



Northwest
Village

DECLARATION
NORTHWEST VILLAGE CONDOMINIUM

DECLARATION

THIS DECLARATION is made and executed by Idaho Forest Industries, Inc., an Idaho Corporation ("declarant"), pursuant to the provisions of the Idaho Condominium Ownership Act as amended, hereinafter referred to as the "Act."

1. RECITALS

- 1.1 Declarant is the owner of the real property and improvements ("property") located in Coeur d'Alene, state of Idaho, hereinafter more particularly described.
- 1.2 Declarant, by recording this declaration, submits Phase I of the property to the provisions of the Act.
- 1.3 The covenants, conditions, and restrictions contained in this declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land.
- 1.4 Declarant has filed simultaneously herewith a plat of survey depicting the location and dimensions of Phase I (Exhibit A), a general site plan showing the individual buildings containing the various units (Exhibit B), and individual unit plans (Exhibit C).
- 1.5 The property shall be known as NORTHWEST VILLAGE CONDOMINIUM.

2. DEFINITIONS

The terms used herein shall have the same meaning as set forth in the Act and as follows, unless the context otherwise requires:

- a. "additional land" – The real property described in paragraph 6(3) which has not yet been submitted to the provisions of the act, but which may hereafter be added as a whole or in part to the Northwest Village Condominium as provided in paragraph 6.
- b. "association of unit owners" – All of the unit owners acting as a group in accordance with the bylaws and declaration to govern the affairs of the Northwest Village Condominium.
- c. "building" – A structure containing one or more units that has been or shall hereafter be constructed on the land.

- d. “common areas and facilities and “limited common areas and facilities” – The land within the condominium project, the foundations, columns, girders, beams, supports, main walls, roofs, front stairs, the walkways, yards, gardens, parking areas; all limited common areas and facilities as hereinafter described; installations such as power, light, gas, hot and cold water, existing for common use; and all apparatus and installations existing for common use; recreational and other community facilities; and all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use, and all areas and facilities designated as common areas and facilities in the act, including all those areas outlined in Idaho Code 55-1509 as amended. Common areas and facilities and limited common areas and facilities specifically exclude all windows (which term shall include patio doors and all window and door screens) associated with or a part of any or all “units” and/or “condominium units” within or on the property and/or project. The responsibility for maintaining and repairing said windows (which term shall include patio doors and all window and door screens) shall be the personal responsibility of the owner of any affected “unit” or “condominium unit.” Provided, however, that the maintenance and/or repair of any or all of the windows (which term shall include patio doors and all window and door screens) associated with any or all “condominium units” or “units” shall be subject to approval by the Association’s Board for the specific purpose of preserving and maintaining an aesthetic and design continuity and consistency within or about the property. Nothing in this Section shall relieve the Association of its duty to procure a policy of insurance coverage which shall provide for the replacement of unit windows (which term shall include patio doors and all window and door screens) in the event of a major casualty loss.
- e. "common expenses" – All expenditures lawfully made or incurred by or on behalf of the unit owners association, together with all funds lawfully assessed for the creation and/or maintenance of reserves.
- f. "common profits" – All income collected or accrued by or on behalf of the unit owners association, other than income derived from assessments.
- g. "condominium unit" – A unit together with the undivided interest in the common areas and facilities appertaining to that unit.
- h. "declarant" – All persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who executed that amendment or on whose behalf that amendment *is* executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium as their predecessors did shall also come within this definition.

- i. "declaration" – The instrument by which the property is submitted to the provisions of the Condominium Property Act and its lawful amendments.
- j. "expandable condominium" – A condominium to which additional land may be added in accordance with the provisions of the declaration.
- k. "majority" or "majority of unit owners" – The majority of voting unit owners.
- l. "property" – The land, the buildings, improvements and structures, all easements, servitudes, rights and appurtenances belonging thereto, and all chattels intended for use in connection therewith, which have been or are intended to be submitted to the provisions of the Condominium Ownership Act.
- m. "unit" – A portion of the condominium designed and intended for individual ownership and use.

3. DESCRIPTION OF THE CONDOMINIUM

- 3.1 Description of the Land (PHASE I). The land on which the buildings and other improvements are to be located is in Coeur d'Alene, a municipal corporation, Kootenai County, State of Idaho, and more particularly described on Exhibit "D" affixed hereto and made a part hereof by reference.
- 3.2 Description of the Buildings and Other Improvements. The Northwest Village Condominium project will initially consist of eight (8) buildings containing no less than forty-two (42) two-level plus-basement units. The buildings are constructed of wood and concrete with some units entitled to the use of garages and carports. The buildings are supplied with electricity, water, sewage, garbage collection service, and cable TV. Each unit is equipped with individual heating. The buildings are more fully depicted in the condominium plat and floor plans, which are annexed hereto and made a part hereof as Exhibit B and C. Unit owner shall pay all utility charges except those allocated to common areas which are to be paid by the Association.

