

After recording return to:
SEAVIEW ASSOCIATES
4380 S.W. MACADAM AVE., STE 183
PORTLAND, OR 97201

BOOK 395 PAGE 984

650846

SEAVIEW CONDOMINIUMS

FRACTIONAL INTEREST AGREEMENT

THIS FRACTIONAL INTEREST AGREEMENT ("Agreement") is made and entered into as of this 8th day of October, 1997 by and among the owners of fractional interests ("Owners") in Unit 102 ("Unit") of Seaview Condominiums.

RECITALS:

A. The parties to this Agreement own fractional interests in Unit 102 of Seaview Condominiums legally described as:

Unit 102, Seaview Condominiums, located in the City of Rockaway, Tillamook County, Oregon ("Project"),

subject to the Declaration and Bylaws of Seaview Condominiums.

B. The parties desire to subject all of the current and future Owners in the Unit to the terms hereof.

C. The Unit shall be owned by the Owners as tenants in common. A husband and wife owning their interest as tenants by the entirety or tenants in common, or a partnership, corporation, or other entity owned by or comprised of two or more persons are considered one tenant in common or one Owner.

C. The Owners shall own and manage a Unit subject to fractional interests primarily for their personal use as a second home residence, and not as an investment.

D. The undersigned desire to provide in this Agreement for covenants and restrictions on the use, occupancy, ownership and disposition of a Unit sold subject to fractional interests, for the sharing of expenses for delegation of the responsibility for maintenance and repair of the Unit and for all other aspects of the use and ownership of the Unit.

E. The undersigned desire to provide for a managing agent ("Managing Agent") to administer this Agreement for them and to care for the Unit and desire that Dunn Development Corporation act as the initial Managing Agent.

F. The undersigned declare that the Unit is and shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared to be in furtherance of a plan established for the purpose of enhancing and perfecting the value,

desirability and enjoyment of the Unit. All such limitations, restrictions, covenants and conditions are intended to run with the land, and to inure to the benefit of and be binding upon all parties having or acquiring any right, title, interest or estate therein.

G. The undersigned acknowledge that the sale or transfer of all or any part of one Owner's interest in the Unit may substantially affect the rights of the other Owners' use or enjoyment of the Unit; therefore, the undersigned wish to provide in this Agreement for covenants and restrictions on such sales or transfers.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the undersigned agree as follows:

1. DEFINITIONS.

When used in this Agreement, the following terms shall have the following meanings:

1.1 "Common Furnishings" means the furnishings and appliances listed on the inventory schedule attached to this Agreement as Exhibit "A", together with any other additional personal property acquired by the Owners in accordance with paragraph 5.2(d) of this Agreement.

1.2 "Declarations" means the Declaration of Seaview Condominiums, as defined in this Agreement.

1.3 "Seaview Declarations" means the Declaration of Seaview Condominiums together with the Bylaws of Seaview Condominiums Unit Owners Association adopted pursuant to such Declaration.

1.4 "Condominiums" means the Seaview Condominiums as described in Paragraph A of the Recitals to this Agreement.

1.5 "Managing Agent" means the entity responsible for the administration of this Agreement as described in Section 6 below. The initial Managing Agent shall be Dunn Development Corporation, an Oregon corporation.

1.6 "Mortgage" means a mortgage, trust deed or other security instrument.

1.7 "Owners" means the holders of each tenancy in common interest in the Unit, and their successors in such ownership.

1.8 "Policies" means the rules, regulations, policies and procedures governing the use of the Unit and the conduct of its occupants, including the Use Allocation Schedule and any other Policies adopted pursuant to Paragraph 4.9 below.

1.9 "Use Allocation Schedule" means the Co-Owners Use Allocation Schedule governing the allocation of Regular Use Periods to each Owner attached as Exhibit "B" to this Agreement, as the same may be amended pursuant to Paragraph 5.2(f) below.

1.11 "Regular Use Periods" means those time periods during which an Owner is entitled to the exclusive use and occupancy of the Unit, Common Furnishings and Seaview Common Properties, as set forth in the Use Allocation Schedule.

2. EXCLUSIVE USE AND OCCUPANCY.

Each Owner shall have the exclusive right to occupy the Unit, use the Common Furnishings and, as between Owners, to use and enjoy the common areas and the rights and easements appurtenant to the Unit during the Regular Use Periods assigned pursuant to Paragraph 2.1. No Owner shall occupy the Unit, or exercise any other rights of ownership in respect to the Unit at any other time, except as expressly provided in this Agreement, and no Owner may use the common properties within Seaview Condominiums held under the Declarations except during such Owner's Regular Use Periods or when a guest of the Owner in occupancy.

