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SNOHOMISH COUNTY, WASHINGTON

WHEN RECORDED RETURN TO:

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Document Title: Declaration of Covenants, Conditions, Restrictions and Reservations for NichoWynd Urban Center, a Condominium
Declarant: Goertzen Holdings International Inc., a Washington corporation
Legal Description: Alderwood Manor J0 Blk 017 D-02- all th ptn Lot 7 daf beg SW cor Lot 7 th N00*50 25E 286.03ft th E 378.67 ft th S 286ft th W 382.86 ft to pob less N 143 ft & less W 11.50ft th of to snd co per swd rec AFN 200608250191.
Tax Parcel #: 00373701700702.

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS FOR NICHOWYND URBAN CENTER, A CONDOMINIUM

Pursuant to the Washington Condominium Act, RCW 64.34, for the purpose of submitting the Real Property, hereinafter described to the provisions of the Act, Goertzen Holdings International, Inc., a Washington corporation, makes this Declaration:

It is agreed by acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the Real Property or any Unit in the condominium created by this Declaration, that this Declaration, together with the Survey Map and Plans referred to herein, covenants, conditions, restricts and reserves a common plan for the condominium development mutually beneficial in all of the described Units, and that the covenants, conditions, restrictions, reservations and plans are binding upon the entire Real Property and upon each such Unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the Real Property or any security interests therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of Units under security instruments.

**ARTICLE 1
DEFINITIONS**

1.1 Definitions. For the purposes of the Declaration, the Bylaws, the Rules and Regulations, and any amendments to any of these documents, the following definitions apply:

1.1.1 "Act" means the Washington Condominium Act, RCW Chapter 64.34, as amended.

1.1.2 "Allocated Interest" means the undivided interest in the Common Elements, including Real Property, the Common Expense Liability, and votes in the Association allocated to each Unit more particularly provided for in Article 6 and as shown in Exhibit "B".

1.1.3 "Assessment" means all sums chargeable by the Association against a Unit and its Owner, including regular and special assessments described in Article 14.

1.1.4 "Association" means the NICHOWYND URBAN CENTER CONDOMINIUM OWNERS' ASSOCIATION, a non-profit corporation organized as the condominium owners association pursuant to the Act.

1.1.5 "Board" or "Board of Directors" means the body with primary authority to manage the affairs of the Association.

1.1.6 "Building" means the building or buildings containing the Units and comprising a part of the Property.

1.1.7 "Bylaws" means the bylaws of the Association, as initially promulgated by the Declarant.

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

1.1.9 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.1.10 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit, and its Owner, pursuant to Article 6.

1.1.11 "Condominium" means NICHOWYND URBAN CENTER, A CONDOMINIUM created by Declaration and the Survey Map and Plans referred to in Section 26.7.

1.1.12 "Declarant" means GOERTZEN HOLDINGS INTERNATIONAL, INC., a Washington corporation.

1.1.13 "Declarant Control" means the right of the Declarant, or persons designated by the Declarant, to appoint and remove officers and members of the Board of Directors, or to veto or approve a proposed action of the Board or Association, as described in Article 12.

1.1.14 "Declaration" means this instrument, as it may be amended from time to time.

1.1.15 "Development Rights" means any right reserved by the Declarant as defined by RCW 64.34.020(16), as more specifically set forth in this Declaration.

1.1.16 "Eligible Mortgagee" means the holder of a Mortgage on a Unit that has filed with the Association a written request that it be given copies of notices of any action by the Association that requires the consent of Mortgagees.

1.1.17 "Identifying Number" means the designation of each Unit as listed in Exhibit "B" and shown on the Survey Map and Plans, which identifies each Unit in the Condominium.

1.1.18 "Limited Common Elements" means a portion of the Common Elements allocated by this Declaration (or by subsequent amendments thereto) or by the Act for the exclusive use of one or more but fewer than all of the Units.

1.1.19 "Live/Work Units" means Units 1-4 and 19-22, inclusive, as shown on the Survey Map and Plans. The Live/Work Units are authorized by Snohomish County Concomitant Agreement recorded at Snohomish County Auditor's File No. 200704130254. The Live/Work Units contain home office space, which may be used as authorized by Snohomish County.

