



## **BINGEN POINT MASTER PLAN**

### **CONDITIONS, COVENANTS AND RESTRICTIONS**

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## **OBJECTIVES**

These Conditions, Covenants and Restrictions have been prepared for the purpose of guiding development at Bingen Point Business Park. The implementation of these standards is intended to promote compatibility, continuity of design and help facilitate orderly development.

These CC&Rs shall run with the land and bind all future landowners and their successors, assigns, lessees and sub-lessees. The development of all sites at Bingen Point Business Park shall conform to the standards of Klickitat County Port District #1, consistent with regulations and ordinances of other governing bodies granted jurisdiction at Bingen Point.

The Port considers these standards to be minimum, assuming firms and individuals locating at Bingen Point Business Park will wish to do the finest possible job in their own self-interest.

## **PART I**

### **PLAN REVIEW**

#### **A. POLICY**

The Klickitat County Port District #1 will review all plans submitted in order to insure conformance with the Port's Standards for Development. The Port will accept, conditionally accept or reject the proposed plans based upon its review of the intent of the standards, the available facts regarding the particular project and the best interest of all concerned property owners. The review process will consider the unique aspects of each of the tenant's requirements and allow flexibility within the intent of the document.

As outlined in this section, the Port will review both the preliminary and final plans. The review of plans will consider two distinct areas:

1. A review of conformance to the sections of the standards that outline detailed requirements such as setbacks, height restrictions and other specific requirements.
2. A review of subjective design elements such as buildings, site layout and landscaping to insure compliance with the intent of the Port to provide a quality development in a "Harbor Town" theme as described in Section II of this document. Design will be reviewed with respect to compatibility with the surrounding development, use of indigenous materials and functional efficiency.

#### **B. PORT CONTACT**

All plans and correspondence concerning submission plans for original construction, as well as additions or remodeling, shall be made to The Klickitat County Port District #1 Executive Director. The following sections outline the review process and identify those materials that are to be submitted to the Port for approval.

#### **C. REVIEW PROCESS**

The Port review process involves three (3) steps:

1. Pre-Submission Conference: Project Preliminary Site Plan is submitted to the Executive Director with a general review of Project detail and a determination of additional information or graphics is necessary before scheduling the Preliminary Site Plan Review before the Port District's Site Plan Review Team.
2. Preliminary Site Plan Review: The Executive Director schedules a formal Preliminary Site Plan Review before the Site Plan Review Team. Careful evaluation is made of the Preliminary Site Plan and commentary/recommendations for revision, additions, deletions, and for approval or denial of the Project Site

Plan. The Plan must conform with the Port's adopted Binding Site Plan for Bingen Point. It is generally good to have the project developer or his representatives at the Preliminary Site Plan Review.

3. Final Site Plan Review & Approval: The Executive Director presents the Preliminary Site Plan (as may be adjusted or revised) to the Commission of the Klickitat County Port District No. 1. The Commission may make recommendations of revision to the Project Site Plan, approve the Site Plan as submitted or revised, or deny the Site Plan.

After the Port approves and stamps the final plans, the Port will notify the applicant. **The applicant may then proceed to apply for permits such as planning (zoning), building, construction and utility permits from the proper local, state or federal jurisdiction.**

#### **D. MATERIALS FOR SUBMISSION**

1. Preliminary Plans (3 copies of each of the following except one material board)
  - a. Detailed site plan. (minimum scale of 1 inch equals 20 feet; (minimum print size 11 inches by 17 inches) showing:

The site plan shall clearly indicate the location, size, and dimensions of all proposed uses of the subject site, including buildings, paving, landscaping and other surface features. The drawing shall be based on an existing conditions boundary/topographic survey in keeping with the Port's Binding Site Plan and shall be drawn to industry design standards.

- b. Utility Plan  
The utility plan shall indicate all existing and proposed utilities including storm and sanitary sewer, domestic water, electricity/communications and any other utilities required by the development. Plans shall indicate elevation grades consistent with standard engineering design.
  - c. Landscape Plan  
The landscape plan shall indicate size, specie and spacing of all plant materials.
  - d. Basic floor plans and elevations.
  - e. Color and material board for exterior materials.

