unit and Common Areas. On the breach of any provision hereof by any Owner, the Association may, at its option, order such use to terminate and that failing, enter the Condominium Storage Unit and terminate such use.

**Section 11.19. Signs.**

No sign whatsoever (including, but not limited to, commercial, religious, political and similar signs) which are visible from neighboring property shall be erected or maintained on any Property, except:

- A. Such signs as may be required by legal proceedings; or
- B. Such signs the nature, number and location of which have been approved by the Board in advance.

**Section 11.20. Rules and Regulations.**

The Association shall have the power to make and adopt Association Rules with respect to activities which may be conducted on any part of the Property. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate such Association Rules shall be conclusive unless, at a regular or special meeting of the Association,

Owners representing a majority of the voting power of the Association vote to the contrary.

**Section 11.21. Authority to enact the Rules and Regulations.**

If the Board determines that this Declaration needs clarification, then the Board is hereby granted the authority to enact Rules and Regulations to clarify any provision of the Declaration; however, all Rules and Regulations shall be consistent with this Declaration.

**Section 11.22. Proposed Rule or Regulation.**

Any proposed rule or regulation or amendment and a statement explaining the reasons supporting its adoption should be made in writing and delivered to a member of the Board or proposed at a meeting of the Board.

**Section 11.23. Basis for Amendment.**

If the Board, in an open meeting, determines that there is a reasonable basis for the amendment of the Rules and Regulations, a draft of the proposed rule and regulation shall be completed. The Board may seek legal advice as to the drafting of the proposed amendment.

**Section 11.24. Formalities.**

A copy of the draft rule shall be sent to each Owner in accordance with the same formalities as required for notice of a special meeting of the Owners.

**Section 11.25. Notice of Hearing.**

Included with the proposed rule shall be notice for hearing to receive comment concerning the proposed rule and regulation. Said hearing shall be set not less than thirty days from the date of the notice and shall specify the time and place of hearing.

**Section 11.26. Procedures for Hearing.**

At the hearing, an opportunity to be heard shall be given to any and all Owners that attend the hearing. The hearing panel shall consist of Board members and a chairperson of the hearing shall be appointed by those Board members attending. A lack of quorum of Board members shall not halt the proceeding. The purpose of the hearing is not to vote on the issue, but rather obtain information. However, if the chairperson so desires, a vote of those present may occur but the vote shall not bind the Board of Directors.

**Section 11.27. Results of Hearing.**

Following the hearing, and at a separate meeting of the Board, whether regular or special, the hearing board shall explain the results of the hearing. The Board may accept, reject, or amend the proposed regulation by Two-thirds (2/3) vote.

**Section 11.28. Membership Ratification.**

Upon the end of the Declarant's Control Period, a majority of Owners must ratify by vote at a meeting called for that purpose or in writing without meeting. During Declarant's Control Period the Board may modify this Declaration by a Two-thirds (2/3) vote without ratification of Owners.

**Section 11.29. Determination of Adoption.**

Upon the adoption of any rule and regulation, the Board may make a determination of a reasonable and appropriate fine for violators of the rule. Such determination shall be included with the rule and regulation.

**Section 11.30. Documentation of New Rule or Regulation.**

Copies of any newly adopted rule and regulation shall be forwarded to each Owner or renter after the adoption of the Board. The Board shall compile all rules and regulations of the Project at some location easily reviewable by the Owner and kept with other Association books and records.

**Section 11.31. Effective Date and Recordation.**

The adopted rule or regulation and any amendments shall also be recorded in the records of Kootenai County and shall become effective on the recording date.

**ARTICLE XII  
INSURANCE**

**Section 12.1. Authority to Purchase.**

Commencing not later than the date a Condominium Storage Unit is conveyed to a Person other than Declarant, the board shall have the authority to and shall cause the Association to obtain the insurance provided for in this Article.

**Section 12.2. Hazard Insurance.**

The Board shall cause the Association to obtain a master or blanket policy of property insurance on the entire Property including the Condominium Storage Units and the Common Elements, Insuring the Property against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and against loss or damage by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage. Such master policy of property insurance shall be in a total amount of insurance equal to 100% of the current replacement cost, exclusive of land, excavations, foundations and other items normally excluded from such property policies.