1.1.20 "Manager" means a person or entity retained by the Board to perform those management and administrative functions and duties of the Association.

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

1.1.22 "Mortgagee" means the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Unit created by mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Unit.

1.1.23 "Mortgagee of a Unit" means the holder of a Mortgage on a Unit, which Mortgage was recorded simultaneously with or after the recordation of this Declaration. Unless the context requires otherwise, the term "Mortgage of a Unit" shall also be deemed to include the Mortgagee of the Condominium.

1.1.24 "Mortgagee of the Condominium" means the holder of a Mortgage on the real property which this Declaration affects, which Mortgage was recorded prior to the recordation of this Declaration. The term "Mortgagee of the Condominium" does not include Mortgagees on the individual Units.

1.1.25 "person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entities.

1.1.26 "Real Property" or "Property" means any fee, leasehold, or other estate or interest in, over or under the land described in Exhibit "A", including Buildings, structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance.

1.1.27 "Rent" or "Lease" a Unit means the granting of a right to use or occupy a Unit for a specified or indefinite term (with rent reserved on a periodic basis), in exchange for the payment of rent (that is, money, property or other goods or services of value); but shall not mean nor include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other forms of co-ownership and shall not include friends or acquaintances who share a Unit with an Owner, or member of an Owner's family (whether or not they share expenses).

1.1.28 "Rules and Regulations" means the rules and regulations adopted by the Board, as amended from time to time.

1.1.29 "Special Declarant Rights" means the rights reserved in this Declaration for the benefit of the Declarant as defined by RCW 64.34.020(29).

1.1.30 "Survey Map and Plans" means that certain survey map and plans filed simultaneously with the recording of this Declaration, as amended from time to time, referred to in Section 26.7.

1.1.31 "Total Voting Power" means one hundred percent (100%) of all of the votes assigned to the Units, irrespective of other conditions precedent to voting and regardless of the number of votes represented at any meeting of Association members. For any decision where an Owner, including the Association, is not allowed to vote by the Act or this Declaration the Total Voting Power for that particular decision shall be reduced by the number of votes of the Owner not allowed to vote.

1.1.32 "Unit" means a physical portion of the Condominium designated for separate ownership, the boundaries of which are described as set forth in the Act and pursuant to Article 5.

1.1.33 "Unit Owner" or "Owner" means a Declarant or other person who owns a Unit, but does not include a person who has an interest in a Unit solely as security for an obligation or is merely Renting or Leasing a Unit. "Unit Owner" or "Owner" means the vendee, not the vendor, of a Unit sold under a real estate contract.

ARTICLE 2

NAME OF CONDOMINIUM AND ASSOCIATION

The name of this Condominium is NICHOWYND URBAN CENTER, A CONDOMINIUM, and the name of the Association is NICHOWYND URBAN CENTER CONDOMINIUM OWNERS' ASSOCIATION.

ARTICLE 3

CERTIFICATE OF SUBSTANTIAL COMPLETION

The Declarant hereby certifies pursuant to RCW 64.34.200(2) that all of the structural components and mechanical systems of all Buildings containing or comprising any Units that are to form a part of the Condominium have been substantially completed.

ARTICLE 4

DESCRIPTION OF LAND

The Real Property included in the Condominium is legally described in Exhibit "A" attached hereto.

ARTICLE 5

UNITS

5.1 Number of Units. This Declaration creates twenty-two (22) Units. Of these twenty-two (22) Units, eight (8) Units are Live/Work Units.

5.2 Identifying Number. The Identifying Number of each Unit and whether they are Live/Work Units is set forth in Exhibit "B". The location of the Units is shown on the Survey Map and Plans.

5.3 Physical Characteristics of Units. The Units are described in Exhibit "B" as required by RCW 64.34.216(1)(e).

5.4 Access to Common Elements and Public Streets. Each Unit has direct access to Common Element walkways, driveways, and all such Common Elements have direct access to public streets and Unit Owners shall have unrestricted ingress to and egress from their respective Units.

