



336 33T 173949-09
AFTER RECORDING, RETURN TO:

Howard M. Feuerstein, Esq.
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

FREMONT PLACE

(Plat of Northwest Crossing, Live/Work Townhomes)

RENAISSANCE AT NW CROSSING, LLC
Declarant

RECORDED BY FIRST AMERICAN TITLE
INSURANCE COMPANY OF OREGON AS AN
ACCOMMODATION ONLY. NO LIABILITY IS
ACCEPTED FOR THE CONDITION OF TITLE
OR FOR THE VALIDITY, SUFFICIENCY, OR
EFFECT OF THIS DOCUMENT.

11/20/06

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS.....	1
1.1 “Assessments”.....	1
1.2 “Association”	1
1.3 “Board of Directors” or “the Board”	2
1.4 “Bylaws”	2
1.5 “Common Easement Areas”	2
1.6 “Common Maintenance Areas”	2
1.7 “Declarant”	2
1.8 “Fremont Place”	2
1.9 “Lot”	2
1.10 “Master Declaration”	2
1.11 “Mortgage”	2
1.12 “Occupant”	2
1.13 “Owner”	2
1.14 “Rules and Regulations”	3
1.15 “Sold”	3
1.16 “The Property”	3
1.17 “This Declaration”	3
1.18 “Turnover Meeting”	3
1.19 “Unit”	3
ARTICLE 2 PROPERTY SUBJECT TO THESE COVENANTS	3
2.1 Description.....	3
2.2 Improvements.	3
2.3 Withdrawal of Property.....	3
ARTICLE 3 PROPERTY RIGHTS IN COMMON EASEMENT AREAS.....	4
3.1 Common Easement Areas.....	4
3.2 Title to the Common Easement Areas.	4
3.3 Extent of Owners’ Rights.....	4
(a) Easements.	4
(b) Use of the Common Easement Areas.	4
3.4 Delegation of Use.	5
3.5 Easements Reserved by Declarant.	5
3.6 Reciprocal Easements and Maintenance for Utility Lines.....	5
ARTICLE 4 PROPERTY RIGHTS IN LOTS	5
4.1 Use and Occupancy.....	5
4.2 Easements Reserved.....	6
(a) Right of Entry.	6

	(b) Encroachments.....	6
	(c) Utilities.....	6
	(d) Rain Drains and Storm Sewers.	6
4.3	Party Walls.....	6
	(a) General Rules of Law to Apply.	6
	(b) Repair and Maintenance; Speakers and Audio Equipment.....	6
	(c) Destruction by Fire or Other Casualty.....	6
	(d) Weatherproofing.	6
	(e) Arbitration.....	7
ARTICLE 5	RESTRICTIONS ON USE	7
5.1	Primary Use.	7
5.2	Prohibited Business Uses.....	7
5.3	Offensive or Unlawful Activities.....	7
5.4	Trailers, Campers, Boats, Etc.	7
5.5	Vehicles in Disrepair.....	8
5.6	Signs.....	8
5.7	Animals.	8
5.8	Appearance.	8
5.9	Recreational Equipment.....	9
5.10	Antennas and Service Facilities.....	9
5.11	Exterior Lighting or Noisemaking Devices.	9
5.12	Windows, Decks, Porches and Outside Walls.....	9
5.13	Alterations.....	9
5.14	Insurance.....	10
5.15	Leasing and Rental of Units.....	10
5.16	Garages.	10
5.17	Landscape.	10
5.18	Rain Drains and Sewers.....	10
5.19	Master Declaration.....	10
5.20	Rules and Regulations.....	10
ARTICLE 6	ASSOCIATION	11
6.1	Organization.....	11
6.2	Membership.	11
6.3	Voting Rights.	11
6.4	General Powers and Obligations.....	12
6.5	Specific Powers and Duties.	12
	(a) Maintenance and Services.....	12
	(b) Insurance.	12
	(c) Rulemaking.	12
	(e) Enforcement.	12
	(f) Employment of Agents, Advisers and Contractors.	13
	(g) Borrow Money, Hold Title and Make Conveyances.	13
	(h) Create Classes of Service and Make Appropriate Charges.	13

	(i)	Implied Rights and Obligations.	13
	(j)	Master Association Assessments.	13
6.6		Liability.....	13
6.7		Interim Board; Turnover Meeting.....	14
6.8		Contracts Entered into by Declarant or Prior to Turnover Meeting.	14
6.9		Bylaws.....	14
6.10		Master Association.	14
ARTICLE 7		MAINTENANCE, SERVICES, CONDEMNATION, DAMAGE	14
7.1		Exterior Maintenance.....	14
7.2		Maintenance and Lighting of Common Maintenance Areas and Streetscape.	15
7.3		Maintenance of Utilities.....	15
7.4		Maintenance Plan and Inspections.	15
7.5		Utilities and Services.	15
7.6		Security.	16
7.7		Access at Reasonable Hours.	16
7.8		Damage or Destruction by Casualty.	16
7.9		Owner's Maintenance Responsibilities.....	17
7.10		Option to Provide Maintenance Services through Association.	17
ARTICLE 8		ASSESSMENTS.....	18
8.1		Purpose of Assessments.....	18
8.2		Types of Assessments.	18
8.3		Commencement and Apportionment of Assessments.	18
	(a)	When Subject to Assessment.	18
	(b)	Apportionment.	18
8.4		Annual Assessments.	18
8.5		Special Assessments.	19
8.6		Emergency Assessments.	19
8.7		Individual Assessments.....	19
8.8		Working Fund Assessments.....	20
8.9		Operations Fund.	20
8.10		Reserve Fund.	20
	(a)	Establishment of Account.....	20
	(b)	Funding of Reserve Fund.....	21
	(c)	Reserve Studies.....	21
	(d)	Use of Reserve Fund.....	21
8.11		Creation of Lien and Personal Obligation of Assessments.....	22
8.12		Voluntary Conveyance.	22
ARTICLE 9		ENFORCEMENT	22
9.1		Violation of Protective Covenants.	22
9.2		Default in Payment of Assessments; Enforcement of Lien.	23

9.3	Notification of First Mortgagee.	23
9.4	Subordination of Lien to Mortgages.	23
9.5	Interest, Late Charges and Expenses.	24
9.6	Costs and Attorneys' Fees.	24
9.7	Assignment of Rents.	24
9.8	Nonexclusiveness and Accumulation of Remedies.	25
9.9	Enforcement by City of Bend.	25
ARTICLE 10	DISPUTE RESOLUTION	25
10.1	Mediation.	25
10.2	Arbitration.	26
10.3	Selection of Arbitrator.	26
10.4	Consolidated Arbitration.	26
10.5	Discovery.	26
10.6	Evidence.	27
10.7	Excluded Matters.	27
10.8	Costs and Attorneys' Fees.	27
10.9	Survival.	27
ARTICLE 11	MORTGAGEES	28
11.1	Reimbursement of First Mortgagees.	28
11.2	Right of First Mortgagees Relating to Maintenance.	28
ARTICLE 12	AMENDMENT AND REPEAL	28
12.1	How Proposed.	28
12.2	Approval Required.	28
12.3	Recordation.	29
12.4	Regulatory Amendments.	29
ARTICLE 13	MISCELLANEOUS PROVISIONS	29
13.1	Lessees and Other Invitees.	29
13.2	Enforcement.	29
13.3	Construction; Severability; Number; Caption.	29
13.4	Notices and Other Documents.	30
13.5	Private Agreement.	30

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
FREMONT PLACE**

(Plat of Northwest Crossing, Live/Work Townhomes)

THIS AMENDED AND RESTATED DECLARATION is made this 30 day of July, 2007, by RENAISSANCE AT NW CROSSING, LLC, an Oregon limited liability company ("**Declarant**").