2. (3 copies of the following)

The final plan submittal shall include the final version of the preliminary documents, with revisions required as a result of the Port's initial review, plus

details for signage and landscape irrigation, and a construction schedule. **It is intended that this document package is the same as that which will be submitted for building permits to the appropriate jurisdiction.**

## **E. CONSTRUCTION REQUIREMENTS**

### **1. Underground Utilities**

As-built drawings of the underground utilities within any required utility easement area shall be furnished to the Port.

### **2. Inspection of Facilities**

The Klickitat County Port District #1 or its agent will conduct inspections of the site during and after the construction period to determine conformance with the approved final plans. Changes made after the Port's Notice To Proceed is issued that affect the previously approved plans shall be submitted to the Port for approval.

### **3. Future Remodeling & Additions**

Plans shall be submitted to the Port for approval prior to remodeling or alterations to approved development. The review of such plans shall be accomplished in the same manner as new development.

**Additional inspections and plan reviews related to permits from proper local, state or federal jurisdictions might also be required.**

## **PART II**

### **DEVELOPMENT STANDARDS**

#### **A. LAND USE AND ZONING**

The Bingen Point Business Park is under the jurisdiction of Klickitat County. While the applicable zoning is “General Industrial,” Section 2.14:10 of the Zoning Code provides that the Port District may establish its own set of land uses which may be allowed on land under its jurisdiction.

Property no longer under the Port District’s ownership shall be reviewed under Klickitat County’s jurisdiction in conjunction with these Conditions, Covenants & Restrictions; the more restrictive may apply.

While the Port is primarily charged with economic development and job creation, Bingen Point has been identified as a site that can provide extensive public access and amenities in an attractive, mixed-use, business environment.

It is the intent of the Port of Klickitat that the Bingen Point Business Park will be developed with a mix of light industrial and commercial activities. Examples of suitable uses include the manufacture or assembly of light products, wholesale/distribution business, and office/retail. Heavy industrial uses that require substantial truck traffic and have the potential to create significant noise, light, or emissions are not suitable. Limited amounts of residential development may be acceptable based on the Port’s satisfaction that future land use conflicts will be avoided.

Any residential uses that may be approved at Bingen Point shall require all owners and tenants to sign an INDUSTRIAL AND BUSINESS ZONE MANAGEMENT EASEMENT to ensure continuing compatibility with neighboring primary uses.

The Port does not desire to list specific compatible or non-compatible uses, but will rather evaluate specific proposals based on the above general guidelines.

#### **B. SITE DESIGN STANDARDS**

1. Building Setbacks:
  - a. Front yard including all street frontages: 25 ft. minimum
  - b. Side yard: 10 ft. minimum
  - c. Rear yard: 5 ft. minimum; except 20 ft. minimum adjacent to the Columbia River and Bingen Lake, or as required by the Klickitat County Shoreline Master Plan, whichever is greater.
2. Parking Setbacks:
  - a. Front yard including all street frontages: 10 ft. minimum