Other significant improvements in the Northwest Village Condominium project include roadways, walkways, swimming pool, tennis court, Jacuzzi-type pool, and a clubhouse.

4. UNIT NUMBER AND PERCENTAGES OF UNDIVIDED INTEREST IN COMMON AREAS AND FACILITIES

- 4.1 The unit number and maximum percentage of undivided interest in the common areas and facilities appurtenant to each unit and its owner is set forth in Exhibit E. Such maximum interest shall be subject to diminution, to accommodate expansion under the provisions of Section 6. Except as provided in Section 6, the percentage of undivided interest in the common areas and facilities appurtenant to any unit

shall not be changed except with the unanimous consent of all of the unit owners of the condominium project expressed in an amendment to this declaration duly executed by all such owners and recorded.

5. PURPOSE OF PROPERTY, USE RESTRICTIONS & UTILITIES

5.1 The purpose of the property is to provide residential housing, parking, and recreational facilities for unit owners, their respective families and guests.

5.2 The units and common areas and facilities shall be occupied and used as follows:

5.2.1 No commercial business shall be permitted within the property.

5.2.2 There shall be no obstruction of the common areas and facilities. Except in the case of designated storage areas, if any are provided, nothing shall be stored.

5.2.3 Nothing shall be done or kept in any unit or in the general or limited common areas and facilities or in the general or limited common areas and facilities which shall increase the rate of insurance on the general or limited common areas and facilities without the prior written consent of the management committee. No owner shall permit anything to be done or kept in his unit or in the general or limited common areas and facilities which will result in the cancellation of insurance of any unit or any part of the general or limited common areas and facilities, or which would be in violation of any law. No waste will be committed of the general common areas and facilities or limited common areas and facilities.

5.2.4 No sign of any kind shall be displayed to the public view or from any unit or from the general or limited common areas and facilities without the prior written consent of the Board of Directors, except Declarant may place such sales or lease promotional signs as are reasonably necessary in Declarant's estimation to promote and sell or lease the project.

5.2.5 A unit owner shall be entitled to maintain two (2) domestic animals consisting of any combination of birds, dogs, or cats. No livestock, poultry, reptiles, or any other type of creature shall be raised, bred, or kept in any unit or in the common or limited common areas, whether as pets or otherwise except subject to the rules and regulations adopted by the Board, or by By-laws adopted by the Association. The Board of Directors may, at anytime, require the removal of any animal which it finds is disturbing other owners unreasonably in the Board's determination, and may exercise this authority for specific animals even though other animals are permitted to remain. The Board of

Directors is further authorized to adopt any rules and regulations necessary to insure that the common areas and limited common areas remain sanitary, and that all residents remain free from injury caused by animals. Dogs shall be leashed anytime outside the owner's unit, and dogs may not be maintained outside the unit on the common or limited common areas.

- 5.2.6 No noxious, dangerous, or offensive activity shall be carried on in any unit or in the general or limited common areas and facilities, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners.
- 5.2.7 Nothing shall be altered or constructed in or removed from the general or limited common areas and facilities, except upon the prior written consent of the Board of Directors.
- 5.2.8 The Board of Directors is authorized to adopt rules for the use of the general or limited common areas and facilities, and prescribe penalties for any violation thereof, and shall furnish such rules in writing to the owners, who shall be bound thereby.
- 5.2.9 None of the rights and obligations of the owners created herein, or by the deeds conveying the condominiums, shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful conduct of said owner or owners.
- 5.2.10 No trailers, boats, campers, snowmobiles, recreational vehicles including off-the-road motorcycles, or trucks larger than $\frac{3}{4}$ ton may be stored or kept on the general or limited common areas, unless approval is granted by the Board of Directors of the Association. The Board of Directors shall have the right to require the removal of any vehicle that is offensive to the aesthetics of the Development.
- 5.2.11 (a) In order to preserve and promote a consistent residential community knowledgeable of and responsive to the terms and provisions of the Declaration and any amendments thereto, and in order to enhance each owner's property values by minimizing noncompliance with the terms and provisions of the Declaration and any amendments thereto, and in order to preserve the Association's ability to comply with FHA regulations and lender financing requirements so that prospective buyers may be able to secure