2.1 Allocation of Regular Use Periods. Regular Use Periods shall be initially allocated among Owners in accordance with the Use Allocation Schedule attached as Exhibit "B" to this Agreement.

2.2 Rental of the Unit. Each Owner may rent the Unit during his scheduled Regular Use Periods. Any rent received by the Owner will belong solely to him. The tenant shall be required to pay to the Managing Agent prior to occupancy a minimum security deposit in an amount to be set forth in the Policies. The Owner will be responsible for his tenant, including payment of any damage caused by the tenant, items of personal property found missing after the tenant's stay, any fee charged for rental of the Unit and the use charges described in Paragraph 4.7 below.

3. PERSONAL PROPERTY.

3.1 Furnishings. The Common Furnishings are owned jointly by the Owners as tenants in common in the same proportion as the ownership of the Unit. No additional furnishings may be placed in the Unit by an Owner unless approved by a majority of the Owners. No furnishings shall be removed from the Unit by any owner except by the terms of this Agreement.

3.2 Storage Areas. Each Owner will be entitled to the exclusive use of a locked storage area for the purpose of storage of his own personal items. No flammable or perishable items shall be stored in these areas. At the end of each Regular Use Period, each Owner will remove all personal items, such as clothes and food, from the Unit or store

them in his storage area. Any such items left at the Unit not so stored are left at the Owner's risk. Any food or grocery items left at the Unit, other than in a storage area, may be used by the next occupant free of charge or disposed of by the Managing Agent.

4. USE AND OCCUPANCY RESTRICTIONS.

4.1 Occupancy. The Unit shall not be occupied by more than six persons in a two-bedroom unit at any one time. Children under the age of 18 must be accompanied by a supervising adult and the Managing Agent must be informed in advance of unsupervised use by persons from 18 to 21 years of age. Each Owner shall vacate the Property promptly at the expiration of the Owner's Regular Use Period by the time of day specified in the Use Allocation Schedule.

4.2 Condition. Each Owner, his family, guests and invitees, shall keep the Unit and the furnishings therein in good condition and repair during such Owner's Regular Use Period and shall leave the Unit in a reasonably clean and orderly condition for the next occupant. The Managing Agent will take an inventory of all furnishings, appliances, dishes, silverware and the like at the end of each Regular Use Period and assess the Owner for the replacement cost of any missing items. An extra cleanup fee will be charged if the Unit is left in a messier than normal condition.

4.3 Nuisances, Non-Smoking Units, Etc. No Owner, nor any family member, guest or invitee of an Owner, shall create or permit to exist any nuisance in the Unit, commit waste with respect to the Unit, or permit anything to be done or kept in the Unit which would increase the rate of insurance upon the Unit or its contents. This Unit has been designated as a non-smoking unit.

4.4 Damage. Each Owner shall exercise reasonable care in the manner in which he uses the Unit, the furnishings and appliances. Each Owner will be assessed for and shall pay for any damage or losses sustained, however caused, during such Owner's Regular Use Period.

4.5 Alterations. Except as otherwise expressly provided in this Agreement, no Owner shall make any improvements, decorations or repairs to the Unit or the Common Furnishings, or contract to do so.

4.6 Pets. No animals or pets of any kind shall be allowed or kept in or at the Unit, including, but not limited to, common household pets such as dogs, cats, birds and reptiles.

4.7 Use Charges. Each Owner shall be responsible for payment of all cleaning fees, long distance telephone charges and other services provided during the Owner's Use Periods.

4.8 Compliance with Laws and Covenants. Each Owner, his family, guests or invitees, shall comply with all applicable laws and ordinances and with all covenants, conditions and restrictions set forth in the following documents:

- (a) The Declaration of Seaview Condominiums;
- (b) Bylaws of the Seaview Condominiums Unit Owners Association;
- (c) Policies and Procedures for the Use and Enjoyment of the Seaview Condominiums Project;

4.9 Other Policies. In addition to the use restrictions set forth herein, by unanimous vote of all of the Owners, the Owners may adopt additional and amend existing rules, regulations, policies and procedures governing the use of the Unit and conduct of its occupants. Such policies shall be binding on all Owners after adoption; provided, however, that any such policies must be consistent with this Agreement, the Declaration and the Bylaws.