**Section 12.3. Comprehensive Public Liability Insurance.**

The Board shall cause the Association to obtain comprehensive general liability insurance insuring the Association, the Declarant, the agents and employees of the Association and the Declarant, the Owners and Occupants and the respective family members, guests, and invitees of the Owners and Occupants, against liability incident to the ownership or use of the Common Elements. The limits of such insurance shall not be less than \$1,000,000.00 covering all claims for death of or injury to any one person and/or property damage in any single occurrence. Such insurance shall also include protection against water damage liability, liability of non-owned and hired automobiles, and liability for the property of others. Such insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement; such option shall not be exercisable without the approval of the Association. The Board shall adjust the amount of the insurance carried under this Section from time to time. The board may elect to provide a blanket umbrella excess liability policy in addition to the general liability insurance.

**Section 12.4.**

**Workmen's Compensation Insurance.**

The Board shall cause the Association to purchase and maintain in effect Workmen's Compensation Insurance for all employees of the Association to the extent that such insurance is required by law.

**Section 12.5.**

**Premiums.**

Premiums upon insurance policies purchased by the Association shall be paid by the Association as part of the Common Expenses.

**Section 12.6.**

**Policy Provisions.**

To the extent reasonably possible, the Insurance policies bought by the Association shall provide:

- A.** Any insurer that has issued an insurance policy to the Association under this Article shall also issue a certificate or memoranda of insurance to the Association and, upon request, to any Owner or Lender.
- B.** The named insured under any policy of insurance shall be the Association for the use and benefit of the Owners.
- C.** Insurance coverage provided by the policy shall be primary and shall not be brought into contribution with insurance purchased by the Owners.

- D. Coverage must not be limited by (i) any act of neglect by Owners or Occupants which is not within control of the Association; or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.
- E. Coverage may not be canceled or substantially modified including cancellation for nonpayment or premiums without at least thirty (30) days prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued.
- F. All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, Owners, Occupants and their respective agents and employees, and any defenses based on coinsurance or on invalidity arising from acts of the insured.

**Section 12.7. Supplemental Insurance.**

The Association may obtain such other policies of insurance as the Board deems appropriate to protect the Association, its officers and directors, and the Owners, including, without limitation, errors, omissions, and insurance for the officers and directors of the Association.

**Section 12.8. Insurance Obtained by Owners.**

An Owner and Occupant shall insure all personal property located In Condominium Storage Unit against loss by fire or other casualty. An Owner and Occupant shall carry public liability insurance covering his individual liability for damage to persons or property occurring inside his Condominium Storage Unit. An Owner may carry additional liability insurance covering exposure from the ownership or use of the Common Elements. Owners/Occupants must submit a Certificate of Insurance to the association meeting the requirements of the association BEFORE unit is occupied.

**ARTICLE XIII**  
**DESTRUCTION OF IMPROVEMENTS**

**Section 13.1. Automatic Reconstruction.**

In the event of partial or total destruction of a Building or Buildings or any portion of the Common Elements within the Property, the Board shall promptly take the following action:

- A. The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation, performance and lien payment bonds.

- B. The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said Building.
- C. If the Board determines, (i) that insurance proceeds will cover eighty-five percent (85%) or more of the estimated cost of reconstruction, or (ii) that available insurance proceeds together with available reserves and/or a special Assessment equal to twenty-five percent (25%) or less of the then aggregate regular Assessments for all Condominium Storage Units will completely cover the estimated cost of reconstruction, then the Board shall cause notice to be sent to all Owners setting forth such findings and informing said Owners and Lenders that the Board intends to commence reconstruction pursuant to this Declaration. In the event that at least twenty-five percent (25%) of the Owners based on one (1) vote for each Condominium Storage Unit, object in writing to such reconstruction as indicated in such notice, the Board shall call a special meeting of the Owners. In the event that the foregoing requirements are satisfied, and the requisite number of Owners do not object in writing to such reconstruction, the Board shall cause reconstruction to take place as promptly as practicable thereafter. In connection with such reconstruction, the Board shall levy a uniform Special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.
- D. If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days after the date of such destruction because of the unavailability or unacceptability of an insurance estimate, or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the Owners.
- E. If the Board determines that any Condominium Storage Unit has become unusable by reason of its total or partial destruction, Assessments may abate against the Owner thereof until the Board determines that usability has been restored. However, if the Board determines that such abatement would adversely and substantially

affect the management, maintenance and operation of the property, it may elect to disallow such abatement.