financing for purchase of units for sale, it is hereby determined that no unit may hereafter be held open for rental, made available for rental, or rented to any non-unit owner at any time. Notwithstanding the foregoing, an owner may request a variance from the terms of this Section 5.2.11. Said variance request, so as to allow the owner to rent his/her unit on specific terms and provisions to a specific individual, must be presented in writing to the Board. The Board may grant a variance for non-owner occupancy in its discretion in the following circumstances: health issues, financial issues, or familial relationships of the owner. The Board shall have the discretion to determine the validity of the foregoing reasons in determining whether or not to exercise its discretion to grant a variance. The Board may consider no other reasons or bases for granting a variance. The Board shall have the discretion to impose additional restrictions on the granting of variances in order to fulfill the intent of this paragraph. No owner may apply for a variance unless he/she has first owned their unit for a minimum period of two (2) years. The availability of an opportunity to request a variance shall not be deemed or construed to be an entitlement to the same, the ultimate decision as to the propriety of any such variance being left to the Board to approve or disapprove in its discretion, which shall be exercised in good faith and in a non-discriminatory manner. Any variance granted hereunder may only be for a lease term of twelve (12) months, with no right or guarantee of renewal or extension of the same. In the event that the Board grants permission for a lease renewal or extension, the renewal or extension may be for up to an additional twelve months. Unless exceptional circumstances present themselves, the board shall not approve an owner obtaining more than one variance in any twelve (12) month period. Further, all variances must be conditioned upon the requesting unit owner's "written affirmation" that he/she (as the owner) will continue to be responsible, both legally and financially, for the renter's compliance with the terms of the lease, the terms of any and all covenants applicable to the property of the unit owner and the Association, and such rules and regulations as may be adopted by the Association. Moreover, any variance granted under the terms of this section shall require that the owner's proposed lease with the unit renter be pre-approved by the Board. Further, said lease shall include language which provides that a breach of any rule or regulation or covenant of the Association applicable to the owner's or Association's property shall constitute a breach of the lease and shall specifically give the Association the individual right to see relief for any such breach, including the right to institute an unlawful detainer proceeding as if the Association itself was the owner and the landlord of the unit. Notwithstanding the above, the Board may grant variances to allow for no more than twelve (12) concurrent non-owner occupancies at any given time, which is less than 30% of the total number of forty-two

(42) units. The number of units limited by this provision may be revised upward or downward by the Board to comply with future changes in FHA regulations and lender requirements, and for other reasons deemed necessary in order to fulfill the intent of this paragraph. The terms of this amendment may be specifically enforced by the Association in the First Judicial District Court of the State of Idaho in and for the County of Kootenai, and the prevailing party in any such action shall be entitled to recover, in addition to any other relief awarded by the court, its reasonable attorney fees and costs.

5.2.11 (b) The term “owner occupancy,” for purposes of this Seventh Amendment, shall mean occupancy by the record owner of title, his or her spouse, or his or her parent or adult child. In the event that a unit’s record owner of title is an entity rather than a natural person, then “owner occupancy” shall mean occupancy by a designee of the entity who possesses an actual bona fide ownership interest in the entity itself. Moreover, any entity that holds record title shall be required to provide the Association with a written designation of a qualified owner occupant possessing an ownership interest in the entity. The designation of an owner occupant, once made, may be changed only after a period of twelve (12) months have passed unless otherwise approved by the Association. The same restriction shall apply as to any subsequent designee. Any entity holding record title shall provide the Association with such information as the Association may request to corroborate, substantiate, and/or verify the bona fides of the designation and of the ownership interests claimed. The Association shall have the discretion, for good cause shown, to disallow any entity’s designation of an owner occupant if the designation is determined by the Association to have been made for purposes of creating a rental relationship that would otherwise require Association approval under Section 5.2.11(a).

5.3.1 Whenever sanitary sewer, water, electric, gas, television receiving or telephone lines or connections, heating or air-conditioning conduits, ducts, or flues are located or installed within the Project, which connections, or any portion thereof lie in or upon Units owned by other than the Owner of a Unit served by said connections, the Owners of any Unit served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Units or to have the utility companies enter upon the Units in or upon which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary.

5.3.2 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, heating or air-conditioning conduits,

ducts, or flues are located or installed within the Project, which connections serve more than one Unit, the Owner of each Unit served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Unit.

5.3.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

5.4.1 Easements over and under the Property for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, and telephone lines and facilities, heating and air-conditioning facilities, cable and/or master television antenna lines, drainage facilities, walkways, and landscaping, and for the use of non-dedicated streets for ingress and egress, as may be hereafter reasonably required to service the Property, are hereby reserved by Declarant and its successors-in-interest and assigns, including the Association, together with the right to grant and transfer the same.

5.4.2 Association's Duties. The Association shall maintain all utility installations located in the Recreational Common Area and the Condominium Common Area, except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units.

6. EXPANDABLE CONDOMINIUM

The Declarant hereof expressly reserves the option and right to expand this condominium subject to the provisions of this Article.

6.1 The consent of unit owners of the project shall not be required for such expansion and the Declarant may proceed with such expansion at its sole option.

6.2 This option to expand the condominium project shall expire ten (10) years after the recording of this declaration, if not sooner exercised; however, the Declarant may, at any time prior to the expiration of such period, terminate its option to expand by recording among the land records wherein this declaration is recorded an executed and notarized document terminating this option.

6.3 The additional land which may, at the option of Declarant, be made part of the expandable condominium, is located in Kootenai County, State of Idaho, and is

more particularly described on Exhibits F & G affixed hereto and made part hereof by reference.