RECITALS:

A. Declarant has recorded the plat of "**Northwest Crossing, Live/Work Townhomes**" in the plat records of Deschutes County, Oregon.

B. Declarant recorded that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Northwest Crossing on May 2, 2007 in the Official Records of Deschutes County, Oregon as Document No. 2007-25377 (the "**Original Declaration**"). The Original Declaration pertains to the real property depicted in the plat of Northwest Crossing, Live/Work Townhomes.

C. Declarant now desires to change the name of the project from "Northwest Crossing" to "Fremont Place."

D. Declarant is recording this Amended and Restated Declaration for the sole purpose of changing the name of the project to Fremont Place. All of the other terms contained herein are the same as those in the Original Declaration. It is the intent of the Declarant that this Amended and Restated Declaration shall replace and supersede the Original Declaration.

E. Declarant desires to subject the property depicted on the plat of "Northwest Crossing, Live/Work Townhomes" to the conditions, restrictions and charges set forth herein for the benefit of such property and its present and subsequent owners, and to establish such property under the Oregon Planned Community Act, ORS 94.550 to 94.783, as a Class I planned community townhouse project to be known as "**Fremont Place**."

F. Fremont Place is a part of Northwest Crossing Master Plan and all owners within Fremont Place will also be subject to the protective covenants, conditions and restrictions of Master Declaration of Covenants, Conditions, and Restrictions for Northwest Crossing.

NOW, THEREFORE, Declarant hereby declares that the property described in the plat of Northwest Crossing, Live/Work Townhomes shall be held, sold and conveyed subject to the following easements, covenants, restrictions and charges, which shall run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of each Owner thereof.

Article 1

DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 “**Assessments**” mean all assessments and other charges, fines and fees imposed by the Association on an Owner in accordance with this Declaration, the Bylaws of the Association or the provisions of the Oregon Planned Community Act, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, Working Fund Assessments and Individual Assessments as described in Article 8 below.

1.2 “**Association**” means the nonprofit corporation to be formed to serve as an Owners’ association as provided in Article 6 of this Declaration, and its successors and assigns.

1.3 “**Board of Directors**” or “**the Board**” means the duly appointed or elected board of directors of the Association, which is invested with the authority to operate the Association and to appoint the officers of the Association. Prior to the Turnover Meeting, Declarant will appoint the Board of Directors. After the Turnover Meeting, the Board of Directors will be elected by the Owners.

1.4 “**Bylaws**” means the duly adopted bylaws of the Association set forth in the attached Exhibit A as the same may hereafter be amended or replaced.

1.5 “**Common Easement Areas**” means those easements established for the benefit of all property within Fremont Place pursuant to this Declaration.

1.6 “**Common Maintenance Areas**” means those areas or items designated in this Declaration as being maintained by the Association.

1.7 “**Declarant**” means Renaissance at NW Crossing, LLC, an Oregon limited liability company, and its successors and assigns, if such successor or assignee should acquire Declarant’s interest in the remainder of the Property or less than all of such property if a recorded instrument executed by Declarant assigns to the transferee all of Declarant’s rights under this Declaration.

1.8 “**Fremont Place**” means the real property described in Section 2.1 below.

1.9 “**Lot**” means a numerically designated and platted lot within the Property (including the Unit located on such Lot).

1.10 “**Master Declaration**” means the Master Declaration of Covenants, Conditions and Restrictions for Northwest Crossing dated December 20, 2001 and recorded December 27, 2001 as Exhibit B to that certain Bargain and Sale Deed, in the Records of Deschutes County, Oregon, as Document No. 2001-63854, as the same may be amended or supplemented from time to time in accordance with the provisions thereof.

1.11 "**Mortgage**" means a mortgage or a deed of trust; "**mortgagee**" means a mortgagee or a beneficiary of a deed of trust; "**mortgagor**" means a mortgagor or a grantor of a deed of trust.

1.12 "**Occupant**" means the occupant of a Unit who is the Owner, lessee or any other person authorized by the Owner to occupy the premises.

1.13 "**Owner**" means the person or persons, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a contract vendor or other person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.14 "**Rules and Regulations**" means those policies, procedures, rules and regulations adopted by the Association pursuant to the authority granted in this Declaration, as the same may be amended from time to time.

1.15 "**Sold**" means that legal title has been conveyed or that a contract of sale has been executed under which the purchaser has obtained the right to possession.

1.16 "**The Property**" means the real property described in Section 2.1 below.

1.17 "**This Declaration**" means all of the amended and restated easements, covenants, restrictions and charges set forth herein, together with any rules or regulations promulgated hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

1.18 "**Turnover Meeting**" means the meeting called by Declarant pursuant to Section 6.7 below, at which Declarant will turnover administrative responsibility for the Property to the Association.

1.19 "**Unit**" means a building or a portion of a building located upon a Lot within the Property and designated for separate occupancy as a dwelling, together with any attached garage, deck or patio.

Article 2

PROPERTY SUBJECT TO THESE COVENANTS

2.1 **Description.** Declarant hereby declares that all the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration:

All that certain real property located in the City of Bend, Deschutes County, Oregon, contained in that certain plat entitled "Northwest Crossing, Live/Work Townhomes" filed in the Plat Records of Deschutes County, Oregon, on the _____ day of _____, _____ as Document No. _____.

2.2 Improvements. Declarant does not agree to build any improvements on the Property other than as required by City of Bend, but may elect, at Declarant's option, to build additional improvements.

2.3 Withdrawal of Property. Property may be withdrawn from Fremont Place only by duly adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of the Property at any time prior to the sale of the first Lot in the plat of the Property, subject to the prior approval of City of Bend. Such withdrawal shall be by a declaration executed by Declarant and recorded in the deed records of Deschutes County, Oregon. If a portion of the Property is withdrawn, all voting rights otherwise allocated to Lots being withdrawn shall be eliminated, and the common expenses shall be reallocated among the remaining Lots.

Article 3

PROPERTY RIGHTS IN COMMON EASEMENT AREAS

3.1 Common Easement Areas. The streetscape, retaining walls and all landscaping within the Property shall be Common Easement Areas. Such areas are to be maintained by the Association and no changes in landscaping will be permitted within such areas without written authorization by the Board of Directors. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon the Common Easement Areas.

3.2 Title to the Common Easement Areas. Title to Common Easement Areas, subject to the easements set forth in this Declaration, shall rest in the Owners of the respective Lots within which such areas are located, or to the public if part of dedicated street rights-of-way.

3.3 Extent of Owners' Rights. The rights and easements of enjoyment in the Common Easement Areas created hereby shall be subject to the following and to all other provisions of this Declaration:

(a) **Easements.** Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property the following easements over, under and upon the Common Easement Areas:

(1) An easement on all Common Easement Areas for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant or with the approval of the Board of Directors and any such easement shown on any plat of the Property.

(2) An easement for construction, maintenance, repair and use of Common Easement Areas, including common facilities thereon.

(3) An easement for the purpose of making exterior repairs to the Units.