5.5 Unit Boundaries.

5.5.1 Boundaries. The Unit boundaries are the unfinished interior surfaces of the perimeter walls, floors, and ceilings. The boundaries of the Units are shown on the Survey Map and Plans. The Unit does not include any of the Common Elements described in Article 7 or shown on the Survey Map and Plans, even if the Common Elements are partially located within the Unit. All spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

5.5.2 Physical Boundaries Controlling. The physical boundaries of a Unit constructed in substantial accordance with the applicable Survey Map and Plans become its boundaries rather than the metes and bounds expressed in the applicable Survey Map and Plans, where deviations are the result of settling or lateral movements of the Building, or minor variances between boundaries shown on the applicable Survey Map and Plans and those of the Building in which the Unit is located.

5.6 Alterations of Units. The procedure and restrictions relating to alteration of Units is set forth at RCW 64.34.240, in effect as of the date of recording of this Declaration and not subject to future amendments to the Act.

5.7 Relocation of Unit Boundaries; Adjoining Units. Boundaries of adjoining Units may be relocated subject to the procedures and restrictions as set forth in RCW 64.34.244, in effect as of the date of recording of this Declaration, and not subject to future amendments to the Act.

ARTICLE 6
ALLOCATED INTERESTS

The Allocated Interest for each Unit, for purposes of Common Expense Liability, interest in the Common Elements, and voting, is set forth in Exhibit "B". The Allocated Interest for each Unit cannot be changed except as provided in this Declaration or the Act. The formula for the Allocated Interest of each Unit shall be the floor area of each Unit as compared to the total floor area of all of the Units expressed as a decimal or percentage. Except that, the votes in the Association shall be allocated equally amongst the twenty-two (22) Units.

ARTICLE 7
COMMON ELEMENTS

7.1 Description. The Common Elements consist of all portions the Real Property which are not part of the Units, and include the following:

7.1.1 The roofs, foundations, columns, girders, studding, joists, beams, supports, walls (excluding non-bearing interior partitions of Units), chimneys, and all other structural parts of the Buildings, to the boundaries of the Units as the boundaries are defined in Section 5.5.

7.1.2 Installations of central services such as: power, light, gas, heating, refrigeration, air conditioning, pipes, conduits, and wires; tanks, pumps, motors, fans, compressors, ducts; and in general all apparatus and installations existing for common use; but excluding plumbing, electrical and similar fixtures, which fixtures are located within a Unit for the exclusive use of that Unit.

7.1.3 The driving areas (not part of a Unit or not allocated as Limited Common Elements by this Declaration or amendments thereto) which provide access to Units, and guest parking and any other parking areas (not part of a Unit or not allocated to Units as Limited Common Elements by this Declaration or amendments thereto.)

7.1.4 The yards, gardens, landscaped areas, planter's bulkheads, retaining walls, fences, landscape structures and walkways which surround and provide access to the Buildings or are used for recreational purposes (not allocated to Units as Limited Common Elements).

7.1.5 The basements, attics and other portions of the Buildings not incorporated into a Unit or reserved as Limited Common Elements as provided in Article 8 or the Act.

7.1.6 The garbage pad area, shown on the Survey Map and Plans, and any common trash receptacles, containers or "dumpsters".

7.1.7 Any common mailbox facility.

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

7.2 Conveyance and Encumbrance of Common Elements. Except permitted by this Declaration or the Act, the Common elements shall remain undivided and shall not be abandoned by act or omission, and no Unit Owner or other person may bring any action for partition or division of the Common Elements. The procedure and restrictions relating to conveyance and encumbrance of Common Elements shall be as set forth in RCW 64.34.348, in effect as of the date of recording of this Declaration, and not subject to future amendments to the Act. Any purported conveyance, encumbrance, or other voluntary transfer of Common Elements, unless made pursuant to this section, is void. A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Unit of its rights of access and support, nor shall it effect the priority or validity of pre-existing encumbrances.

ARTICLE 8 LIMITED COMMON ELEMENTS

8.1 Description. The Limited Common Elements allocated to each Unit are as follows:

8.1.1 All portions of the Property designated as Limited Common Elements by the Act, except otherwise described in this Declaration.