- 6.4 The Declarant need not add all or any portion of the additional land to the condominium; however, the Declarant may add portions of the additional land to the condominium and may do so at different times.
- 6.5 Upon the additional land and the portions thereof, Declarant may construct recreational and service amenities for the purpose of serving this condominium and the condominium as expanded by the additional land.
- 6.6 In the event that Declarant expands the condominium into either Phase II or Phase III, the improvements to be placed on the additional land will be compatible with the improvements located within the rest of the condominium and will be of the same or similar quality of construction and materials.
- 6.7 The units to be created and the improvements on the additional land if included in the condominium project will be substantially identical to the units in the project; however, the Declarant reserves the right to change the size, design, and mix of the units in order to meet requirements of the market.
- 6.8 The Declarant reserves the right to create limited common areas and facilities within a portion of the additional land and to designate common areas and facilities therein which may subsequently be assigned as limited common areas and facilities for the purpose of making parking spaces and such other traditional types of limited common areas and facilities as the Declarant may see fit.

7. MODEL UNITS AND SALES OFFICE

Declarant and Declarant's duly authorized agents, representatives, and employees shall have the right to maintain model units and a sales office on land within the project, and to use the model units and sales office during the period that units in the present or subsequent phases remain unsold. Declarant and its agents further reserve the right to construct and maintain model units and a sales office in subsequent phases of the project, with no more than two models and one sales office in each phase. Declarant may use the clubhouse as the sales office if it so desires.

8. RESERVATION OF EASEMENT TO FACILITATE CREATION OF IMPROVEMENTS ON LAND WITHIN PROJECT AND ON ADDITIONAL AND CONVERTIBLE LAND

Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the general and limited common areas and facilities, or any additional land or convertible land which may hereafter be added to the project in accordance with the provisions of paragraph 6, and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development, and sales of the condominiums

and operation of the units and common areas and facilities in connection with the Northwest Village Condominium and the overall development of which the property is a part. Declarant and its agent shall retain the right to use the sales office and model units and the general and limited common areas and facilities in connection therewith during the period of development and sale of the Northwest Village Condominium, including additional phases of development.

9. BOARD OF DIRECTORS

9.1 The governing board of Northwest Village Condominium Project shall be the Board of Directors of the Northwest Village Owners Association, a nonprofit corporation, which shall manage and maintain the property and business of the project pursuant to the provisions of this Declaration, its Articles of Incorporation, Exhibit "H" attached hereto, and its Bylaws, exhibit "I" attached hereto.

9.2 Until such time as all phases of the condominium project are complete, and each phase is at least 75% sold, or ten (10) years, whichever first sooner occurs, all rights, duties and functions of the Board of Directors shall, at Declarant's option, be exercised by Declarant. Declarant shall have the option at any time after the date of the filing of this declaration to turn the responsibility of electing all of the members of the Board of Directors to the Northwest Village Owners Association.

10. MAINTENANCE, ALTERATION, IMPROVEMENT AND EXTERIOR APPEARANCE

10.1 The maintenance, replacement, and repair of the common areas and facilities and the limited common areas shall be the responsibility of the Board of Directors and the cost thereof shall be a common expense. All incidental damages caused to a unit by the maintenance, replacement, and repair of the common areas and facilities or utility services shall be repaired promptly at the expense of the Board of Directors.

10.2 The unit owners shall have the responsibility to maintain, repair, replace and keep in a clean and sanitary condition, at the unit owner's expense, all portions of the unit owner's unit, except those portions to be maintained, repaired and replaced by the Board of Directors. The unit owners shall keep clean and in a sanitary condition their carports, garages, (if any) patios, and other limited common areas, if any.

10.3 In order to preserve a uniform exterior appearance to the buildings, and the common and limited common areas visible to the public, the Board shall require and provide for the painting and other decorative finish of the buildings, patios/yard areas, or other common or limited common areas and prescribe the type and color of such decorative finishes, and may prohibit, require or regulate any modification or decoration of the building, patios/yard areas or other common or limited common areas undertaken or proposed by any owner. The power of the

Board extends to screens, doors, awnings, rails or other visible portions of each unit.

- 10.4 All draperies or alternate types of window covering shall be lined or colored white or off-white on the exterior side of all windows unless the Board of Directors shall grant permission to a unit owner to vary from this section.

11. INSURANCE

- 11.1 General Requirements. The Board shall cause the Association to purchase and maintain at all times as a common expense a policy or policies and bonds necessary to provide casualty insurance; comprehensive liability insurance; fidelity bonds; worker's compensation insurance to the extent required by applicable laws; insurance against loss of personal property of the Association by fire, theft, or other causes with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Association's directors, officers, and representatives from personal liability in the management of the Association's affairs; and such other insurance as the Board deems advisable. The Board shall review at least annually the adequacy of the Association's insurance coverage. All insurance shall be obtained from an insurance carrier rated Triple B Plus or better by Best's Insurance Reports or equivalent rating service, and licensed to do business in the state of Idaho. All such insurance policies and fidelity bonds shall provide that coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds named therein, including unit owners, mortgages, and designated servicers of mortgages.