- b. Side yard: 5 ft. minimum
  - c. Rear yard: 5 ft. minimum
  - d. Joint access: Approval by the Port of a joint property access includes deviation from the required parking setbacks based on the specific site design.
3. Parking Area Layout:
- a. Minimum stall size: 9 ft. X 20 ft.; a 2' landscape or sidewalk overhang is permissible; handicapped per Uniform Building Code.
  - b. Interior landscape islands: parking spaces shall be grouped in sections containing not more than 20 spaces, defined by landscape islands at least 5 feet in width. At least 3% of the interior area shall be landscaped (does not include required perimeter landscaping).
  - c. Aisle width: 24 ft. minimum for two-way/90 degree parking areas. Angle parking and/or one-way aisles will be considered on a case by case basis, if the Port finds that 90-degree parking is not appropriate for the specific site design in question.
  - d. Pedestrian connections consistent with the Pedestrian Master Plan Loop are encouraged.
4. Parking Area Surfacing:  
Parking and driveways shall be concrete or asphaltic paving, designed to accommodate the anticipated vehicle loading.
5. Off Street Parking Minimum Quantities:  
Industrial.....1 spaces per 1000 gross square feet of building  
Office.....2.5 spaces per 1000 gross square feet of building  
Residential...2 spaces per unit  
The minimum number of spaces is calculated by applying the above ratios to the area devoted to each use within a building. The quantity of handicapped spaces is based on Uniform Building Code. No on-street parking is allowed within Bingen Point Business Park.
6. Access:
- a. Number of access points: maximum of 2 per lot for lots with less than 500 feet of street frontage; for lots with over 500 feet of frontage the Port will evaluate proposed access on a case by case basis.
  - b. Access width: 15 ft. minimum for one-way access; 24 feet for two-way access. Maximum width: 38 ft.
  - c. Location: access point spacing shall be 100 ft. minimum, measured between centerlines or from centerline to right-of-way point of tangent for corner lots.
7. Landscaping and Screening:
- a. All required setbacks and additional setback area that may be



included shall be landscaped. Areas designated for future development shall be provided with temporary ground treatment (gross or alternate subject to Port approval).

- b. Landscape plans shall provide at least 30% coverage of the landscaped area in perennial living plant materials such as ground covers, shrubs, hedges, trees and turf. Decorative rocks and annual plants may be added in addition. A mixture of deciduous and evergreen plant materials is encouraged. There shall be a minimum of five trees per acre on each lot. Vegetative ground cover or turf shall be provided in proximity to each tree. The use of berms, varying ground covers and lawn is encouraged wherever practical. The plant materials list in “Part 1 – Roadway Landscaping” of The Bingen Point Landscape Master Plan identifies the material likely to survive in the local climatic conditions and categorizes the size and habit of the plants.
- c. Plant materials shall be sized and installed to normal industry standards.
- d. Permanent underground irrigation shall be provided.

**8. Outside Storage**

- a. Outside storage areas shall be screened from view from public streets either by placement on the site or by sight obscuring fencing and/or vegetation.

**9. Utilities**

- a. Utilities shall be placed underground, except for equipment such as meters or transformers, which must be screened from view from the public right-of-way.

## **C. BUILDING DESIGN STANDARDS**

**1. Design Concept:**

It is the intent of the Port District that buildings in the Bingen Point Business Park all share a common theme related to the “Harbor Theme” concept. In general, this will be represented by designs that reflect the port-based enterprises in the area, and indicate a relationship to the river as well as the Gorge design cues. Each design approved by the Port will add definition to this overall theme, which should be built upon by future proposals.

**2. Materials:**

Exterior materials should respond to the nature of the area, and may include concrete, concrete block, stone, wood or brick. Steel panels may be opposed depending on the finish color and relationship to the building design. Sufficient glass should be included to clearly present a building “front” commensurate with the business park atmosphere.

3. Colors:  
Colors shall be selected to be complementary with the materials and the surroundings. Non-glare finishes, particularly on roofs, are required.
4. Height:  
The maximum building height measured from finished grade to top of parapet or peak is 50 feet. Mechanical units may exceed this height if screened to the satisfaction of the Port. In all uses, mechanical units on rooftops must be screened.
5. Coverage:  
The maximum building coverage, based on gross floor area divided by lot area, is 60%.
6. Temporary buildings:  
Temporary buildings (modular units, trailers, etc. that are not placed on a permanent foundation and subject to a building permit) are prohibited except for during initial construction of the permanent building.

#### **D. SIGNS (Other than Port signs)**

1. Freestanding signs:  
Maximum of one per lot, indicating only the name and address of the on-site tenant(s); maximum height 4 ft.; maximum area 16 sf.; flashing and rotating elements are prohibited.
2. Wall signs:  
Maximum of one each on two building walls per lot; maximum size of each 50 sf. or 3% of the wall surface on which it is located, whichever is less. Wall signs must be painted on or not over 4 inches from wall surface.
3. Directional signs:  
Maximum area 4 sf. recommended; quantity and location at Port discretion.
4. Temporary signs:  
Maximum of one temporary real estate sign per street frontage; maximum area 16 sf. per side (two sides per sign).
5. Multiple tenant signage:  
In multi-tenant buildings one additional wall sign per tenant noting only the tenant name may be provided; maximum area 12 sf.
6. Sign location:  
No sign may protrude above the highest point of the building on which it is located. Freestanding signs shall be located to preserve adequate vehicular sight distance.