5. VOTING AND DECISIONS.

5.1 Management and Ownership Decisions: Voting Rights. Except as otherwise provided in this Agreement, each Owner will participate in all decisions relating to the operation, management, use and ownership of the Unit. Each Owner shall have one vote for each undivided 1/10th interest the Owner owns in the Unit. A majority of the Owners, as used in this Agreement, shall mean a majority (more than 50 percent) of the votes cast by the Owners. A vote may be cast in person or by proxy. The proxy will not be valid after the meeting for which it was solicited unless otherwise expressly stated in the proxy. It is contemplated that most decisions will be made by polling the Owners with written ballots mailed to the Owners by the Managing Agent. Such ballots will give a brief explanation for the proposal and an estimated cost of the proposal, if applicable. In an emergency situation, the Managing Agent may poll the Owners by telephone. The Managing Agent will make an effort to contact the Owner of each ownership interest.

5.2 Major Decisions. Major decisions must be approved by all of the Owners, according to the procedure provided in Paragraph 5.1. Major decisions are defined to be:

- (a) A decision to sell, trade, lease, or otherwise transfer the Unit, including the sales price thereof, other than each Owner's individual undivided interest.
- (b) A decision to borrow funds or to encumber, refinance or modify any financial encumbrances on the Unit, other than encumbrances on the undivided interest of individual Owners as described in paragraph 10.1 below.

(c) A decision to burden the Unit with additional easements, licenses or other encumbrances.

(d) A decision to alter or improve the Unit or acquire additional Common Furnishings, where the cost would exceed the sum of \$1,000. A decision to provide necessary maintenance, repair or replacement of defective or damaged components or items, however, shall not be a major decision.

(e) A decision to change the policies or restrictions contained in this Agreement on rental, as set forth in Paragraph 2.2.

(f) A decision to change the Regular Use Allocation Schedule.

(g) A decision to change the Managing Agent.

5.3 Seaview Condominiums Association Of Unit Owners. The Unit is entitled to cast only one vote in matters, involving the Seaview Condominiums Unit Owners Association. The manner in which that vote shall be cast shall be determined by a majority of the Owners, and each Owner hereby grants to the Managing Agent a proxy to so cast the Unit's vote in such matters.

5.4 Other Decisions. All other decisions relating to the operation, management and ownership of the Unit will be made by a majority of Owners as provided in Paragraph 5.1 above.

5.5 Owner Voting. An executor, administrator, guardian or trustee may vote with respect to any individual tenancy in common interest owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that such person shall satisfy the Managing Agent that he or she is the executor, administrator, guardian or trustee holding such interest in such capacity. Whenever any interest is owned by two or more persons jointly, the vote of such interest may be exercised by any one of the Owners in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such individual tenancy shall be disregarded completely in determining the proportion of votes given with respect to such matter.

5.6 Submission of Matters to Owners. Any Owner may submit matters for decision to the Owners by submitting a written notice thereof to the Managing Agent. The Managing Agent shall then present the matter for a decision in accordance with Paragraph 5.1. If the Managing Agent fails to submit the matter for decision, within a reasonable time, the requesting Owner may do so himself.

5.7 Meetings. Whenever a majority of the Owners agree that a matter should be discussed or determined at a meeting, the Managing Agent, within 10 days after written notice, shall arrange the time and location for the meeting. At the meeting, the Owners shall cast their votes as provided in Paragraph 5.1 above.

6. MANAGING AGENT.

6.1 Designation. The Owners shall enter into a management agreement with a Managing Agent for the management of the Unit, maintenance and repair of the Unit, acquisition, maintenance, repair and replacement of the Common Furnishings, administration of the affairs of the Owners with respect to the use and occupancy of the Unit, and payment of expenses and costs provided or required by this Agreement. Initially, the Owners have entered into a management agreement with Dunn Development Corporation. Selection of any successor Managing Agent shall be determined by the unanimous vote of the Owners.

6.2 Duties of a Managing Agent. The Managing Agent shall have the responsibility and authority to perform the following functions and may make decisions with respect to such matters without further consultation with or approval of the Owners, unless otherwise provided in this Agreement.

(a) Maintenance. To contract for maintenance and repair of the Unit or the repair or replacement of defective or damaged Common Furnishings. Where the estimated cost of the maintenance or repair item will not exceed \$2,500 the Managing Agent shall have the authority to make the decision. Where the estimated cost will exceed \$2,500, the Managing Agent must obtain the reasonable approval of a majority of the Owners.