- 11.2 Casualty insurance. The casualty insurance shall, at the minimum, consist of a standard form of fire insurance policy with extended coverage endorsement in an amount equal to the full replacement value (i.e., 100% of current replacement cost exclusive of land, foundation, excavation, and other items normally excluded from coverage) of the common areas and facilities, units, and all fixtures and equipment belonging to the Association with an "Agreed Amount Endorsement" or its equivalent, if available, or an Inflation Guard Endorsement. In addition to protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, the policy shall provide protection against loss or damage from sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as are customarily covered with respect to residential condominium projects of similar construction in the Kootenai County area. The policy or policies shall provide for separate protection for each unit to the full insurable replacement value thereof (limited as to the full insurable replacement value thereof), and a separate loss payable endorsement in favor of the mortgagee or mortgages of each unit. The insurance proceeds may be made payable to any trustee with which the Association may enter into an insurance trust agreement, or any successor trustee, who shall have exclusive authority to negotiate losses under the policies. The

policy or policies shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law. Notwithstanding any other provision in this Declaration, the Association shall be under no obligation to provide, procure, or obtain for the benefit of any unit or unit owner any casualty insurance providing coverage for the repair or replacement of any improvements made to the original structures or units by any unit owner, including but not limited to any and all improvements in any and all unit basements. Further, any notice of any claim under any policy of insurance made by the Association shall be contemporaneously given to the Association's Board. Further, the Association's Board shall be entitled to participate in the resolution of any such claim as against any policy of insurance obtained by the Association. The consent of the Association to any settlement under any policy of insurance obtained by the Association shall be required. Said consent shall not be unreasonably withheld. Further, and notwithstanding any other provision hereof, neither the Association nor any underwriter or carrier of any policy of insurance obtained by or for the Association shall be liable for damages to any unit occasioned solely by said unit owner's act or acts of negligence.

11.3 Comprehensive Public Liability Insurance. The comprehensive policy of public liability insurance shall insure the Board, the Association, the unit owners, Declarant, and the managing agent, if any, and cover all of the common areas and facilities in the condominium, with a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurer from denying the claim of a unit owner because of the negligent acts of the Association or of another unit owner, and shall include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered with respect to residential condominium projects of similar construction in the Kootenai County area. The limits of liability shall be not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence.

11.4 Additional Policy Provision. The insurance obtained pursuant to Sections 11.2 and 11.3 shall contain the following provisions and limitations:

11.4.1 The named insured shall be the Association, as trustee for each of the unit owners in accordance with their respective percentages of undivided interest in the common areas and facilities. The insurance proceeds may be made payable to any trustee with which the Association may enter into an insurance trust agreement, or any successor trustee, who shall have exclusive authority to negotiate losses under the policies.

- 11.4.2 Such policies shall not provide for contribution by or assessment against mortgages or become a lien on the property superior to the lien of a first mortgage.
- 11.4.3 In no event shall the insurance coverage be brought into contribution with insurance purchased by the owners of the units or their mortgages.
- 11.4.4 Coverage shall not be prejudiced by (a) any act or neglect of the owners of units when such act or neglect is not within the control of the Association, or (b) failure of the Association to comply with any warranty or condition with regard to any portion of the premises over which the Association has no control.
- 11.4.5 A waiver of subrogation by the insurer as to any and all claims against the Association, the owner of any unit, and/or their respective agents, employees, or tenants, and of any defenses based upon coinsurance or upon invalidity arising from the acts of the insured.
- 11.4.6 A standard mortgage clause which shall:
- (a) Provide that any reference to a mortgagee in a policy shall mean and include all holders of mortgages of any unit or unit lease or sublease in their respective order of preference, whether or not named 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 or unit owners or any persons under any of them;
 - (c) Waive any provision invalidating such mortgage clause by reason of failure of any mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause; and
 - (d) Provide that, without affecting any protection afforded by such mortgage clause, any proceeds payable under such policy shall be payable to the Board or the insurance trustees.
- 11.5 Fidelity Bonds. The required fidelity bonds shall afford coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association or the managing agent and all other persons who handle or are responsible for handling funds of the Association and be in an amount that will provide a level of coverage generally considered adequate by prudently managed business concerns in Kootenai County, but not less than 150% of the estimated annual operating expenses of the condominium,, including reserves. In

determining the level of coverage, the Board may rely on the advice of a competent, independent insurance broker. All such fidelity bonds shall name the Association as an obligee and contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression.

11.6 Owners’ Individual Insurance.

11.6.1 Each unit owner shall be required to obtain an insurance policy sufficient to provide casualty coverage to their contents and all improvements they or their predecessor may have made to the unit since it was originally constructed, and to provide proof of said insurance to the Association through its Manager on an annual basis. Any such owner’s insurance may not decrease the amount that the Association will realize under any insurance policy that the Association may have in force on the property. Each owner shall notify the Board of all improvements made by the owner or his predecessor to the owner’s unit, the value of which is in excess of \$1,000. The Association shall be under no obligation to obtain casualty insurance for the repair or replacement of any individual unit owner’s improvements. Risk of loss associated with damage to said improvements shall be the sole responsibility of the owner and the owner’s individual insurance policy.