The Common Easement Areas shall be subject to public and private utility easements for the installation and maintenance of sanitary sewers, waterlines, surface water management, storm drainage and access over their entirety. In addition, Declarant or the Association may (and to the extent required by law, shall) grant or assign easements on all Common Easement Areas to governmental bodies or other utilities performing utility services and to communications companies, and may grant free access over the Common Easement Areas to police, fire and other public officials and to employees of utility companies and communication companies serving the Property.

(b) **Use of the Common Easement Areas.** The Common Easement Areas shall be used for the purposes set forth in any plat of the Property. The Common Easement Areas shall not be partitioned or otherwise divided into parcels for residential use. Except as otherwise provided in this Declaration, the Common Easement Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Easement Areas. The Common Easement Areas and facilities thereon shall be used for the purposes for which the same are reasonably intended, and their use, operation and maintenance shall not be obstructed, damaged or unreasonably interfered with by any Owner. Nothing herein shall prevent the placing of a sign or signs upon the Common Easement Areas identifying Fremont Place or identifying items of interest, including directional signs, provided that such signs comply with any applicable sign ordinances. The Board of Directors shall have authority to abate any trespass or encroachment upon the Common Easement Areas at any time, by any reasonable means and with or without having to bring legal proceedings. The Association, upon approval in writing of at least 50 percent of the Class A Association voting rights and the Class B member, if any, and if approved by order or resolution of City of Bend, may dedicate or convey any portion of the Common Easement Areas to a park district or other public body.

3.4 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his or her right of enjoyment to the Common Easement Areas to members of his or her family, tenants, or contract purchasers who reside on the Property, whose use of the Common Easement Areas shall be subject to this Declaration and the Rules and Regulations.

3.5 Easements Reserved by Declarant. So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Easement Areas to carry out sales and rental activities necessary or convenient for the sale or rental of Lots, including, without limitation, advertising and "For Sale" signs. In addition, Declarant hereby reserves to itself and for the Owners of Lots in the Property a perpetual easement and right-of-way for access over, upon and across the Common Easement Areas for construction, utilities, communication lines, drainage, and ingress and egress for the benefit of other property owned by Declarant. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Easement Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the improvements on the Property or other real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy of, use of, enjoyment of or access to an Owner's Lot by that Owner or his or her family, tenants, employees, guests or invitees.

3.6 Reciprocal Easements and Maintenance for Utility Lines. Pursuant to Sections 3.3 (a) 1 and 4.2 (c), the Common Easement Areas and all Lots are subject to reciprocal easements for the installation and maintenance of all gas, power, and other utility lines which are located in and across the Common Easement Areas and Lots and service other Lots. Pursuant to Section 7.3, the Association shall maintain all utility lines in the Common Easement Areas and Lots, but the Lot owners shall maintain such utility lines once the lines enter the Units.

Article 4

PROPERTY RIGHTS IN LOTS

4.1 Use and Occupancy. The Owner of a Lot in the Property shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and each Owner and Declarant shall comply with the restrictions contained in Article 5 below and all other provisions of this Declaration for the mutual benefit of all Owners.

4.2 Easements Reserved. In addition to any utility and drainage easements shown on the recorded plat, Declarant hereby reserves the following easements for the benefit of Declarant, the Association and Owners, as applicable:

(a) **Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing the maintenance referred to in Sections 7.1 and 7.8 below and determining whether or not the Lot is then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(b) **Encroachments.** Each Lot shall have an easement over all adjoining Lots for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting or movement of any portion of the Property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching Units so long as the encroachments shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment. The encroachments described in this paragraph shall not be construed to be encumbrances affecting the marketability of title to any Lot. Nothing in this section shall relieve an Owner of liability in the case of the Owner's willful misconduct.

(c) **Utilities.** Each Lot shall be subject to an easement under and across that portion of the Lot not occupied by the Unit for installation, maintenance and use of power, gas, electric, water and other utility and communication lines, facilities and services and for meters measuring such services installed by or at the direction of Declarant or with approval of the Board of Directors.

(d) **Rain Drains and Storm Sewers.** Each Lot shall be subject to an easement for installation and maintenance of such rain drains and connected storm sewers

installed or to be installed (as required by governmental regulatory authorities or as otherwise authorized by the Board of Directors) in or around any Unit or under the surface of any Lot.

4.3 Party Walls. Each wall that is built as a part of the original construction of the dwellings within the Property and placed upon the dividing line between Lots shall constitute a "party wall," and the following provisions shall apply:

(a) **General Rules of Law to Apply.** The general rules of law of the State of Oregon regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply to all such party walls, to the extent such rules are not inconsistent with the provisions of this section.

(b) **Repair and Maintenance; Speakers and Audio Equipment.** Reasonable repairs and maintenance of a party wall shall be performed by the Association. No Owner shall install speakers or audio equipment on or against party walls.

(c) **Destruction by Fire or Other Casualty.** If the party wall is destroyed or damaged, then the wall shall be restored to its former condition in the manner provided in paragraph (b) above.

(d) **Weatherproofing.** Notwithstanding any other provision of this Section 4.3(a), an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the cost of furnishing the necessary protection against such elements to the extent such cost is not covered by the Association's insurance policy.

(e) **Arbitration.** In the event of any disputes arising concerning a party wall, or under the provisions of this Section 4.3(a), the Board of Directors shall act as arbitrators and their decision shall be final.

Article 5

RESTRICTIONS ON USE

5.1 Primary Use. The primary use of the Units shall be for residential purposes; however, the lower floor living area may, subject to the provisions of this Declaration and applicable City of Bend zoning codes, be used to conduct business, including businesses requiring limited public access. The upper stories may not be used for business purposes, however this provision shall not be construed so as to prevent or prohibit a Unit occupant from using his or her Unit as a home office or studio, including meeting with associates, clients or customers on a by-appointment basis, to the extent permitted by applicable zoning codes.

5.2 Prohibited Business Uses. Business uses otherwise permitted by Section 5.1 may not include the following: adult book or video store; amusement center; betting parlor; bingo parlor; carnival; check cashing services; electronic, mechanical games or amusement arcade; facility primarily devoted to training or educational instruction other than as the office for such business with the training or educational instruction taking place off site; tattoo or body piercing parlor; fortune telling, palm reading or other business relating to the occult; gambling establishment; gym health or aerobic club, spa or studio; massage parlor, except as otherwise

allowed herein; novelty shop or store; sale of firearms and/or ammunition; thrift shop; sale of drug paraphernalia; self service laundry; store or shop engaged primarily in the sale of used products; veterinarian's services; sale of food or beverages or the preparation of food or beverages for sale. However, the Units may be used for providing spa services including hair and nail grooming services, beauty services and massage services provided by a licensed massage therapist. And except as specifically prohibited above, the Units may also be used for the retail sale of goods and merchandise.

5.3 Offensive or Unlawful Activities. No noxious or offensive activities shall be carried out in any Unit, Lot or Common Easement Area nor shall anything be done or placed upon any Unit, Lot or Common Easement Area that interferes with or jeopardizes the enjoyment of other Units or the Common Easement Areas, or that is a source of annoyance to residents. Unit Occupants shall exercise extreme care not to make noises that may disturb other Unit Occupants. No unlawful use shall be made of the Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Owners and other Occupants shall not engage in any abusive or harassing behavior, either verbal or physical, or any form of intimidation or aggression directed at other Owners, Occupants, guests, or invitees, or directed at the managing agent, its agents or employees, or vendors.