## **E. AREA LIGHTING**

The objective of lighting is to illuminate landscaped areas, signs, buildings, parking areas, storage areas and operation areas for decorative or security reasons. The light must not dominate the buildings or landscape, but blend as an integral part of the total development. All lighting shall be shielded from properties and higher elevation properties. All utility service for lighting shall be underground. The minimum illumination levels shall be:

Parking areas	1.0 foot-candle
Vehicle exits/entrances	2.0 foot-candle
Walkways	1.0 foot-candle
Storage areas	0.5 foot-candle

Light fixtures shall be of a design consistent with the building design concepts described above, and shall be specified in the materials presented for Port approval.

## **PART III**

### **PERFORMANCE STANDARDS**

#### **A. GENERAL STANDARDS**

The Port recognizes that various local, state, regional and federal agencies have jurisdiction over such performance items as air and water quality, noise and odors. It is the intent of the Port that all owners and tenants in Bingen Point Business Park recognize and comply with such regulations, as well as limited additional standards listed below.

#### **B. ADDITIONAL STANDARDS**

1. Each buyer or tenant in Bingen Point Business Park must disclose to the Port information relative to potential impacts as a result of their business, which may effect air/water quality, noise, odor, vibration or light/glare. This disclosure shall accompany a site plan review application, if applicable, or prior to commencement of business operations. The Port shall reserve the right to require mitigation measures it may find necessary to preserve the quality of the environment for existing or potential buyers and tenants.
2. No open burning is allowed.
3. Noise created on a lot shall not exceed a continuous level of 80 dBh at the property line of the lot. Any exceptions must be addressed through the process outlined in section IX Variances.
4. Storage of waste materials shall be maintained to prevent propagation of insects and rodents.

## **PART IV**

### **MAINTENANCE STANDARDS**

These maintenance standards outline the required level of upkeep and repair for structures and site improvements, all of which are the responsibility of the landowner or tenant.

#### **A. BUILDINGS/FENCING/SCREENING**

Exterior walls shall be maintained to keep them from becoming cracked, chipped, faded or deteriorated. Materials stained or otherwise treated to age naturally shall be allowed to do so. Broken windows, doors, or other exterior members of structures shall be replaced promptly. Vacant structures shall be maintained in the same manner as those that are occupied. Fencing and other architectural screens with damaged, broken or rotten members shall be repaired or replaced.

#### **B. LANDSCAPED AREAS**

Landscaped areas shall be maintained in a healthy, disease-free condition. Water and fertilizer shall be applied as necessary to maintain normal color and rate of growth. Old flowers, seed pods, dead foliage and leaves shall not be allowed to accumulate, and all areas shall be kept free of weeds and litter.

All landscape features such as pools, fountains, flagpoles and sculpture shall be maintained to preserve function and aesthetic appearance.

#### **C. PAVED SURFACES**

Paved areas such as truck , parking, driveways and sidewalks shall not be allowed to be broken, cracked, settled or are otherwise in need of repair. Dirt and litter shall not be allowed to accumulate, and plant materials that grow through joints shall be removed. Areas covered with gravel, bark dust, or wood chips shall be kept free of weeds and litter. All markings painted on paved surfaces shall be maintained so as to be clearly visible.

#### **D. SIGNS**

Signs shall not be allowed to become faded or deteriorated. Lighting for signs, whether internal or external, shall be maintained in an operable condition. Signs that are no longer appropriate, due to a change of service, product line or tenant shall be removed expeditiously.

#### **E. LIGHTING**

All exterior lightings shall be maintained in an operable condition.