11.6.2 Each unit owner shall be responsible to ensure that the water in their unit is turned off and that all pipes have been drained when said owner expects to be out-of-town or to leave the unit unoccupied for prolonged periods of time during inclement weather or to otherwise take adequate steps to ensure that the unit’s pipes neither freeze nor rupture. In addition, each unit owner shall also ensure that the furnace is inspected periodically, is maintained in good working order, and that adequate heat is maintained in the unit to ensure that no freezing will occur that could cause pipes to rupture or burst. Owner shall periodically inspect washing machine hoses and toilets to ensure that leaking or rupture of the same is mitigated. Failure to act in a reasonable and prudent manner, consistent with the standards set forth herein, may constitute grounds for the Association’s carrier, in replacing any common areas damaged as a result thereof, to seek reimbursement from the owner or the owner’s carrier, as the case may be. Moreover, should the Association be called upon to pay any or all of a claim arising from owner neglect or failure to perform in accordance with the standards set forth herein, the Association reserves the right to recover from said owner the Association’s deductible and any increased insurance premiums charged to the Association, as a direct result of the submitted claim. The latter obligation shall run for the two (2) calendar years that follow the date

said claim was submitted to the Association's carrier. With respect to the Association's right to recover from said owner the Association's deductible, which shall only apply in the instance of a claim arising from owner neglect or owner failure to perform in accordance with the standards set forth herein, the owner consents to the Association's withholding, from any proceeds otherwise payable to the owner under the Association's policy, an amount equal to the Association's deductible.

12. DAMAGE AND REPAIR OF DAMAGE TO PROPERTY

12.1 Initial Board Determination. In the event of damage to any part of the property, the Board shall promptly, and in all events within 30 days after the date of damage, make the following determinations with respect thereto, employing such advice as the Board deems advisable:

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

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

12.1.3 The expected insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.

12.1.4 The amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds, and the amount of the assessments that would have to be made against each unit if the excess cost were to be paid as a maintenance expense and specially assessed against all the units in proportion to their percentages of undivided interest in the common areas and facilities.

12.1.5 The Board's recommendation whether the damage should be repaired.

12.2 Notice of Damage. The Board shall promptly, and in all events within 30 days after the date of damage, provide each owner and each institutional holder of a first mortgage on a unit with a written notice describing the damage and summarizing the initial Board determinations made under Section 12.1. If the Board fails to do so within said 30 days, any owner or mortgagee may make the determinations required under Section 12.1 and give the notice required under this Section 12.2.

12.3 Definitions: Damage, Repair, Emergency Work. As used in this Article 12:

- 12.3.1 Damage shall mean all kinds of damage, whether of slight degree or total destruction.
- 12.3.2 Substantial Damage shall mean that in the determination under 12.1.4, the estimated assessment is \$5,000 or more for any one unit.
- 12.3.3 Repair shall mean restoring the improvements to substantially the condition they were in before they were damaged, with each unit and the common areas and facilities having substantially the same vertical and horizontal boundaries as before. Modifications to conform to applicable governmental rules and regulations or available means of construction may be made.
- 12.3.4 Emergency Work shall mean work that the Board deems reasonably necessary to avoid further damage or substantial diminution in value to the improvements and to protect the owners from liability from the condition of the site.

12.4 Execution of Repairs

- 12.4.1 The Board shall promptly repair the damage and use the available insurance proceeds therefore unless before the repairs (other than emergency work) are begun the owners decide in accordance with this Article not to repair. If the cost of repair exceeds the available insurance proceeds, the Board shall impose a special assessment against all units in proportion to their percentages of undivided interest in the common areas in an amount sufficient to pay the excess costs.
- 12.4.2 The Board shall have the authority to employ architects and engineers, advertise for bids, let contracts to contractors and others, and take such other action as is reasonably necessary to make the repairs. Contracts for the repair work shall be awarded when the Board, by means of insurance proceeds and sufficient assessments, has provided for paying the cost. The Board may authorize the insurance carrier to make the repairs if the Board is satisfied that the work will be done satisfactorily, and if such authorization does not contravene any insurance trust agreement or requirement of law.
- 12.4.3 The Board may enter into a written agreement with a reputable financial institution or trust or escrow company that the institution or company shall act as an insurance trustee to adjust and settle any claim for casualty loss in excess of \$50,000, or for the institution or company to collect the insurance proceeds and carry out the provisions of this Article 12.