5.4 Trailers, Campers, Boats, Etc. Except with the consent of the Board of Directors, no motorcycle, trailer, truck camper, boat or boat trailer, or other recreational vehicles or equipment, or vehicles with a gross vehicle weight in excess of 9,000 pounds, commercial vehicles or motor vehicles not operated in daily family use shall be parked in driveways or on any other portion of the Property, except in a garage or for the purpose of temporary loading or unloading. No such vehicle shall be used as a residence temporarily or permanently on any portion of the Property.

5.5 Vehicles in Disrepair. No Owner shall permit any vehicle that is in an extreme state of disrepair to be abandoned or to remain parked upon any Lot, or any adjoining street for a period in excess of forty-eight (48) hours, unless kept within a garage. A vehicle shall be deemed to be in an "extreme state of disrepair" when, in the opinion of the Board of Directors, due to its appearance or continued inoperability its presence reasonably offends the Occupants of the neighborhood. Should any Owner fail to remove such vehicle within five (5) days following the date on which notice is mailed to him or her by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner in addition to the assessments made upon him or her in accordance with this Declaration. Any vehicle parked in violation of this section can be towed or impounded as provided in Section 9.1(c) below.

5.6 Signs. No signs shall be erected or maintained on any Lot except that not more than one "For Sale" sign placed by the Owner, Declarant, or a licensed real estate agent, not exceeding twenty-four (24) inches high and thirty-six (36) inches long, may be temporarily displayed within the front yard of any Lot or inside of a first floor, front street facing window of a Living Unit located on a Residential Lot, and two such signs may be placed on a Lot during the course of initial construction of a dwelling on such Lot. All "For Sale" signs shall conform to the sign template provided by Declarant to the Association. "For Rent" and "For Lease" signs are

prohibited. The restrictions contained in this paragraph shall not prohibit the temporary placement of "political" signs on any Lot by the Owner, subject to reasonable regulations adopted by the Architectural Review Committee relating to size and length of display. In addition, this section shall not prohibit the placement of commercial signs on the Units relating to the permitted commercial activities carried on within the Units, as set forth in Section 5.1 and 5.2 above. Commercial signs may only be affixed to the doors of the street-level entries to the Units and all such signs shall be professionally prepared, shall be no larger than 2'x 3', and shall be maintained by the Owner of the Unit in an attractive condition.

5.7 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept or permitted within any Lot other than a reasonable number of household pets that are not kept, bred or raised for commercial purposes and that are reasonably controlled so as not to be a nuisance. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of their respective Owners. No animal shall be permitted to roam the Property unattended, and each dog shall be kept on a leash while outside a Lot. Dog runs and doghouses shall be fully screened or fenced from view from any Lot, and shall not be visible from the street. All animals shall be controlled so as not to be a nuisance to any Owner. Any unrestrained or barking dog shall constitute a nuisance. An Owner or Occupant will be required to remove a pet upon receipt of the third written notice from the Board of Directors of violations of any rule, regulation or restriction governing pets within the Property.

5.8 Appearance. Except to the extent of the Association's responsibility under Section 7.1 below, each Owner shall maintain such Owner's Unit and Lot in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall be the responsibility of each Owner and shall be restored within a reasonable period of time. No part of any Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Trash, garbage or other wastes shall be kept only in sanitary containers in the garages, except when outside awaiting pickup during garbage pickup days.

5.9 Recreational Equipment. No basketball backboards, portable basketball hoops, or related supporting structures shall be placed or installed on any Lot. Playground, athletic, or recreational equipment must be approved by the Architectural Review Committee and may only be installed in the backyard portion of Lots at a location approved by Architectural Review Committee.

5.10 Antennas and Service Facilities. Exterior antennas and satellite receivers and transmission dishes are prohibited, except to the extent expressly mandated by rules adopted by the Federal Communication Commission. Specifically, ham radio antennas, satellite dishes one meter or larger, television antennas on masts 12 feet or higher and multi-point distribution antennas more than one meter or on masts 12 feet or higher are prohibited. To the extent permitted by Federal Communication Commission rules, the Board of Directors may require all other antennas and dishes to be hidden from view from streets and adjoining dwellings. Subject to the foregoing restriction, any Owner who chooses to install, or have installed an exterior antenna, satellite receiver, or transmission dish, which installation penetrates the exterior roofing or siding of the Unit shall assume all responsibility for water intrusion and any and all consequential damages stemming from such penetration. The warranty provided by

Declarant to the Owner shall not apply to any damages resulting from installation of such equipment.

5.11 Exterior Lighting or Noisemaking Devices. Except with the consent of the Board of Directors and the Architectural Review Committee under the Master Declaration and except for exterior lighting originally installed by the Declarant, no exterior lighting or noise-making devices shall be installed or maintained on any Lot. Owners shall not tamper with exterior lighting installed by the Declarant except to replace expended bulbs with similar new bulbs. Seasonal holiday lighting and decorations are permissible if consistent with any applicable Rules and Regulations and if removed within thirty (30) days after the celebrated holiday.

5.12 Windows, Decks, Porches and Outside Walls. To preserve the attractive appearance of the Property, the Association may regulate the nature of items that may be placed in or on windows, decks, porches, and the outside walls so as to be visible from the street. Window coverings, curtains, shutters, drapes or blinds, other than those of commercially produced quality, shall not be permitted to be visible from any public or private street, pathway, or adjacent property. Garments, rugs, laundry and other similar items may not be hung from windows, facades, porches, or decks. No outside clotheslines or similar service facilities may be installed without the approval of the Board of Directors. No hanging wind chimes, bird feeders, or artificial flowers may be hung from decks, porches or balconies.

5.13 Alterations. Exterior painting, maintenance and roof repair or replacement will be performed by the Association to the extent provided in Section 7.1 below. Owners are expressly prohibited from painting or changing the exterior of a building or other structure after original construction without the written permission of the Board of Directors and the Architectural Review Committee under the Master Declaration. To guard against moisture intrusion, no penetration of or attachments to the exterior surfaces is allowed without the prior written approval of the Board of Directors. No structure may be installed outside of Units except structures, including without limitation fences, installed by Declarant or the Association or installed by an Owner with written approval of the Board of Directors and the Architectural Review Committee under the Master Declaration.

5.14 Insurance. Nothing shall be done or kept in any Lot that will increase the cost of insurance on the Units. No Owner shall permit anything to be done or kept in his Unit that will result in cancellation of insurance on any Lot.

5.15 Leasing and Rental of Units. No Owner may lease or rent his Unit for a period of less than thirty (30) days. All leases or rentals shall be by written lease agreement that shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Rules and Regulations, Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee or tenant to comply with the terms of such documents shall be a default under the lease. If the Board of Directors finds that a lessee or tenant has violated any provision of such documents or the Rules and Regulations, the Board may require the Owner to terminate such lease or rental agreement. Other than the foregoing, there is no restriction on the right of any Owner to lease or rent his or her Unit.

5.16 Garages. All garage doors shall remain closed except to permit entrance and exit and in connection with outside activities. Garages shall be used primarily for parking of vehicles, and only secondarily for storage, and shall not be used as office or living space, except that Declarant may use garages as sales offices prior to permanent occupancy of the Units.

5.17 Landscape. All exterior landscape installation and maintenance will be performed by the Association, including the rear yards. An Owner may not change the landscaping or install additional landscaping, without the prior written approval of the Board of Directors. Landscape irrigation settings shall be set by the Association and no Owner shall tamper with or change such settings. The Association shall have right of access to each control box.