(b) Voting. To prepare and mail out written ballots to poll the Owners whenever any matter requires a decision by the Owners or whenever any Owner wishes to submit a proposal to the group for decision; however, the Managing Agent need not submit written ballots to the Owners more frequently than once every 60 days. In an emergency situation, the Managing Agent may poll the Owners by telephone.

(c) Insurance. To obtain or renew a policy of property insurance insuring the Unit and contents against loss or damage by fire and other hazards covered by a standard policy of fire insurance with extended coverage endorsements written for the full replacement value of the Unit and the Common Furnishings. The Managing Agent will also obtain or renew a policy of public liability and property damage insurance with a single limit of not less than \$500,000. The policies will name each Owner, the Seaview Condominiums Unit Owners Association and the Managing Agent as insureds. The Owners may, at any time, change the type of insurance coverage to be obtained by the Managing Agent by a vote of the majority of the Owners.

(d) **Assessments.** To collect and deposit the assessments and other charges due from each Owner into a checking account established by Owners; to mail written notice to any Owner who is more than 10 days delinquent in payment of any assessments or charges; and to mail written notice to the Owners for additional assessments whenever it appears that the funds on hand will be insufficient to cover future expenses.

(e) **Payment of Expenses.** To pay when due the monthly expenses of the Owners, the maintenance and repair bills duly authorized, and all other expenses or payments duly authorized by the Owners. Managing Agent shall have no responsibility to pay real property taxes allocable to the Unit or undivided interests therein except as provided in Section 7.1(d).

(f) **Records.** To maintain complete and accurate records of all receipts and expenditures for the Owners.

(g) **Seaview Condominiums Unit Owners Association Decisions.** To submit to the Owners for their determination any issues that may arise through the Seaview Units Unit Owners Association. After determination by the Owners pursuant to Paragraph 5.3 above, the Managing Agent shall then convey the Owners' decision to the Association.

(h) **Use Allocation Policies.** To administer the Use Allocation Policies.

(i) **Enforcement of Policies.** To enforce the restrictions contained in this Agreement and the Policies.

(j) **Cleaning.** To provide cleaning services to clean the Unit after each occupancy.

(k) **Enforce Agreement.** To otherwise enforce the terms and conditions of this Agreement on behalf of the Owners by initiating legal action, or by pursuing any other course of action reasonable under the circumstances.

6.3 Cooperation of Owners. Each Owner will promptly notify the Managing Agent of needed maintenance, repairs, or replacement of items. No Owner shall contract for repairs on behalf of the Owners except in an emergency situation where the failure to act quickly will result in further damage to the Unit. Each Owner will cooperate with the Managing Agent in collecting assessments and charges due from the Owners.

6.4 Annual Approval. At least annually and not later than the last day of each November, the Managing Agent shall prepare and mail to all of the Owners for approval by majority vote, subject to the reasonable approval of the Managing Agent, proposals for the following:

- (a) To approve a budget for the Unit for the next calendar year.
- (b) To approve other matters as required by this Agreement.
- (c) To approve other proposals submitted by an Owner.
- (d) To approve any other matters as determined to be appropriate by the Managing Agent.

(e) Failure of a majority of Owners to vote on any of the items listed in Section 6.4(a)-(d) shall result in adoption of such item by the Managing Agent.

7. EXPENSES; BUDGETS; ASSESSMENTS.

7.1 Annual Budget; Expenses. At least annually, the Managing Agent shall submit a preliminary budget of anticipated expenses for the next calendar year. The final budget will be adopted by the Owners subject to the reasonable approval of the Managing Agent (pursuant to Section 6.4), and will include provisions for payment of the following expenses:

- (a) Utility charges for telephone (basic service), electricity (basic service), sewer, water and cable television in excess of amounts separately charged to Owners under Paragraph 4.7 above.
- (b) Payments due on any underlying financial encumbrances, if such financing is approved pursuant to Paragraph 5.2(b) above.
- (c) The cost of insurance as required by this Agreement.
- (d) Real and personal property taxes on the Unit in the event the county tax assessor ceases to bill the individual Owners separately.
- (e) The cost of an annual refurbishing and cleaning of the Unit.
- (f) Assessments of the Seaview Condominiums Unit Owners Association.
- (g) Management fees and the cost of administration of this Agreement.
- (h) A contingency fund for maintenance, repairs, supplies, legal and accounting services, and miscellaneous expenses.
- (i) Any other expenses or reserves agreed upon by the Owners as provided in this Agreement.