8.1.2 The patios and/or porches which are adjacent to each Unit, as shown on the Survey Map and Plans, are limited Common Elements allocated exclusively to that Unit.

8.1.3 The area designated "Covered Entry LCE" adjacent to each Unit, as shown on the Survey Map and Plans, are Limited Common Elements allocated exclusively to that Unit. In the event there is no dividing barrier between Covered Entry LCE for each Unit, then the Covered Entry LCE shall be a Limited Common Element allocated to both adjoining Units.

8.1.4 The backyard areas located behind Units 5 through 18 as shown on the Survey Map and Plans are Limited Common Elements allocated exclusively to the adjoining Unit.

8.1.5 The driveway area which provides access to the Unit's garage designated D/W on the Survey map and Plans.

8.1.6 If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture (including without limitation any individual heating, ventilating, or air conditioning equipment) lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

8.1.7 Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors, skylights, and windows or other fixtures designed to serve a single Unit, but which are located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

8.1.8 The eight (8) parking spaces as shown on the Survey Map and Plans may be allocated as Limited Common Elements to specific Units. The parking spaces have not been allocated but will be allocated to Units by the Declarant as the Units are sold based upon Development Rights reserved by Declarant.

8.1.9 The mailbox assigned to each Unit.

8.1.10 Any other Limited Common Elements, if any, as may be described in Exhibit "B" attached hereto or depicted and labeled on the Survey Map and Plans.

8.2 Reservation of Use. The Limited Common Elements are reserved for the exclusive use of the Unit Owner(s) of the Unit(s) to which they are assigned by the Act or this Declaration and such Owner's respective, tenants, invitees and licensees.

8.3 Boundary. The boundaries of Limited Common Elements shall be defined by the interior surfaces of improvements enclosing the Limited Common Element (including without limitation, walls, floors, ceiling, doors, windows, ground, railings, fencing or striping); but if there are no such interior surfaces, then the boundaries as delineated on the Survey Map and Plans; but if no such boundaries are so delineated, then the perimeter edge of such Limited Common Element as actually constructed or expanded by Declarant or Association in accordance with this Declaration.

8.4 Parking Spaces.

8.4.1 Rights to Use. Subject to this Declaration and applicable rules, each Unit Owner has the unqualified right to use the parking spaces which are assigned to its Unit as a Limited Common Element, and the unassigned parking spaces are reserved solely for the use of the Unit Owners and tenants and guests occupying or visiting the Units until such time as they are allocated as Limited Common Elements by the Declarant, subject to Rules and Regulations. In the event that the parking spaces are not assigned as a Limited Common Elements, then they will remain Common Elements for the benefit of all Units within the Condominium.

8.4.2 Parking Space Leasing. A Unit Owner may lease Limited Common Element parking spaces assigned to their Unit, but only to Owners or tenants of other Units in the Condominium.

8.5 Leasing and Transfer of Limited Common Elements.

8.5.1 Leasing. There shall be no leasing of Limited Common Elements except as provided elsewhere in this Declaration.

8.5.2 Reallocation of Limited Common Elements. Limited Common Elements may be reallocated based on the procedure and subject to the terms set forth in RCW 64.34.228 of the Act, in effect as of the date of recording of this Declaration, and not subject to future amendments to the Act.

ARTICLE 9 EASEMENTS

9.1 Service Facilities. It is intended that in addition to rights under the Act, each Unit has an easement in and through each other Unit and the Common and Limited Common Elements for all support elements and utility, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium. Without limiting the generality of the foregoing, each Unit and all Common and Limited Common Elements, are specifically subject to an easement for the benefit of each of the other Units in the Condominium for all duct work for the Units, and for heating, ventilation, air conditioning and fireplaces and associated flues or chimneys, if any. In addition, each Unit and all the Common and Limited Common Elements are specifically subject to easements as required for any wiring, plumbing lines and equipment, if any, for each Unit. Each Unit as it is constructed is granted an easement to which each other Unit and all Common and Limited Common Elements are subject to the location and maintenance of all the original equipment and facilities and utilities for that Unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for Common Elements reserved by law.