5.18 Rain Drains and Sewers. All rain drains and storm sewers shall be kept free of debris, and Owners shall not cause any such drains or sewers to become blocked, clogged or otherwise to back up into any Lot.

5.19 Master Declaration. Each Owner and Lot shall be subject to the restrictions contained in the Master Declaration, which restrictions are incorporated herein and shall be enforceable by the Association.

5.20 Rules and Regulations. In addition, the Association from time to time may adopt, modify or revoke such Rules and Regulations governing the conduct of persons and the operation and use of the Lots, Units and the Common Easement Areas as it may deem necessary or appropriate to ensure the peaceful and orderly use and enjoyment of the Property. A copy of the Rules and Regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be furnished by the Board of Directors to each Owner. The Rules and Regulations may be adopted by the Board of Directors, except as may be otherwise provided in the Bylaws of the Association.

Article 6

ASSOCIATION

Before conveyance of the first Lot, Declarant shall organize an association of all of the Owners within the Property. Such Association, and its successors and assigns, shall be organized as an Oregon nonprofit corporation under the name "**Fremont Place Owners Association,**" and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of property located therein.

6.1 Organization. Declarant shall, before the first Lot is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated Association of the same name. In that event the assets of the Association shall be dedicated to a public body, or all of the property, powers and obligations of the incorporated Association existing thereupon shall automatically vest in a successor unincorporated nonprofit association.

Such vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association.

6.2 Membership. Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Property, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership; shall expire automatically upon termination of such ownership; and need not be confirmed or evidenced by any certificate or acceptance of membership.

6.3 Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(a) When all of the Lots in Fremont Place have been sold and conveyed to Owners other than a successor Declarant; or

(b) At such earlier time as Declarant may elect to terminate such special voting rights.

6.4 General Powers and Obligations. The Association shall have, exercise and perform all of the following powers, duties and obligations:

(a) The powers, duties and obligations granted to the Association by this Declaration.

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon.

(c) The powers, duties and obligations of a homeowners association pursuant to the Oregon Planned Community Act.

(d) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

6.5 Specific Powers and Duties. The powers and duties of the Association shall include, without limitation, all of the following:

(a) **Maintenance and Services.** The Association shall provide maintenance and services for the Property as provided in Article 7 and other provisions of this Declaration.

(b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association.

(c) **Rulemaking.** The Association shall make, establish, promulgate, amend and repeal Rules and Regulations as provided in Section 5.20 of this Declaration.

(d) **Assessments.** The Association shall adopt budgets and impose and collect assessments as provided in Article 8 of this Declaration.

(e) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Rules and Regulations adopted by the Association. Nothing in this Declaration shall be construed as requiring the Association to take any specific action to enforce violations.

(f) **Employment of Agents, Advisers and Contractors.** The Association, through its Board of Directors, may employ the services of any person or corporation as manager; hire employees to manage, conduct and perform the business, obligations and duties of the Association; employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, recreational experts, architects, planners, lawyers and accountants; and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Property; provided, however, the Association may not incur or commit to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$100,000 unless the Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five percent (75%) of the voting rights of the Association. These limitations shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitations set forth in this paragraph shall increase by ten percent on each fifth anniversary of the recording of this Declaration.

(g) **Borrow Money, Hold Title and Make Conveyances.** The Association may borrow and repay moneys for the purpose of performing its duties under this Declaration. The Association may acquire, hold title to and convey, with or without consideration, real and

personal property and interests therein, and shall accept any real or personal property, leasehold or other property interests within the Property conveyed to the Association by Declarant.

(h) **Create Classes of Service and Make Appropriate Charges.** The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefor to the users of such services without being required to render such services to those of its members who do not assent to such charges, subject to such Rules and Regulations as the Board of Directors deems proper. In addition, the Board of Directors shall have the right to discontinue any service upon nonpayment of Assessments or to eliminate any service for which there is no demand or for which there are inadequate funds to maintain the same.

(i) **Implied Rights and Obligations.** The Association may exercise any other right or privilege reasonably to be inferred from the existence of any right or privilege expressly given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

(j) **Master Association Assessments.** The Association may collect from the Owners assessments owing under the Master Declaration for forwarding to the Master Association.

6.6 Liability. Neither a member of the Board of Directors nor an officer of the Association shall be liable to the Association or any Owner or third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, so long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. In the event any member of the Board of Directors or any officer of the Association is threatened with or made a party to any proceeding because the individual was or is a director or officer of the Association, the Association shall defend such individual against such claims and indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the Association, the Owners or any third party on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent and its officers and employees from any such claims, other than for gross negligence or intentional misconduct.

6.7 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of one to three directors, who shall serve as the Board of Directors until replaced by Declarant or their successors have been elected by the Owners at the Turnover Meeting. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Property to the Association not later than ninety (90) days after termination of the Class B membership as provided in Section 6.3 above. At the Turnover Meeting, the interim directors shall resign and their successors shall be elected by the Owners as provided in the Bylaws. If the Declarant fails to call the Turnover Meeting as required by this section, any Owner or mortgagee of a Lot may call the meeting by giving notice as provided in the Bylaws.

6.8 Contracts Entered into by Declarant or Prior to Turnover Meeting.

Notwithstanding any other provision of this Declaration, any management contracts, service contracts and employment contracts entered into by the Declarant or the Board of Directors on behalf of the Association prior to the Turnover Meeting shall have a term of not more than of three (3) years. In addition, any such contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) nor more than ninety (90) days' notice to the other party given at any time after the Turnover Meeting.

6.9 Bylaws. The Bylaws of the Association and any amendment or modification of the Bylaws shall be recorded in the Deed Records of Deschutes County, Oregon. Declarant hereby adopts, on behalf of the Association, the initial Bylaws attached as Exhibit A to this Declaration.

6.10 Master Association. It is contemplated that from time to time either the Master Association or the Association may use the services of the other in the furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation. Any such contract shall be approved by the Board of Directors.

Article 7

MAINTENANCE, SERVICES, CONDEMNATION, DAMAGE

7.1 Exterior Maintenance. The Association shall provide exterior maintenance upon each Unit as follows: paint, caulk, repair, replace and care for roofs, roof overhangs, eaves, gutters, downspouts, flashings, exterior building surfaces, exterior lights (except light bulbs) and other exterior improvements. Such exterior maintenance does not include repair or replacement of exterior light bulbs, doors, windows and other glass surfaces, except to the extent of the proceeds of the Association's insurance or to prevent water intrusion at the expense of the Owner (subject to insurance reimbursement). The Association shall also maintain party walls as provided in Section 4.3. The Association shall maintain all landscaping within the Property (including fences and retaining walls, plant pruning and bark mulch application). By policy resolution, the Board of Directors may clarify the Association's maintenance obligations or identify other elements to be maintained by the Association. The cost of such maintenance by the Association shall be a common expense paid out of assessments described in Article 8. In the event, however, the need for such maintenance or repair is caused by the willful or negligent act or omission of an Owner, his or her family, tenants, guests or invitees, and to the extent such maintenance or repair is not covered by the Association's insurance policy, the costs of such maintenance and repair may, in the discretion of the Board of Directors, be charged to the Owner as an Individual Assessment.

7.2 Maintenance and Lighting of Common Maintenance Areas and Streetscape. In addition to the exterior maintenance as set forth in Section 7.1, the Association shall maintain any exterior lighting for and perform all maintenance upon the Common Maintenance Areas, including the Common Easement Areas and improvements located thereon, including, without limitation, streetscape, landscaping, perimeter fences and walls.