7.2 Assessments. Each Owner agrees to pay all assessments, as and when due, as provided in this Agreement. An Owner's obligation to pay assessments is not waived because of voluntary or involuntary nonuse or nonoccupancy of the Unit.

(a) Assessment for Budget. Each Owner will be assessed in advance for his pro rata share of the budgeted expenses for the next calendar year. Each Owner's pro rata share is based upon the Owner's ownership interest in the Unit. Assessments will be due and payable in monthly installments on the tenth day of each calendar month or in such other manner as is determined by a majority of the Owners.

(b) Assessments for Damage or Violation of Agreement. Each Owner will be assessed individually for the payment of any and all damage to the Unit or Common Furnishings, however caused, during the Owner's Regular Use Periods, and any and all other charges, penalties, or fees imposed on the Owner by this Agreement for delinquencies or breach. These assessments will be due and payable within 15 days after the Managing Agent notifies the Owner of the amount due.

(c) Use Charges. The Use Charges described in Paragraph 4.7 above shall be paid immediately upon the termination of occupancy by each Owner.

(d) Special Assessments. If the Owners approve any expenditure not included in the budget, each Owner will be assessed his pro rata share of the cost of the item. Such special assessments will be due and payable as determined by the Owners approving the item, or if no such determination has been made, at the same time as the next monthly assessment.

(e) Additional Assessments. If the above assessments become inadequate for any reason to cover the actual expenses validly incurred in owning, operating or maintaining the Unit, each Owner will be assessed such additional amounts as may be needed to cover his pro rata share of the actual expenses incurred. In the event any Owner fails to pay any assessments or other charges required under this Agreement and the Managing Agent needs such funds for purposes of carrying out its functions under this Agreement, then the Managing Agent may assess the other Owners for the deficiency, in proportion to their respective ownership interests. If the delinquent amounts are subsequently collected from the defaulting Owner, such funds shall first be used to reimburse the other Owners for the funds advanced to cover the default. Nothing in this paragraph shall be construed as limiting the right of the Managing Agent or any Owner to bring legal action against a defaulting Owner for failure to pay amounts due under this Agreement. Any additional assessments under this paragraph will be due and payable within 15 days after the Managing Agent notifies the Owner of such additional assessment.

(f) Excess of Funds. If at any time, the funds held by the Managing Agent are greater than reasonably deemed necessary by the Managing Agent to meet the budgeted

expenses and to maintain reasonable reserves, the Managing Agent shall, in proportion to each Owner's relative percentage ownership interest in the Unit, offset the same against other amounts owing by the Owners under this Agreement.

8. FAILURE TO PAY ASSESSMENTS: ENFORCEMENT.

8.1 Interest. Each Owner agrees to pay interest on any assessment or installment thereof not paid within 10 days after it is due at the rate of 12% per annum, or such other rate as may be established by the Owners from time to time, not to exceed the maximum legal rate.

8.2 Late Charges. Each Owner agrees that his failure to pay assessments when due will unfairly burden and cause damage to the other Owners in an amount that is difficult to ascertain. Therefore, each Owner agrees to pay a late charge of \$25 for any assessment or installment thereof as not paid within 30 days of the date it is due, in addition to interest.

8.3 Debt Obligation; Money Judgment. Each Owner is personally liable for the payment of assessments, interest, and charges as provided in this Agreement. If any Owner fails to pay any such assessment, interest, or charge, the other Owners, or the Managing Agent on their behalf, may bring an action for a money judgment against the defaulting Owner or pursue any other remedies available under this Agreement.

8.4 Loss of Occupancy Rights. Any Owner who is more than 30 days delinquent in the payment of any assessment or installment thereof or is otherwise in breach of his obligations under this Agreement shall be deemed a "defaulting Owner." Any defaulting Owner shall have no right to occupy the Unit during the defaulting Owner's subsequent Regular Use Periods until the default is cured. The Managing Agent may make the Unit available to other Owners during such Regular Use Periods.

8.5 Lien. The other Owners shall have a lien against an Owner's undivided interest in the Unit and Common Furnishings for any assessment, interests or other charge imposed under this Agreement if not paid when due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 87.352 to 87.382 shall apply to such lien. The lien may be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Ch. 88, or in such other manner as may be provided at law or in equity. The other Owners may bid on the undivided interest at such foreclosure sale, and may acquire and hold, mortgage and convey such interest.