## **PART V**

### **FUTURE PLANNING**

Upon request by The Klickitat County Port District #1 Commission, any real property owner within Bingen Point Business Park and subject to these Conditions, Covenants and Restrictions shall sign such applications, forms, plans, maps, plats, plat-maps or like documents as are reasonably necessary to plat or replat the property and change the existing partition and/or subdivision records of Klickitat County, as the case may be, for the purpose of designating or redesignating, numbering or renumbering, the owner's property on said maps or plats for the convenience of and in the further promotion of development and enhancement of Bingen Point Business Park.

**PART VI**  
**COMMON LANDSCAPE AREA MAINTENANCE**  
**RESPONSIBILITIES**

**A. APPLICABLE PLANS**

The Klickitat County Port District #1 has adopted a Master Plan for Bingen Point Business Park entitled: "Bingen Point Master Plan", which is modified from time to time. A "Landscape Master Plan" has also been adopted by The Klickitat County Port District #1 and will likewise be modified from time to time. These plans, wherever possible, are to be construed as consistent documents and complimentary to one another. Wherever specific language of these plans is ambiguous and is capable of being interpreted in different ways, the construction deemed intended by The Klickitat County Port District #1 will be that one which most clearly reconciles the two plans.

Collectively, these plans provide for a right-of-way and Landscape Maintenance Area throughout Bingen Point Business Park, which serves the various properties within Bingen Point Business Park. The plans provide for areas to be retained in Port ownership, and in addition there is a Landscape Easement granted to the Port for each property abutting street frontages which may extend up to 10 feet onto the adjacent property. The purpose of this easement is to identify as a high priority, property that shall be maintained to preserve the aesthetic appearance and value of the property within Bingen Point Business Park.

**B. DEVELOPMENT REQUIREMENTS**

All portions of the right-of-ways and Landscape Maintenance Area within Bingen Point Business Park shall be developed and maintained in accordance with the plans and definitions adopted by the Port referenced in paragraph A above. The Port will be responsible for initial development of areas to be retained in Port ownership. Within the Landscape Easement area, the Port may develop landscaping or other features, or may delegate this responsibility to the property buyer/developer.

**C. MAINTENANCE EASEMENT**

The Port will provide for on-going maintenance of the areas in long term Port ownership, and will assess the owners of individual lots within Bingen Point Business Park individual shares of this cost based on multiplying the total cost of maintenance by each owner's percentage of total land in development parcels (i.e., a "pro rata" share of cost). As long as the Port owns parcels that are, or may be developed, the Port will assume a pro rata share of the cost. The cost will be billed to owners in a manner determined by the Port Executive Director.

Within the Landscape Easement areas, the Port may delegate maintenance to the underlying property owner, or the Port may assume maintenance responsibility and bill the cost directly to the underlying property owner.

The Port may assign these responsibilities to an Owner's Association, if such an organization is established in the future.



## **PART VII**

### **COVENANTS RUN WITH THE LAND**

The Klickitat County Port District #1 and the tenants agree and declare that these Conditions, Covenants and Restrictions run with all the land held, sold, or conveyed by The Klickitat County Port District #1 and/or the tenants within the boundaries of Bingen Point Business Park as evidenced in the "Bingen Point Master Plan" and that said Conditions, Covenants and Restrictions are binding on and inure to the benefit of all parties having or acquiring any right, title or interest in any of the property within Bingen Point Business Park, and all heirs, successors and assigns of such parties.

It is more specifically agreed that the real property more particularly described in "EXHIBIT A" attached to these Conditions, Covenants and Restrictions and made a part hereof and incorporated herein by reference is subject to these Conditions, Covenants and Restriction which run with said real property and are binding on and inure to the benefit of all parties having or acquiring any right, title or interest in said property along with all heirs, successors and assigns of such parties.

## **PART VIII**

### **INTERPRETATION AND ENFORCEMENT**

#### **A. INTERPRETATION**

When interpreting and applying the provisions of these Conditions, Covenants and Restrictions, they shall be held to be the minimum requirements adopted for the promotion and enhancement of Bingen Point Business Park. They are not intended to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance, or with any other restrictions affecting the land. It is not intended by these Conditions, Covenants and Restrictions to interfere with or abrogate or annul any easement, covenant, or other agreement between parties. However, in cases in which these Conditions, Covenants and Restrictions impose greater restrictions upon the erection, construction, establishment, moving, alteration or enlargement of buildings, or the use of any building or premises that is imposed by other authorities or provisions of law or ordinance, then in such case the provisions of these Conditions, Covenants and Restrictions shall control.