7.3 Maintenance of Utilities. The Association shall perform or contract to perform maintenance of any utilities, such as sanitary sewer service lines, domestic water service lines and storm drainage lines, located in the Common Maintenance Areas and Lots. Each Owner shall maintain at such Owner's expense utility lines to the extent located within the Unit.

7.4 Maintenance Plan and Inspections. The Association shall maintain those portions of the Property to be maintained by the Association in as good or better condition as at the time of the Turnover Meeting. To that end, the Board of Directors shall establish, periodically update, and implement the Maintenance Plan referred to in Section 8.10(c). The operating and reserve budgets of the Association shall take into account such costs. Changes or updates to the Maintenance Plan shall be based upon the advice of competent experts or consultants. In addition, the Board of Directors shall cause an annual professional inspection of those portions of the Property to be maintained by the Association pursuant to this Declaration for the purposes of identifying any items needing repair or preventive maintenance, and shall cause such repair or preventive maintenance to be implemented. If the Association fails to follow such maintenance and inspection requirements, then neither the Association nor any unit owner shall have any claim against Declarant or its design professionals, contractors and subcontractors and their consultants, including without limitation, all of their officers, members, managers, directors, employees, agents and brokers, for loss or damage to the extent that they result from such failure to follow the Maintenance Plan, and shall indemnify such persons and entities from and against claims by unit owners or other persons or entities for loss or damage resulting from such failure.

7.5 Utilities and Services. The Association may provide or contract for such utilities and services as the Board of Directors may reasonably deem to be of benefit to the Property, including, without limitation, cable, telecommunications, garbage and trash removal and security services.

7.6 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. **Neither the Association, any managing agent retained by the Association, Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants that the Association, its board of directors and committees, any managing agent retained by the Association, Declarant, and any successor Declarant are not insurers and that each person using the Property assumes all risks for loss or damage to persons, to property and to the contents of Lots resulting from acts of third parties and releases such parties from any liability therefor.**

7.7 Access at Reasonable Hours. For the purpose solely of performing the maintenance and services provided for in this Article 7, the Association, through its duly

authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of the dwelling thereof at reasonable hours. The Association shall also have a right of entry for purposes of effecting emergency repairs or action to prevent imminent damage or injury to other Units, to other Owners and their guests or invitees. In such instances, the Association shall give notice by telephone if reasonably possible prior to entry.

7.8 Damage or Destruction by Casualty. In the event of damage or destruction that affects a material portion of the Property, timely written notice shall be given to the Owners and their mortgagees, and the following provisions shall apply:

(a) In the event of damage or destruction by casualty to the structure, roof or exterior of any Unit, the damage or destruction shall be repaired, reconstructed, or rebuilt unless, within fourteen (14) days of such damage or destruction, the Board of Directors or more than ten percent (10%) of the Owners shall have requested a special meeting of the Association. Such special meeting must be held within thirty (30) days of the date of damage or destruction. At the time of such meeting, unless seventy-five percent (75%) of the Owners, whether in person, by writing or by proxy, with the approval of seventy-five percent (75%) or more of the mortgagees if and as required by this Declaration, vote not to repair, reconstruct or rebuild the damaged property, the damage or destruction shall be repaired, reconstructed or rebuilt, with the work commencing as soon as reasonably possible. In the event any portion of the insurance proceeds paid to the Association are not used to repair, reconstruct or rebuild the damaged or destroyed Units, the Association shall distribute the proceeds attributable to Units to the Owners and mortgagees thereof, as their interests may appear. If the insurance proceeds are not sufficient to pay the entire cost, the Board of Directors, if necessary, may assess the Owner of each Unit such additional amounts as required to pay the cost of restoration.

(b) If, due to act or neglect of an Owner or a member of his or her family or his or her household pet or of a guest or other unauthorized Occupant or visitor of such Owner, damage shall be caused to the Common Easement Areas or maintenance, repairs or replacements shall be required that would otherwise be a common expense, then such Owner shall pay for such damage and such maintenance, repairs or replacements as may be determined by the Association, to the extent not covered by the Association's insurance, as an Individual Assessment.

7.9 Owner's Maintenance Responsibilities. Each Owner shall be responsible for maintaining such Owner's Unit and Lot, to the extent such maintenance is not the responsibility of the Association under Sections 7.1 and 7.8 above, in a clean and attractive condition, in good repair and in such fashion as not to create a hazard. Such maintenance responsibility shall include, but not be limited to, the following:

(a) Repair, replace, restore and clean the interior of the Unit, including, but not limited to interior and exterior glass;

(b) Keep all mechanical and electrical systems and hardware in the Unit and on the exterior of the Unit in good repair and working order, including, without limitation, maintaining, repairing and replacing as necessary electrical wiring, fixtures, plumbing, appliances, heating, air conditioning, sewage disposal and fire protection systems;

(c) Maintain in good condition, repair and replace as necessary bulbs for exterior lighting; and

(d) Maintain decks and patios in neat and attractive condition.

The Association shall have the authority to require each Owner to keep his or her respective Lot and Unit at a high standard of maintenance. In the event an Owner fails to maintain his or her Unit or Lot to the standards established by the Board of Directors pursuant to the authority of this section, the Association will have the right and the authority at its option, after giving reasonable notice and opportunity to be heard to the respective Owner, to cause such repairs and maintenance to be performed as are necessary to meet the foregoing standard and charge the respective Owner for such repairs and maintenance.

7.10 Option to Provide Maintenance Services through Association. Upon request of an Owner, the Association may provide maintenance and repair services which would otherwise be the responsibility of such Owner under this Article, provided that the respective Owner shall reimburse the Association, as an Individual Assessment, for such services immediately upon completion. Alternatively, upon proposal by the Board of Directors and approval by fifty-one percent (51%) of the total voting power of the Association, the charge for such maintenance and repair services may be designated a common expense of the Association to be paid with funds collected from the Owners pursuant to the assessment procedures set forth in Article 8 below. In the event the Owners elect to designate any such maintenance and repair services as a common expense of the Association, (i) such designation shall identify specifically which services are to become included as common expenses (with any maintenance and repair responsibilities not so included to remain the obligation of the Owners under Section 7.9 above); and (ii) the Association may add a charge to such common expenses sufficient to cover the costs of administering, coordinating and invoicing for such additional maintenance and repair services.

Article 8

ASSESSMENTS

8.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants of the Property and for the improvement, operation and maintenance of the Common Easement Areas and other areas to be maintained by the Association.

8.2 Types of Assessments. The Association may levy Annual Assessments, Special Assessments, Emergency Assessments, Working Fund Assessments and Individual Assessments, all as more particularly described below.

8.3 Commencement and Apportionment of Assessments.

(a) **When Subject to Assessment.** Lots shall become subject to Annual Assessments (including assessments for reserves), Special Assessments or Emergency Assessments at such time as an occupancy certificate is issued for the Unit located on the Lot. Declarant may elect to delay collection of Annual Assessments against all Lots, but in such case

shall pay all common expenses of the Association until such Assessments commence. Declarant may defer payment of that portion of the Annual Assessments attributable to accrued reserve assessments for a Lot owned by Declarant from the date the Lot becomes subject to assessment until the date the Lot is conveyed, but not beyond the date of the Turnover Meeting or, if no Turnover Meeting is held, the date the Owners assume administrative control of the Association. The books and records of the Association shall reflect the amount owing from Declarant for all deferred reserve Assessments.