8.6 Violation of Restrictions. In the event any Owner violates any of the Use Restrictions contained in this Agreement or in the Rules adopted by the Owners and the Owner is unable, unwilling or refuses to comply with the Managing Agent's or other Owners' specific directives for remedy or abatement, then within 60 days of written notice

thereof to the Owner, the Managing Agent or other Owners may remedy the violation or bring suit or action against the offending Owner on behalf of the other Owners.

8.7 Notice to First Mortgagees. The Managing Agent shall notify any first mortgagee of any individual Owner's undivided interest in the Unit of any default in performance of this Agreement by an Owner which is not cured within 60 days, if the mortgagee has requested such notice.

8.8 Costs and Attorneys' Fees. In the event the Managing Agent shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice and a fee for preparing the notice of lien established from time to time by the Owners. In the event any suit or action is brought to enforce this Agreement, or to collect any money due hereunder or to foreclose a lien, the Owner defendant shall pay all costs and expenses incurred in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as a court may determine to be reasonable attorneys' fees at trial and on any appeal or petition for review thereof.

8.9 Nonexclusiveness and Accumulation of Remedies. An election by the Managing Agent or Owners to pursue any remedy provided for violation of this Agreement shall not prevent concurrent or subsequent exercise of another remedy permitted by this Agreement, at law or in equity. The remedies provided in this Agreement are nonexclusive, but shall be in addition to all of the remedies, including actions for damages and suits for use, injunctions and specific performance, available under applicable law to the Managing Agent or other Owners. In addition, any aggrieved Owner may bring an action against another Owner to recover damages or to enjoin, abate, or remedy any violation of this Agreement by appropriate legal proceedings.

9. DAMAGE OR DESTRUCTION.

9.1 Restoration of Damage. In the event of any damage or destruction to the Unit or the Common Furnishings, unless otherwise provided in this Agreement or the Declaration, the Managing Agent shall cause such damage to be repaired and shall so apply any available insurance proceeds. If the damage is not covered by insurance, or if the available insurance proceeds are insufficient to repair the damage, the Managing Agent shall repair the damage in accordance with the procedure set forth in Paragraph 6.2(a), except as otherwise provided in Paragraph 9.2 below.

9.2 Damage Caused by an Owner. In the event of any damage or destruction to the Unit or the Common Furnishings, however caused, during an Owner's Use Period, the cost of repair shall be paid by such Owner to the extent not covered by the Association's insurance proceeds or insurance proceeds from the policies described in Section 6.2(b) herein. In addition, if the damage prevents any of the other Owners from using the Unit during any of their scheduled Regular Use Periods, the Owner responsible for the damage

shall relinquish subsequent Regular Use Periods to the aggrieved Owners, so that the aggrieved Owners, in the sequence in which their missed Regular Use Periods arose, shall select subsequent Regular Use Periods of their choice, and one Regular Use Period at a time in rotation, from the subsequent scheduled Regular Use Periods of the Owner responsible for the damage, during the remainder of the current calendar year and the subsequent calendar year.

10. LIENS AND ENCUMBRANCES.

10.1 Financing of Individual Owner's Interest. An Owner may grant a mortgage in such Owner's undivided interest in the Unit and Common Furnishings. Such mortgage shall be subordinate to all of the provisions of this Agreement, and, in the event of foreclosure, the provisions of this Agreement shall be binding upon any Owner whose title is derived through foreclosure by power of sale, judicial foreclosure, deed in lieu of foreclosure or otherwise.

10.2 Restrictions on Liens and Encumbrances. Except as otherwise provided in this Agreement, no Owner shall:

(a) Subject the Unit or the Common Furnishings to any liens or encumbrances for any purpose, except as provided in this Agreement.

(b) Attempt to mortgage or otherwise encumber in any manner whatsoever the Unit or the Common Furnishings, or any part thereof, except as to individual interests therein and except as otherwise provided in Paragraph 5.2(b).

(c) Permit his interest in the Unit or Common Furnishings to be subject to any lien, claim or charge the enforcement of which may result in any interference with the use or enjoyment of the Unit or Common Furnishings by any other Owner.

(d) Fail to pay when due all real property taxes and assessments against the Owner's undivided interest in the Unit for which the Owner is to be individually billed. Each Owner is individually responsible for real property taxes assessed against his undivided interest in the Unit.