#### **Section 13.2.**

##### **Reconstruction by Vote.**

If reconstruction is not to take place pursuant to Section 1, as soon as practicable after same has been determined, the Board shall call a special meeting of the Owners by mailing a notice of such meeting to each such Owner. Such meeting shall be held not less than Fourteen (14) days and not more than twenty-one (21) days after the date of such notice. Unless the Owners, by a vote at such meeting or by the written consent of not less than sixty percent (60%) of the Owners based on One (1) vote for each Condominium Storage Unit, determine not to proceed with such reconstruction, reconstruction must take place and the Board shall levy a uniform Special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

#### **Section 13.3.**

##### **Procedure for Minor Reconstruction.**

If the cost of reconstruction is equal to or less than ten percent (10%) of the face amount of insurance then carried under the Association's hazard insurance policy then the Board shall contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Property in conformance with the original plans and specifications. Or if the Board determines that adherence to such original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes, or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements but conforming to the aforementioned governmental requirements.

#### **Section 13.4.**

##### **Procedures for Major Reconstruction.**

If the cost of reconstruction is greater than ten percent (10%) of the face amount of insurance then carried under the Association's hazard insurance policy, all insurance proceeds, together with such amounts from available reserves or special Assessments as are needed to complete the cost of reconstruction, shall be paid directly to a bank or savings and loan association located in Kootenai County, Idaho, whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or the successor to either agency, as designated by the Board, as trustee (hereinafter called the "Insurance Trustee") for all Owners and Lenders. Such proceeds shall be received, held and administered consistent with the provisions of this Declaration. Disbursement of such funds shall be made only upon the signatures of two members of the Board. As soon as practicable after notification of the receipt of insurance proceeds, the Board

shall enter into a contract with a licensed contractor or contractors for the repair or rebuilding of all of the damaged or destroyed Condominium Storage Units and Common Elements according to the original plans and specifications of said improvements or, if the Board determines that adherence to such original plans and specifications is impracticable or not in conformity with applicable statutes, ordinances, building codes, or other governmental rules and regulations then in effect, then of a quality and kind substantially equivalent to the original, construction of such improvements but in conformance with the above-mentioned governmental requirements. The contract with such licensed contractor or contractors shall be for a specified sum for performance and execution of the work therein described, and shall have provisions for periodic disbursement of funds, which shall be consistent with procedures then followed by prudent lending institutions doing business in Kootenai County, Idaho. The Board may employ a licensed architect to supervise the repair and rebuilding to ensure that all work, services and supplies are in conformity with the requirements of the construction contract.

#### **Section 13.5.**

##### **Termination.**

If sixty percent (60%) or more of the Owners elect not to proceed with the reconstruction at the special meeting held pursuant to Section 2., the Board shall divide the insurance proceeds and then available reserves into as many shares as there are then Condominium Storage Units, said shares to be in the same proportions as the Owners' respective percentage interest in the Common Elements. If there are mortgages, deeds or trust, or other encumbrances remaining against any of the Condominium Storage Units after the disbursement by the Board of the proportionate share of insurance proceeds and available reserves, and such deficiencies are not paid by the respective Owner or Owners, the holders of any such mortgage, deed of trust, or other encumbrance must also execute and acknowledge such Declaration in order to lawfully withdraw the Property from the condominium pursuant to the Act.

#### **Section 13.6.**

##### **Negotiations with Insurer.**

The Board shall have full authority to negotiate in good faith with representative of the insurer of a totally or partially destroyed Building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such Building or any other portion of the Common Elements. Any settlement made by the Board in good faith shall be binding upon all Owners.