#### **B. ENFORCEMENT**

##### **1. Liquidated Damages**

Any person, firm, or corporation found to be in violation of any of the provisions of these Conditions, Covenants and Restrictions by a court of competent jurisdiction shall be subject to paying liquidated damages to The Klickitat County Port District #1.

##### **2. Public Nuisance**

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of these Conditions, Covenants and Restrictions, and any use of any land, building or premises established, conducted, operated or maintained contrary to the provisions of these Conditions, Covenants and Restrictions, and any construction, use, maintenance or repair required of tenants in right-of-ways and within the Landscape Maintenance Area contrary to the provisions of these Conditions, Covenants and Restrictions shall be, and the same is hereby declared to be unlawful and a public nuisance subject to proceedings for the abatement, removal and enjoinder thereof in the manner prescribed by law.

##### **3. Assessments and Liens**

###### **a. Assessments by Port**

The tenants agree to pay assessments made by the Port against the property of the tenants to pay for landscaping, improvements, construction or maintenance and repair as set out in Part VI above and such reasonable

administration expenses incurred by the Port in carrying on such work. The tenants agree to pay assessments made by the Port against the property of the tenants to pay for repair and other services provided by The Klickitat County Port District #1 within Bingen Point Business Park as set out in Part VII above and such reasonable administration expenses incurred by the Port in carrying on such work. When in the opinion of a majority of the members of the Port Commission, on account of unusual, mitigating, or particularly compelling circumstances, the Port may contribute what it deems a fair proportion of the cost of such improvement or service from its funds, and the amount to be assessed to the property benefited shall be proportionately reduced.

#### **b. Appeals**

Any person, firm, or corporation feeling aggrieved by assessments made as herein provided may, within fifteen (15) days of the date of the assessment, file an appeal notice for a reassessment or such other relief to the Commission of The Klickitat County Port District #1. The Port Commission will resolve the appeal at its next then scheduled regular meeting by a majority vote of those members present. The result of such appeal shall be a final and conclusive determination of the matter of such assessment and binding upon the tenant and his property.

#### **c. Enforcement by Lien**

If any tenant of any property within Bingen Point Business Park fails or refuses to pay any assessment within thirty (30) days after receipt of the initial billing by the Port, or within ten (10) days following the Port Commission's ruling on appeal as set out above, whichever last occurs, the same shall be deemed delinquent, and the amount thereof shall bear interest thereafter at the highest rate allowed by law until paid. In addition, the Klickitat County Port District #1 or person curing the default shall have the right, at any time thereafter, to place a lien on the delinquent tenant's property for the unpaid principal balance of said delinquent amount plus interest provided The Klickitat County Port District #1 or person curing the default, as the case may be, first provides written notice to the delinquent tenant of its intent to file a lien and all unpaid amounts plus interest are not paid in full within fifteen (15) days after receipt of said notice, and further provided, that if there is a bona fide dispute as to the existence of such default or of the amount due and all undisputed amounts are paid, there shall be no right to place a lien on such tenant's property until such dispute is settled by final court decree or mutual agreement.

Any and all delinquent amounts with said interest shall be a lien and charge upon the property of such tenant subject and junior, however, to the lien or charge of any bona fide first mortgage or first deed of trust upon the same or

any part thereof at any time given or made. The lien provided for herein shall only be effective upon compliance with the procedures herein above set forth and when filed for record by The Klickitat County Port District #1 or person curing the default as a claim of lien against the delinquent tenant in the office of the county clerk of Klickitat County, Washington, signed and verified, which lien shall contain:

- (i) A statement of the unpaid amount of said costs and expenses;
- (ii) A description sufficient for identification of that portion of the property of the delinquent tenant which is the subject of the lien;
- (iii) The name of the tenant or reputed tenant of the property which is the subject of the alleged lien; and
- (iv) A copy of the written notice of intent of file a lien sent to the delinquent tenant as provided above.