9.2 Access and Utilities. The Board, on behalf of the Association and all members, shall have authority to grant utility, road and similar easements, licenses and permits, under, through or over the Common Elements, which easements the Board determines are reasonably necessary or convenient to the ongoing development and operation of the Condominium.

9.3 Association Functions. There is hereby reserved to the Association, or their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Act, this Declaration, the Articles of Incorporation, Bylaws or Rules and Regulations.

9.4 Encroachments. Each Unit and all Common and Limited Common Elements are hereby declared to have an easement over all adjoining Units and Common and Limited Common Elements, for the purpose of accommodating any encroachment due to engineering errors, or errors in original construction, reconstruction, repair, of any portion of the Buildings, to shifting and settling, or any other similar cause, and any encroachment due to a Building's overhang or projection. There shall be valid easements for the maintenance of such encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by such encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if such encroachment occurred due to the willful act or acts with full knowledge of such Owner. In the event a Unit or Common or Limited Common Element is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Units and Common and Limited Common Elements shall be permitted, and there shall be valid easements for the maintenance of such encroachments so long as they exist. These encroachments shall not be construed to be encumbrances affecting the marketability of title to any Unit.

9.5 Easements for Declarant. There is retained by the Declarant an easement over, across, and through the Common Elements and Limited Common Elements for the purpose of completing construction, renovation or repair of the Condominium and all its Units, making repairs required by any agreement for the sale of a Unit, showing the Units for sale, discharging Declarant's obligations or exercising any Development Rights or Special Declarant Rights. This easement affects all parts of the Real Property as required.

9.6 Support. Each Unit and all Common and Limited Common Elements are hereby declared to have an easement in and the right to use the Real Property beneath and the foundation and structural components of the other improvements comprising the Buildings and portions of the Buildings to which they are adjacent or subjacent for lateral support.

ARTICLE 10 USE RESTRICTIONS

10.1 General Purpose. The Property shall be used exclusively for residential and related common purposes, except for the Live/Work Units described below.

10.2 Unit and Building Uses.

10.2.1 Residential Use. Each Unit, with the exception of the Live/Work Units, shall be used as a residence and such other uses as permitted by this Declaration and for no other purpose. The foregoing residential restrictions shall not, however, be construed in such a manner as to prohibit a Unit Owner from maintaining their personal professional library therein, keeping their personal business and professional records therein, or handling their personal business or professional telephone calls or correspondence therefrom to the extent doing so complies with all applicable laws and ordinances.

10.2.2 Live/Work Units. The Live/Work Units may be used for residential purposes and those commercial purposes which are permitted by applicable Snohomish County, laws, codes and regulations, subject to the restrictions stated in this Paragraph. Any commercial uses shall be restricted to the lower level of the Live/Work Units. Signage for the Live/Work Units is limited to the front entryway and front door of the Unit and shall be limited to 2' x 4' for the front entryway and 1' x 4' above the front window. Such signage shall be professional and permanent in nature, and is subject to approval by Declarant or by the Board. The delivery or shipment of merchandise, supplies, and fixtures to and from the Live/Work Units shall be accomplished in a manner that shall not unreasonably interfere with the quiet enjoyment or the security of the other Units. Owners of any Live/Work Units shall not allow or permit any continuing vibration or any other offensive or obnoxious and continuing noise or any offensive or obnoxious and continuing odor to emanate from the Live/Work Units into the other Units, nor shall the Owner allow or permit any machine or other installation therein to constitute a nuisance or otherwise unreasonably interfere with the safety or comfort of any of the Owners of other Units. Upon the failure of the Owner of any Live/Work Unit to remedy noise, vibration or odor then the Board may, at its option, either: (1) cure such condition at the Owners cost and expense; or (2) pursue any other available legal or equitable remedy. The Owner of any Live/Work Unit shall not use or occupy the Unit or do or permit anything to be done there on in any manner which shall: (1) make it impossible for the Association to carry any insurance required or reasonably deemed to be necessary; (2) invalidate or unreasonably increase the costs of such insurance; (3) cause structural injury to the Building; (4) constitute a public or private nuisance; or (5) violate any laws, regulations, ordinances or requirements of the Federal, state or local governments or of any other governmental authority having jurisdiction over the Property.