#### **Section 13.7.**

##### **Repair of Condominium Storage Units.**

Installation or improvements to, and repair of any damage to, the interior of a Condominium Storage Unit shall be made by and at the individual expense of the Owner of that Condominium Storage Unit and, in the event of a

determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner.

**Section 13.8. Priority.**

Nothing contained in this Article shall entitle an Owner to priority over any Lender under lien encumbering his Condominium Storage Unit as to any portion of insurance proceeds allocated to such Condominium Storage Unit.

## **ARTICLE XIV GENERAL PROVISIONS**

**Section 14.1. Enforcement.**

Owners agree that the only method for settling disagreements under the terms of this Agreement and the only way to resolve questions not specifically answered by the terms of this Agreement shall first be by mediation, and should mediation be unsuccessful, then by compulsory and binding arbitration in accordance with the following paragraphs.

**Section 14.2. Waiver of Right To Litigate.**

The Parties hereby irrevocably waive any and all rights to resolve a dispute in a manner that is contrary to the provisions of this section. The Parties shall at all times conduct themselves in strict, full, complete, and timely accordance with the terms of this section and all attempts to circumvent the terms of this section shall be absolutely null and void and of no force or effect whatsoever. By waiving the right to litigate, the Parties agree that an arbitrator shall have the same jurisdiction as a judge trying a case without jury.

**Section 14.2. Mediation as Precondition to Arbitration.**

A minimum of two (2) hours of mediation shall precede any arbitration. Either party may call for the mediation of any disagreement in regard to the Board's determination of a violation of this Declaration or the assessment of fine. The mediation shall occur in accordance with Rule 16(k) of the Idaho Rules of Civil Procedure or successor rule, to the extent applicable, and the rules of the individual mediator. The particular mediator shall be nominated by the party requesting mediation, if the Parties agree on the mediator the mediation should be held as soon as practical. If the Parties do not agree on the mediator, then the corporate attorney for the Association shall name the mediator from the list of mediators approved by the United States District Court with jurisdiction over the Project. Each Party shall enter into the mediation in good faith to resolve any disagreement. The Parties shall each deposit with the mediator prior to the session an equal share of the cost of two hours of mediation. The Parties may agree in writing to employ the

process known as an "Arbitration-Mediation" as a single procedure if agreed to in writing prior to the event.

**Section 14.3.**

**Selection of Arbitrator.**

In the event any disagreement remains unresolved following mediation, then either party may call for arbitration by appointing an arbitrator who is reasonably qualified for the issue on which there is a disagreement. Within ten (10) days of the appointment of said arbitrator, the other party shall agree to the single arbitrator or shall appoint a similarly qualified arbitrator. If the two arbitrators are selected, within ten (10) days the two shall select a third arbitrator. The rules and the procedures for the arbitration shall be determined by the arbitrator or arbitrators; however, in the event of any disagreement, the commercial rules of the American Arbitration Association shall apply. In the event that either party shall fail to act as required, then the action to be taken or the choice arbitrator in question shall be decided or appointed by the Administrative District Court Judge of the First Judicial District of the State of Idaho. Upon the request of either party or upon the request of any arbitrator, as the case may be, the judge shall promptly by oral statement instruct, decide or appoint to assure a rapid arbitration of the matter. The board of arbitrators, by majority rule or the arbitrator in the arbitrator's sole discretion shall settle all disagreements, and the ruling of the arbitrators shall be the final binding resolution. The decision of the arbitrators shall be given the same weight as a judgment and may be converted to a judgment by either party. All costs and expenses of the arbitration shall be borne equally by the Parties, except attorney, judge or court fees shall be solely born by the procuring party or as may be awarded through the arbitration.

**Section 14.4.**

**Pre-Decision Arbitration Procedures.**

The arbitrator shall schedule a pre-hearing conference to resolve procedural matters, arrange for the exchange of information, obtain stipulations and narrow the issues. The Parties will submit proposed discovery schedules to the arbitrator at the pre-hearing conference. The scope and duration of discovery will be within the sole discretion of the arbitrator. The arbitrator shall have the discretion to order a pre-hearing exchange of information by the Parties, including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of Parties and third-party witnesses. This discretion shall be exercised so as to limit the scope of discovery to the amount of discovery, which the arbitrator determines to be reasonable under the circumstances.