- 12.5 Damage Not Substantial; Assessment Under \$5,000. If the estimated assessment determined under subsection 12.1.4 does not exceed \$5,000 for any one unit, the damage will be deemed not to be substantial and the provisions of this Section 12.5 shall apply.
- 12.5.1 Either the Board or the requisite number of owners, within 15 days after the notice required under Section 12.2 has been given, may but shall not be required to, call a special owners' meeting in accordance with Section 3.3 of the Bylaws to decide whether to repair the damage.
- 12.5.2 Except for emergency work, no repairs shall be commenced until after the 15-day period and until after the conclusion of the special meeting if such a special meeting is called within the 15 days.
- 12.5.3 A unanimous decision of the unit owners and the holders of first mortgages on units will be required to elect not to repair the damage. The failure of the Board and the owners within the 15-day period to call a special meeting shall be deemed a decision to repair the damage.
- 12.6 Substantial Damage; Assessment Over \$5,000. If the estimated assessment determined under subsection 12.1.4 is \$5,000 or more for any one unit, the damage will be deemed substantial and the provisions of this Section 12.6 shall apply.
- 12.6.1 The Board shall promptly, and in all events within 30 days after the date of damage, call a special owners' meeting to consider repairing the damage. If the Board fails to do so within 30 days, then any owner or first mortgagee of a unit may call and conduct a meeting.
- 12.6.2 Except for emergency work, no repairs shall be commenced until the conclusion of the special owners' meeting.
- 12.6.3 A concurring vote of more than two-thirds of the total voting power will be required to elect not to repair the damage. Failure of the Board, the owners, and the first mortgagees to conduct the special meeting provided for under subsection 12.6.1 within 90 days after the date of damage shall be deemed a unanimous decision not to repair the damage.
- 12.7 Effect of Decision Not to Repair. In the event of a decision under either subsection 12.5.3 or 12.6.3 not to repair the damage, the Board may nevertheless expend so much 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 improvements and clearing, filling and grading the land), and the remaining funds, if any, and the property shall thereafter be held and distributed as follows:

- 12.7.1 The property shall be owned in common by the unit owners and shall no longer be subject to this Declaration or to condominium ownership.
- 12.7.2 Each unit owner's percentage of undivided interest in the property shall be the same as the percentage of undivided interest he previously owned in the common areas and facilities.
- 12.7.3 Any mortgages or liens affecting any of the units shall be deemed transferred in accordance with the existing priorities to the unit owner's percentage of the undivided interest in the property.
- 12.7.4 The property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund. The fund shall be divided into separate shares, one for each unit owner in a percentage equal to the percentage of undivided interest owned by each such owner in the property. After first paying out of the respective share of each unit owner, to the extent sufficient for the purpose, all mortgages and liens on the owner's interest, the balance remaining in each shall be distributed to the owner.

13. CONDEMNATION

- 13.1 Consequences of Condemnation; Notices. If any unit or portion thereof or the common areas and facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority (referred to herein as "taking") notice of the proceeding or proposed acquisition shall promptly be given to each unit owner and to each institutional holder of a first mortgage and the provisions of this Article 13 shall apply.
- 13.2 Proceeds. All compensation, damages, or other proceeds of the taking, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.
- 13.3 Complete Taking. If the entire property is taken the condominium ownership shall terminate. The Condemnation Award shall be apportioned among the owners in proportion to their respective percentages of undivided interest in the common areas and facilities; provided, that if a standard different from the value of the property as a whole is employed to measure the Condemnation Award in the taking, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principle, the Board shall as soon as practicable determine the share of the Condemnation Award to which each owner is entitled. Each owner's share shall be applied first

to the payment of all mortgages and liens on the owner's interest in accordance with the existing priorities and the balance of each share shall be distributed to the owner.

13.4 Partial Taking. If less than the entire property is taken, the condominium ownership shall not terminate. Each owner shall be entitled to a share of the Condemnation Award determined in the following manner:

13.4.1 As soon as practicable, the Board shall, reasonably and in good faith, allocate the Condemnation Award among compensation for property taken, severance damages, or other proceeds.

13.4.2 The Board shall apportion the amounts so allocated to taking of or injury to the common areas and facilities, which in turn shall be apportioned among owners in proportion to their respective undivided interests in the common areas and facilities.

13.4.3 The total amount allocated to severance damages shall be apportioned to the units that were not taken.

13.4.4 The amounts allocated to the taking of or injury to a particular unit and/or improvements an owner had made within his own unit shall be apportioned to the unit.

13.4.5 The amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board determines to be equitable in the circumstances.

13.4.6 If an allocation of the Condemnation Award has already been established in negotiation, judicial decree, or otherwise, then in apportioning the Condemnation Award the Board shall employ that allocation to the extent it is relevant and applicable.

13.4.7 Distribution of apportioned proceeds shall be made to the owners and their respective mortgages in the manner provided in Section 13.3.

13.5 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article 12 for repair of damage, provided that the Board may retain and apply such portion of each owner's share of the Condemnation Award as is necessary to discharge the owner's liability for any special assessment arising from the operation of Article 12.

14. MORTGAGE PROTECTION

14.1 The term "mortgage" as used herein shall mean any recorded mortgage having priority over other mortgages and shall include a recorded deed of trust. The term

“mortgagee” shall mean the owner and holder of a mortgage and shall include a beneficiary under a deed of trust.