(b) **Apportionment.** All Lots subject to assessment shall pay an equal share of the Annual Assessments, Special Assessments and Emergency Assessments. No Owner by the Owner's own action may claim exemption from liability for contribution towards common expenses by waiver by the Owner of use of enjoyment of any of the Common Easement Area or by abandonment by the Owner of the Owner's Lot. An Owner may not claim an offset against an Assessment for failure of the Association to perform its obligations, and no Owner may offset amounts owing or claimed to be owing by the Association or Declarant to the Owner.

8.4 Annual Assessments. The Board of Directors shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous overassessment and any common profits of the Association. The budget shall take into account the number of Lots subject to assessment as of the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. The budget may be based upon a greater number of Lots than those reasonably anticipated to be subject to assessment during the fiscal year if the Declarant agrees to subsidize the Association for any shortfall in the Operations Fund until the assumed number of Lots is subject to assessment. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the reserves required by Section 8.10 below and shall take into account the Maintenance Plan adopted pursuant to Section 7.4 above. Annual Assessments for such operating expenses and reserves ("**Annual Assessments**") shall then be apportioned among the Lots as provided in Section 8.3 above. Within thirty (30) days after adopting the annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt an annual budget, the last adopted budget shall continue in effect. The manner of billing and collection of Assessments shall be as provided in the Bylaws.

8.5 Special Assessments. In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment ("**Special Assessment**"), applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Annual Assessments. Special Assessments for acquisition or construction of new capital improvements or additions that in the aggregate in any fiscal year exceed an amount equal to fifteen percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the voting rights voting on such matter, together for acquisition or construction of new capital improvements or additions with the written consent of the Class B member, if any. Prior to the Turnover Meeting, any Special Assessment for acquisition or construction of new capital improvements or additions must be approved by not

less than fifty percent (50%) of the Class A voting rights, together with the written consent of the Class B member. Special Assessments shall be apportioned as provided in Section 8.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

8.6 Emergency Assessments. If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noted as to the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("**Emergency Assessment**"). Emergency Assessments shall be apportioned as set forth in Section 8.3 above and payable as determined by the Board of Directors.

8.7 Individual Assessments. Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited ("**Individual Assessment**"). Individual Assessments include, without limitation, charges for services provided under Section 6.5(h) and any common expense that the Board of Directors determines is the fault of the Owner and not paid by insurance. Individual Assessments shall also include default Assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to the Individual Assessments.

8.8 Working Fund Assessments. Upon the first sale of a Lot to a purchaser other than a successor Declarant and upon any subsequent sale of such Lot, the purchaser shall pay to the Association a Working Fund Assessment equal to three times the monthly Annual Assessment then applicable to the Lot (the "**Working Fund Assessment**"). The Board of Directors may deposit Working Fund Assessments either in the Operations Fund or in the Reserve Fund, at the discretion of the Board.

8.9 Operations Fund. The Association shall keep all funds received by it as Assessments, other than reserves described in Section 8.10 or Working Fund Assessments deposited in the Reserve Fund as described in Section 8.8, separate and apart from its other funds, in a bank account in the State of Oregon in the name of the Association to be known as the "**Operations Fund**." All expenses of the Association shall be paid from the Operations Fund or from the Reserve Fund referred to in Section 8.10. The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Property and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Easement Areas and of the Lots situated upon the Property, including but not limited to:

(a) Payment of the cost of maintenance, utilities and services as described in Article 7.

(b) Payment of the cost of insurance as described in the Bylaws of the Association.

(c) Payment of the cost of water service, sewer service and garbage and trash disposal for the Common Easement Areas or that are commonly billed.

(d) Payment of the cost of other services that the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal and secretarial services.

8.10 Reserve Fund.

(a) **Establishment of Account.** Declarant shall conduct a reserve study as described in paragraph (c) of this section and establish a bank account in the State of Oregon in the name of the Association (the "**Reserve Fund**") for replacement of common properties that will normally require replacement in whole or in part in more than three (3) and less than thirty (30) years, for exterior painting of the Common Maintenance Areas or other property to be maintained by the Association include exterior painted surfaces, for significant future maintenance items as required by the Maintenance Plan established pursuant to Section 7.4, and for other items, whether or not involving Common Maintenance Areas, if the Association has responsibility to maintain the items. The Reserve Fund need not include those items that could reasonably be funded from operating Assessments or for those items for which one or more Owners are responsible for maintenance and replacement under the provisions of this Declaration or the Bylaws.

(b) **Funding of Reserve Fund.** The Reserve Fund shall be funded by Assessments against the individual Lot assessed for maintenance of the items for which the Reserve Fund is being established, which sums shall be included in the regular Annual Assessment for the Lot. The Reserve Fund shall also include Working Fund Assessments to the extent so allocated by the Board of Directors pursuant to Section 8.8. The Reserve Fund shall be established in the name of the Association. The Association is responsible for administering the Reserve Fund and making periodic payments into it.

(c) **Reserve Studies.** The reserve portion of the initial Assessment determined by Declarant shall be based on a reserve study described in this paragraph (c) or other sources of information. The Board of Directors annually shall conduct a reserve study, or review and update an existing study, to determine the Reserve Fund requirements and may adjust the amount of payments as indicated by the study or update and provide other reserve items that the Board of Directors, in its discretion, may deem appropriate. The reserve study shall include:

- (1) Identification of all items for which reserves are to be established;
- (2) The estimated remaining useful life of each item as of the date of the reserve study;
- (3) The estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and

(4) A thirty (30) year plan for the maintenance, repair and replacement of common property and other property required by this Declaration to be maintained by the Association with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

The Board of Directors shall, within 30 days after conducting the reserve study, provide to every owner a written summary of the reserve study and of any revisions to the 30-year plan adopted by the Board of Directors or Declarant as a result of the reserve study.

(d) **Use of Reserve Fund.** The Reserve Fund shall be used only for the purposes for which the reserves have been established and shall be kept separate from other funds. After the Turnover Meeting, however, the Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the Board of Directors has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board of Directors shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. Nothing in this section shall prohibit prudent investment of the Reserve Fund. In addition to the authority of the Board of Directors under paragraph (c) of this section, following the second year after the Turnover Meeting, the Association may elect to reduce or increase future Assessments for the Reserve Fund by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Association and may, on an annual basis by a unanimous vote, elect not to fund the Reserve Fund. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

8.11 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Property, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Association Bylaws. Such Assessments and charges, together with any interest, late charges, expenses or attorneys' fees imposed pursuant to Section 9.6, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below.

8.12 Voluntary Conveyance. In a voluntary conveyance of a Lot the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor of the Lot up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of an Owner or Owner's agent for the benefit of a prospective purchaser, the Board of Directors shall make and deliver a written statement of the unpaid Assessments against the prospective grantor of the Lot effective through a date specified in the statement, and the grantee in that case shall not be liable for any unpaid Assessments against the grantor not included in the written statement.