**Section 14.5.**

**Arbitration Hearing.**

The arbitration shall be conducted in the county where the real property involved in the matter is located. Counsel or other authorized representatives

may represent any party. The Parties may offer such evidence as is relevant and material to the dispute. The arbitrator shall be the judge of relevance and materiality.

**Section 14.6. Governing Law.**

In rendering a decision, the arbitrator shall determine the rights and obligations of the parties according to the terms and provisions of this Declaration and the substantive and procedural laws of the State of Idaho.

**Section 14.7. Arbitration Award.**

The arbitrator shall issue the award as soon as reasonably possible following the conclusion of the arbitration hearing, but in no event any later than ten (10) days after the conclusion of the arbitration hearing. The arbitrator's award shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences that may be drawn there from. The arbitrator may make any determination and/or grant any remedy or relief that is just and equitable; provided, however, in no event may the arbitrator award punitive damages. The award must be based on, and accompanied by, a written statement of decision explaining the factual and legal basis for the award as to each of the principal controverted issues. The award shall be conclusive and binding, and the appropriate court with jurisdiction, in accordance with the Idaho Uniform Arbitration Act may thereafter confirm it as a judgment. The validity and enforceability of the arbitrator's decision is to be determined exclusively by the Idaho courts pursuant to the provisions of this Declaration.

**Section 14.8. Attorneys' Fees and Costs.**

The cost of the mediator shall be split equally by the Parties. No attorneys' fees, expert and witness costs shall be awarded for mediation, unless specified otherwise in the Appeal procedure. The arbitrator(s), for the arbitration, shall award costs, including, without limitation, arbitrator's fees and costs, attorneys' fees, and expert and witness costs, to the Association, if Association is the prevailing party. If the Association does not prevail then each party shall pay their respective costs, including, without limitation, arbitrator's fees and costs, attorneys' fees, and expert and witness costs if any, as determined by the arbitrator in the arbitrator's discretion. A party shall be determined by the arbitrator(s) to be the prevailing party if its proposal for the resolution of the dispute is the closer to that adopted by the arbitrator(s).

**Section 14.9. Payment of Fine, Costs or Elimination of Violation.**

In the event that the decision of the arbitrator(s) is in favor of the Association and an Owner(s) must pay a fine, costs or eliminate a violation of the Declaration and/or Rules and Regulations, then the Owner shall fulfill the

order of the arbitrator(s) within ten (10) days of the issuing of the Arbitration decision. If the Owner fails to voluntarily comply with the arbitration award; then in addition to the award, Owner shall pay interest on any monetary award at the statutory rate set forth in Idaho Code 28-22-104 (2) or successor statute. In addition, and not in substitute for any other remedy, set forth herein, a non-prevailing Owner shall pay all attorney's fees and costs, when billed to the Association, related to the reducing of the arbitration award to judgment and for collection of monetary reward and enforcement of non-monetary reward.

**Section 14.10. Notice of Alleged Violation.**

Notice of the alleged violation of the Rules and Regulations and/or Declaration may be made in the form of a signed letter from an Owner or a statement of a Board member in the minutes of a regular or special Board meeting. Said documentation should contain the approximate time and date of the alleged violation and a general description of the violation. If the Board determines that a violation does appear to exist the President, or designated Board member, shall notify, by letter, the alleged violator of the complaint received. The letter should request that no further violations occur and should state that if further violations do occur, an assessment fine shall be established and levied against the violator by the Board as provided in this Declaration, the Bylaws, and the Rules and Regulations.

**Section 14.11. No contest.**

If the alleged violator does not contest the allegation, then the Board shall adjudge the existence of a violation. If the alleged violator contested the determination, then the procedure set forth above shall be the sole method of determining whether or not a violation has occurred.

**Section 14.12. Reservation of Other Remedies.**

In addition to the remedies set forth above, the Association and the Declarant reserve the right to enforce any restrictions contained herein by any other appropriate action at their option including but not limited to the following:

**Section 14.13. General Requirements.**

Broad enforcement is intended in order to protect the value of the Condominium Units and the Property and to allow efficient assurance of compliance.