- 14.2 The Board of Directors shall maintain a roster of unit owners from the evidence of change of ownership furnished to the Board of Directors, which roster shall include the mailing addresses of unit owners. If the Board of Directors has been given sufficient information by unit owners of their mortgages, the Board of Directors shall maintain another roster which shall contain the name and address of each mortgagee of a unit. Each notice shall consist of a certified copy of the recorded instrument evidencing the title of the mortgagee.
- 14.3 Any mortgagee on any unit is entitled to written notification from the Board of Directors of any default by the mortgagor of such unit in the performance of such mortgagor’s obligation under the declaration which is not cured within thirty (30) days.
- 14.4 The Board of Directors, when giving notice to a unit owner of a default in paying common charges or unit owner charges or any other default, shall send a copy of such notice to any listed mortgagee holding a listed mortgage covering the unit or units affected by such default.
- 14.5 A mortgagee of any unit who comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrued prior to the time such mortgagee comes into possession of the unit (except for claims for a pro rata reallocation of such assessments or charges resulting from a pro rata reallocation of such assessment or charges to all units, including the mortgaged unit).
- 14.6 The liens created under the Act or pursuant to the declaration or the bylaws upon any unit shall be subject and subordinate to, and shall not affect the rights of, a mortgagee upon such interest made in good faith and for value, provided that after the foreclosure sale, said liens, if any claimed, shall have the same effect and be enforced in the same manner as provided herein.
- 14.7 No amendment to this paragraph shall affect the rights of a mortgagee whose interest evidenced by a mortgage was recorded prior to the recordation of any such amendment not otherwise entitled thereto.

15. ASSESSMENTS

- 15.1 Agreement to pay assessments. Each owner of a unit by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Board of Directors to pay his proportionate share of the common expenses and special

assessments for capital improvements and other matters in such amounts and at such times as determined by the Board of Directors in accordance with the terms of the Bylaws, Exhibit I.

- 15.2 Lien for unpaid assessments. All sums assessed to any unit together with interest thereon, shall be secured by a lien on such unit in favor of the Board of Directors. Such lien shall be superior to all other liens and encumbrances, except as provided for in the Bylaws, Exhibit I, and foreclosure and collection shall be as therein provided for.

16. AMENDMENT

- 16.1 Except as provided below, in paragraph 16.3 regarding additional units, and except as prohibited by the Act, the provisions of this Declaration may be amended only by an instrument in writing signed and acknowledged by owners who own undivided percentage interests of not less than 75 percent of the Northwest Village Condominium Project, which amendment shall be effective upon recording.

- 16.2 Declarant is hereby vested with the right to amend and supplement this Declaration and the floor plans as may be reasonably necessary or desirable to facilitate the practical, technical, administrative, or functional integration of Phase I or of any subsequent phase.

- 16.3 As each additional phase is added to the Northwest Village Condominium Project, the supplemental Declaration and supplemental condominium plat and plans associated with such phase shall supplement and amend all such instruments relating to all phases previously included in the Northwest Village Condominium Project.

17. DESCRIPTION OF LIMITED COMMON AREAS EASEMENTS FOR EXCLUSIVE USE RESERVED FOR CERTAIN UNITS

- 17.1 The limited common areas and facilities are reserved for the exclusive use of the owner or owners of the units to which they are adjacent or assigned, and consist of:

17.1.1 The deck, which is adjacent to each unit.

- 17.1.2 Parking space, if any, which is assigned to a unit by the Declarant as more particularly shown on the site plan lay-out attached as Exhibit B. The Boundaries of said parking stall shall be defined by the interior surface of the walls, floor, and striping enclosing said parking space.

18. NEW BUYER SPECIAL ASSESSMENTS

18.1 Upon accepting a deed or otherwise acquiring a Unit, the New Buyer shall pay to the Association a New Buyer Special Assessment that will be placed in a Capital Fund. The New Buyer Special assessment is due at the time of closing by the New Buyer, or if there is no closing then within ten (10) days of the New Buyer otherwise acquiring title. The failure of the new buyer to pay at the time of closing shall not affect the New Buyer's obligation to pay this Special Assessment and shall not affect the Association's rights to collect this Special Assessment. New Buyer Special Assessment shall be limited as follows:

No New Buyer Special Assessment shall be payable with respect to i) the transfer of conveyance of a unit by devise or intestate succession, ii) the transfer or conveyance of a Unit for estate planning purposes, or iii) the transfer or conveyance of a Unit to another entity in which the grantor owns the majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of this Special Assessment, in which event a New Buyer Special Assessment shall be payable with respect to such transfer or conveyance.

The purpose of the Capital Fund is to designate Special Assessment monies that are to be reserved and used exclusively for enhancing and expanding existing community facilities.

Effective July 1, 2021, the New Buyer Special Assessment shall be an amount equal to six (6) months of the HOA dues in effect at the time of closing or escrow conveyance. For each calendar year thereafter, the Board, in its sole discretion, may decrease this amount to a different fixed amount, but under no circumstances may the Board increase the amount higher than the six (6) months of the HOA dues that is in effect at the time of closing of escrow or conveyance.