The lien established hereunder shall be for the use and benefit of The Klickitat County Port District #1 or the person curing the default of the delinquent tenant and may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction. The prevailing party in such foreclosure or other enforcement action and/or and any appeal therefrom shall be entitled to recover their reasonable attorney's and costs.

#### **d. Enforcement of Covenants**

If any tenant of any property within Bingen Point Business Park fails to perform its obligations under these Conditions, Covenants and Restrictions which default continues for a period of fifteen (15) days following receipt of written notice of the particulars of such default, The Klickitat County Port District #1 or any other tenant may institute legal action against the defaulting tenant for specific performance, declaratory relief, damages, or other suitable legal or equitable remedy, or may perform the obligations of the defaulting tenant and the defaulting tenant shall reimburse the person performing such work for all costs incurred with respect thereto together with interest at the rate of the highest rate allowed by law until paid. In addition, The Klickitat County Port District #1 or person curing the default shall have the right, at any time thereafter, to place a lien on the defaulting tenant's property for the unpaid principal balance of said costs plus interest by following the procedures for establishing and enforcing a lien in subsection 3.c. above. The lien provided for therein shall only be effective upon compliance with the procedures set forth in subsection 3.c. and shall be a lien and charge upon the property of such tenant subject and junior, however, to the lien or charge of any bona fide first mortgage or first deed of trust upon the same or any part thereof any time given or made.

**e. Notice**

Any requirement in these Conditions, Covenants and Restrictions for giving written notice shall be satisfied as of the time written notice is hand delivered or deposited in the U. S. Mail correctly addressed, postage prepaid, and return receipt requested.

**f. Severability**

Invalidation of any provision of these Covenant, Conditions and Restrictions by any court or other order shall in no way affect or invalidate any other provisions, which shall remain in full force and effect and specifically, the remedies for enforcement provided for herein shall be cumulative and not exclusive.

## **PART IX**

### **VARIANCES**

The Port recognizes that situations arise which may warrant exception to the standards as published herein. A written request shall be submitted to the Port stating the variance requested and the applicable section of the standards. The Port will evaluate the merits of each request and will notify the tenant of the decision regarding the request within sixty days of receipt of said request.

The variance process shall follow the same procedures as outlined in Section I above relative to Plan Review. The Port may assess a fee to review a variance request at its own discretion, which shall be based upon the actual cost to the Port to process and evaluate the request.

## **PART X**

### **SUNSET CLAUSE**

#### **DURATION, EXTENSION, TERMINATION AND MODIFICATION**

Duration. Each and all of the restrictions, conditions and covenants contained in this instrument shall terminate and be of no further effect, whether legal or equitable, and shall not be enforceable on or after 25 years from the date hereof, unless otherwise specifically provided.

Extension. The restrictions, conditions and covenants contained in this instrument may be extended beyond the period stated for their duration, as to the whole of said property or any portion thereof, for a new period not exceeding 25 years, by an instrument executed by the then owners of 65% of the property described on the attached Exhibit "A", based on the number of square feet owned compared to the total number of square feet so specified; provided, however that this provision shall have no application so long as The Klickitat County Port District #1 shall be the owner of 20% of the property within Bingen Point Business Park. No extension shall be effective until a written instrument has been executed, acknowledged and recorded in the Records of Klickitat County, Washington.

Termination or Modification. The restrictions, conditions and covenants contained in this instrument may be terminated or amended as to the whole of said property or any portion thereof by an instrument executed by the then owners of 65% of the property described on the attached Exhibit "A", based on the number of square feet owned compared to the total number of square feet so specified; provided, however that this provision shall have no application so long as The Klickitat County Port District #1 shall be the owner of 20% of the property within Bingen Point Business Park. No termination or amendment shall be effective until a written instrument has been executed, acknowledged and recorded in the Records of Klickitat County, Washington.

# ***EXHIBIT A***