(e) Permit his interest in any funds from time to time in the possession of the Managing Agent to be subjected to any attachment, lien, claim, charge or other legal process.

11. RESTRICTIONS ON TRANSFER.

Each Owner agrees that he will not transfer or dispose of all or any portion of his interest in the Unit or Common Furnishings, except as provided in this Agreement, and that any such attempt shall be null and void and of no legal effect.

11.1 Maximum Number of Tenants in Common. Each Owner agrees that he will not transfer or dispose of his interest in the Unit or the Common Furnishings, or any part thereof, if such transfer or disposition creates an undivided ownership interest in the Unit or the Common Furnishings that is other than an undivided one-tenth (1/10th) interest or multiple thereof.

11.2 Successors in Interest. The provisions of this Agreement shall be binding upon all parties having or acquiring any right, title or interest in the Unit or any part thereof, and shall inure to the benefit of each Owner and his heirs, successors and assigns. Each Owner shall be fully discharged and relieved of liability on the covenants contained in this Agreement, insofar as the same relate to his interest, only upon ceasing to own any interest therein, upon such Owner's successor in interest expressly assuming and agreeing in writing to be bound by the terms of this Agreement, and upon paying all sums and performing all obligations under this Agreement in respect of his interest to the time his ownership interest terminated.

11.3 Sale of the Unit. If all of the Owners determine to sell the entire Unit, the entire interest of the Owners in the Unit and the Common Furnishings will be listed with a broker selected by a majority of Owners. If the Owners cannot agree on a sales price, then the Managing Agent shall retain an appraiser to furnish the current market value of the Unit, which shall then become the selling price. Upon sale of the Unit, all Owners shall execute such documentation as reasonably necessary to complete the sale, and the net proceeds of the sale shall be distributed to the Owners in accordance with their ownership interests.

11.4 Transfers by Developer. The Unit has been built by Seaview Associates ("Developer"). Accordingly, and notwithstanding any other provisions of this Agreement to the contrary, Developer may sell any portion or all of its interest in the Unit and Common Furnishings to one or more purchasers, without any restriction whatsoever and without compliance with Paragraph 11.2 above, so long as such sales do not result in the creation or retention of an interest in the Unit or Common Furnishings that is smaller than one-tenth (1/10th) interest. Upon becoming a party to this Agreement, Developer's purchasers shall have all of the duties and obligations of any other party to this Agreement, except as may have accrued during the period of Developer's ownership of the interest.

11.5 Partition. During the term of this Agreement, no Owner shall seek or obtain through any legal proceedings a judicial partition of the Unit or sale of the Unit in lieu of

partition. However, this provision shall not prevent two or more persons owning a single ownership interest as tenants in common, joint tenants, or tenants by the entirety from obtaining a judicial partition or sale of their ownership interest in lieu of partition as between themselves, provided the same is in full compliance with the provisions of this Section 11.

12. AMENDMENT AND TERMINATION.

12.1 Amendment. This Agreement may be amended only by a written agreement executed by seventy-five percent (75%) or more of all of the Unit Owners. Notwithstanding the foregoing, no amendment shall be binding without the prior written consent of any holder of a first mortgage on an interest in the Unit, if the holder has given notice to the Managing Agent of its agreement with the Owner that the lender shall have such right of prior approval of amendments. Any such amendment shall be consistent with the Declarations.

12.2 Termination. This Agreement shall terminate and be of no further force and effect upon the expiration of 99 years from the date hereof or upon the written agreement of all of the Owners, and the written consent of the holders of first mortgages as provided in Paragraph 12.1 above. Upon such termination, the Owners shall own the Unit and Common Furnishings as tenants in common, subject to all of the laws of the State of Oregon relating to tenants in common, including, without limitation, the right of partition.

13. MISCELLANEOUS PROVISIONS.

13.1 Intent of the Parties. It is the express intent of the parties to this Agreement that the Unit and Common Furnishings be held by them as tenants in common, and that nothing in this Agreement shall be construed so as to create a partnership.

13.2 Severability. If any provision of this Agreement shall be held invalid, it shall not affect the validity of the remainder of this Agreement.

13.3 No Waiver. Any failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision at any time thereafter.

13.4 Notices. Notices provided for in this Agreement shall be in writing, and shall be deemed sufficiently given when delivered personally, facsimiled with confirmation, when deposited in the United States Mail, via certified or registered mail, return receipt requested, or via overnight air courier, addressed to the Owner at the last address such Owner designates to the Managing Agent for delivery of notices or, in the event of no such designation, at such owner's last known address, or if there be none, to the address of the Unit, with postage prepaid.