**Section 14.14. Right of Entry.**

During reasonable hours, upon reasonable notice, and subject to reasonable security requirements, the Declarant or Association, or their agents, shall have the right to enter upon and inspect any Condominium Unit covered by this Declaration for the purpose of ascertaining compliance with this Declaration.

Such right of entry shall not include entrance inside any vehicle. Entry upon any Condominium Unit shall not be a trespass or other wrongful act.

**Section 14.15. Enforcing Methods and Parties.**

The following options specify the manner in which the Declaration may be enforced:

**Section 14.16. Manner of Enforcement.**

The Declarant and the Association shall have the right to enforce by the mediation arbitration procedure set forth herein, all covenants, conditions and restrictions contained in this document. Prior to taking any action of enforcement, against any violating Owner, the Association shall deliver to the violating Owner written notice of the nature of the violation, a suggested remedy, and reference to particular relevant portions of this Declaration or the Rules and Regulations. The violating Property Owner shall be allowed thirty (30) days to correct the violation. At the end of the thirty (30) days if the violation remains, enforcement may be commenced. No one shall be liable for failure to enforce the requirements of the Declaration, since all Owners may also protect their respective rights.

**Section 14.17. Correction Lien.**

In addition to the mediation arbitration procedure set forth herein the Association may correct any violation and lien the violating Property for sums owed for correction, (sums shall include attorney's fees and interest at the highest rate allowed by law) if the violating Owner fails, within sixty (60) days after mailing of the notice, to correct the violation or violations or fails to give adequate security to assure compliance within one (1) year from mailing the notice of violation. The sums owed shall constitute a lien upon said Condominium Unit as follows:

1. The work performed to correct said violation shall be deemed to be at the instance of the Owner or Owners of the violating Condominium Unit upon which such work is performed, as evidence by the acceptance of these covenants through the purchase of Property In the development, or in the alternative, shall be a correction assessment as allowed under the Articles of Incorporation of Owners' Association and Idaho Code;
2. A claim of lien must be filed with the Kootenai County Recorder within ninety (90) days after completion of said corrective work as provided in Idaho Code Section 45-507, or successor statute;
3. The duration of the lien shall be as provided in Idaho Code Section 45-510 or successor statutes; and

4. A lien shall be foreclosed as provided in the Idaho Code.

**Section 14.18. Reservation of other Remedies.**

In addition to the remedies set forth above, Owners' Association and Declarant reserve the right to enforce any covenants, conditions or restrictions contained herein by any other appropriate action at their option.

**Section 14.19. Additional Enforcement of Attorney's Fees.**

The failure of any Owner to comply with the provisions of the Development documents shall give rise to a cause of action in favor of any aggrieved Owner for the recovery of damages, or for injunctive relief, or both. The Board shall have the power to enforce the provisions of this Declaration, the Articles, the Bylaws, and the Rules and Regulations of the Association and shall have the authority to enforce through Mediation and Arbitration procedure contained herein; however, an aggrieved Owner may separately take legal action to enforce this declaration. If legal action is brought to interpret or enforce compliance with the provisions of this Declaration, the Articles, Bylaws or the Rules and Regulations of the Association, then the prevailing party shall be awarded reasonable expenses, court costs and attorney's fees. However, no suit may be maintained against the Declarant and or Association. A claim against the Declarant and/or Association shall only be in accordance with the Mediation and Arbitration procedure set forth herein.

**Section 14.20. Failure to Enforce is Not a Waiver.**

The failure to enforce any requirements contained in this Declaration shall in no event be deemed to be a waiver of the right to enforce that requirement or any other provision thereafter including provisions relating to architectural control.

**Section 14.21. Severability.**

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 14.22. Covenants to Run with the Land: Term: Amendment.**

The covenants and restrictions of this Declaration, as amended from time to time, shall run with and bind the Condominium Storage Units and Common Areas, in perpetuity unless the Condominium created herein is terminated by the unanimous consent of the Owners of all of the Condominium Storage Units.

Except in cases of amendments that may be executed by a Declarant in the exercise of its Development Rights or under Section 55-1504 of the Idaho