13.5 Attorneys' Fees. In the event any suit or action is brought to interpret or enforce this Agreement, the prevailing party or parties shall be entitled to recover such sums as a court may adjudge reasonable as attorneys' fees at trial and on appeal or petition for review, in addition to all other sums provided by law.

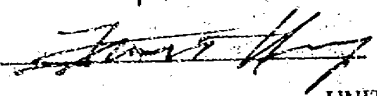
13.6 Interpretation. The headings at the beginning of each numbered section and paragraph of this Agreement are for convenience only, and the words contained therein shall not be considered to expand, modify or aid in the interpretation, construction or meaning of this Agreement. As used in this Agreement, the singular shall include the plural, and the masculine, feminine or neuter genders shall include the other genders.

13.7 Counterparts. This Agreement may be executed in several counterparts, all of which shall constitute one agreement.

13.8 Subordination. This Agreement is subordinate and subject to the provisions of the Declaration and all amendments thereto, the Bylaws and the Oregon Condominium Act; and in case of any conflict, the latter shall control. All terms herein (except where clearly repugnant to the context) shall have the same meaning as in the Declaration, Bylaws or the Oregon Condominium Act.

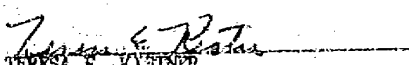
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

SEAVIEW ASSOCIATES

By: 

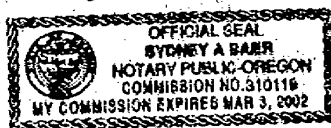
UNIT OWNERS:


RICHARD H. KISTNER


TERESA E. KISTNER

STATE OF OREGON, County of Multnomah : ss.

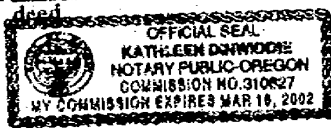
On this 23 day of April, ¹⁹⁹⁸~~1997~~, personally appeared the above-named Frank T. Dunn, Jr., General Partner of SEAVIEW ASSOCIATES, and acknowledged the foregoing instrument to be his voluntary act and deed.



Sydney A. Baer
Notary Public for Oregon
My Commission Expires: March 3, 2002

STATE OF OREGON, County of Columbia : ss.

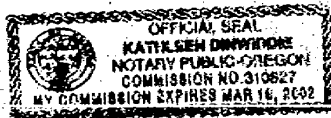
On this 27th day of April, 1998, personally appeared the above-named Richard H. Kistner and acknowledged the foregoing instrument to be his voluntary act and deed.



Kathleen Dunwoode
Notary Public for Oregon
My Commission Expires: 3-16-2002

STATE OF OREGON, County of Columbia : ss.

On this 27th day of April, 1998, personally appeared the above-named Teresa E. Kistner, and acknowledged the foregoing instrument to be her voluntary act and deed.



Kathleen Dunwoode
Notary Public for Oregon
My Commission Expires: 3-16-2002

ADDENDUM "A"
TO FRACTIONAL INTEREST AGREEMENT

The parties to this Agreement own a Unit within Seaview Condominiums.
The Owners of all Units designate them as non-smoking units and agree to the following:

1. The non-smoking designation may not be changed by a vote of the Owners.
2. All Owners and their guests are required to respect the smoking ban and may be charged an additional fee for cleaning when such a smoking ban has been violated.
3. All Owners agree to designate the Unit as a non-smoking unit when renting it either personally, or through the Managing Agent.
4. All Owners understand that a condominium exchange company may not have a non-smoking designation. The Owners agree to request that any exchange visitor comply with their wishes to not allow smoking in the Unit, but understand that exchange company and the Managing Agent will be held harmless if smoking does occur during an exchange.

EXHIBIT A
TO THE FRACTIONAL INTEREST AGREEMENT

FURNITURE PACKAGE

EXHIBIT B
USE ALLOCATION SCHEDULE

98368653

I hereby certify that the within instrument was
received for record and recorded in the
County of Tillamook, State of Oregon.

APR. 30 11 21 AM '98

BOOK 393 PAGE 984

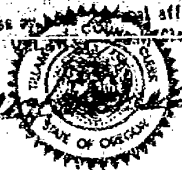
Witness of the Court, official.

JOSEPHINE

ADR

ADMIN

PLCP



DEPUTY
108.00
1.00
9.00