Article 9

ENFORCEMENT

9.1 Violation of Protective Covenants. In the event that any Owner violates any provision of this Declaration, the Bylaws of the Association or the Rules and Regulations, then the Association acting through its Board of Directors shall notify the Owner in writing of any such specific violations. If the Owner is unable, is unwilling, or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, then the Association acting through its Board of Directors shall, after notice and opportunity to be heard as provided in the Bylaws, have the right to do any or all of the following:

(a) Assess reasonable fines against such Owner, based upon a resolution adopted by the Board of Directors that is delivered to each Lot, mailed to the mailing address of each Lot or mailed to the mailing address designated by the Owner of each Lot in writing, which fines shall constitute Individual Assessments for purposes of this Declaration;

(b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item that is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Operations Fund as an Individual Assessment, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings;

(c) Cause any vehicle parked in violation of this Declaration or of the Rules and Regulations to be towed and impounded at the Owner's expense;

(d) Suspend the voting rights for the period that the violations remain unabated, provided that the Association shall not deprive any Owner of access to and from his Unit;

(e) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

9.2 Default in Payment of Assessments; Enforcement of Lien. If an assessment or other charge levied under this Declaration is not paid within thirty (30) days after its due date, such assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owner's voting rights and any utility services paid for out of Assessments, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any Annual Assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his Lot.

(b) The Association shall have a lien against each Lot in accordance with ORS 94.709 for any assessment levied against the Lot, including any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot, and may foreclose such lien in the manner provided in ORS 94.709.

(c) The Association may bring an action to recover a money judgment for unpaid assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) The Association shall have any other remedy available to it by law or in equity.

9.3 Notification of First Mortgagee. The Board of Directors will send notice of any default in performance of this Declaration by a Lot Owner that is not cured within sixty (60) days to any first mortgagee of such Lot who has given written notice to the Association requesting notices of defaults.

9.4 Subordination of Lien to Mortgages. The lien of the assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Lot that was made in good faith and for value and that was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the assessment lien, but the sale or transfer of any Lot that is subject to any mortgage or deed of trust pursuant to a decree of foreclosure or non-judicial foreclosure thereunder or any deed or proceeding, deed or assignment in lieu of foreclosure shall extinguish any lien of an assessment notice of which was recorded after the recording of the mortgage or trust deed. The unpaid Assessments as a result of such foreclosure or sale shall become a common expense of all Owners, including the mortgagee or purchaser, and such sale or transfer shall not release the Lot from liability for any assessments or charges thereafter becoming due or from the lien of such assessments or charges.

9.5 Interest, Late Charges and Expenses. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three (3) percentage points per annum above the prevailing Portland, Oregon prime rate as of the due date, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board of Directors, which resolution is delivered to each Lot, mailed to the mailing address of each Lot or mailed to the mailing address designated by the Owner in writing, together with all expenses incurred by the Association in collecting such unpaid assessments, including attorneys' fees (whether or not suit is instituted). In the event the Association 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 resolution of the Board of Directors.

9.6 Costs and Attorneys' Fees. In the event the Association shall bring any suit or action to enforce this Declaration, the Bylaws of the Association or the Rules and Regulations, or to collect any money due under this Declaration or to foreclose a lien, the Owner-defendant shall

pay to the Association all costs and expenses incurred by it 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 the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof.

9.7 Assignment of Rents. As security for the payment of all liens arising pursuant to this Article 9, each Owner hereby gives to and confers upon the Association the right, power and authority, during the continuance of such ownership, to collect the rents, issues and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligation under this Declaration or the Bylaws to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten (10) days written notice to such Owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of any indebtedness to the Association or in performance of any agreement under this Declaration, and in such order as the Association may determine. Such action shall not cure nor waive any default under this Declaration or invalidate any act done pursuant to this Declaration. The assignment of rents and powers described in this section shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first or second mortgage on any Lot to do the same or similar acts.

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

9.9 Enforcement by City of Bend. The provisions of this Declaration relating to preservation and maintenance of Common Easement Areas shall be deemed to be for the benefit of City of Bend as well as the Association and Owners of Lots, and the City may enforce such provisions by appropriate proceedings at law or in equity or may cause such maintenance to be made, in which event such costs shall become a lien upon the Property.

Article 10

DISPUTE RESOLUTION

10.1 Mediation.

(a) Except as otherwise provided in this section, before initiating litigation, arbitration or an administrative proceeding in which the Association and an Owner have an

adversarial relationship, the party that intends to initiate litigation, arbitration or an administrative proceeding shall offer to use any dispute resolution program available within Deschutes County, Oregon, that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party.

(b) If the party receiving the offer does not accept the offer within ten (10) days after receipt of the offer, such acceptance to be made by written notice, hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party, the initiating party may commence the litigation, arbitration or administrative proceeding. The notice of acceptance of the offer to participate in the program must contain the name, address and telephone number of the body administering the dispute resolution program.

(c) If a qualified dispute resolution program exists within Deschutes County, Oregon and an offer to use the program is not made as required under paragraph (a) of this section, then litigation, arbitration or an administrative proceeding may be stayed for thirty (30) days upon a motion of the noninitiating party. If the litigation, arbitration or administrative action is stayed under this paragraph, both parties shall participate in the dispute resolution process.

(d) Unless a stay has been granted under paragraph (c) of this section, if the dispute resolution process is not completed within thirty (30) days after receipt of the initial offer, the initiating party may commence litigation, arbitration or an administrative proceeding without regard to whether the dispute resolution is completed.

(e) Once made, the decision of the court, arbitrator or administrative body arising from litigation, arbitration or an administrative proceeding may not be set aside on the grounds that an offer to use a dispute resolution program was not made.

(f) The requirements of this section do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation, arbitration or an administrative proceeding initiated to collect Assessments, other than Assessments attributable to fines.

10.2 Arbitration. Any claim, controversy, or dispute by or among Declarant (including members, officers, directors, shareholders and affiliates of Declarant), Association, the Architectural Control Committee, or one or more Owners, or any of them, arising out of or related to this Declaration, the Bylaws of the Association, the Rules and Regulations, or the Property shall be first subject to mediation as described in Section 10.1 above or otherwise, and if not timely settled by mediation, resolved by arbitration in accordance with this Article 10. The decisions and award of the arbitrator shall be final, binding and nonappealable. The arbitration shall be conducted in Bend, Oregon or at such other location as may be agreed upon by the parties, pursuant to the arbitration statutes of the State of Oregon and any arbitration award may be enforced by any court with jurisdiction. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statute of limitations or for purposes of filing a notice of pending action ("lis pendens").

10.3 Selection of Arbitrator. The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties. The arbitrator selected shall be neutral and unbiased, except to the extent the arbitrator's prior relationship with any party is fully disclosed and consented to by the other party or parties. If the parties are unable to agree upon the arbitrator within ten (10) days after a party's demand for arbitration, upon application of any party, the presiding judge of the Circuit Court of Deschutes County, Oregon shall designate the arbitrator.

10.4 Consolidated Arbitration. Upon demand by any party, claims between or among the parties and third parties shall be submitted in a single, consolidated arbitration. Notwithstanding the provision of this Article 10, in the event any claim, controversy or dispute involves a claim by either party against a third party who is not required to and does not voluntarily agree to submit such claim to arbitration, then either party may elect to have the matter determined by a court of law in a consolidated proceeding, rather than by arbitration. In such case, the parties hereby waive trial by jury and agree that the matter shall be determined by a judge sitting without a jury.

10.5 Discovery. The parties to the arbitration shall be entitled to such discovery as would be available to them in an action in Deschutes County Circuit Court. The arbitrator shall have all of the authority of the court incidental to such discovery, including, without limitation, authority to issue orders to produce documents or other materials, to issue orders to appear and submit to deposition, and to impose appropriate sanctions including, without limitation, award against a party for failure to comply with any order.

10.6 Evidence. The parties to the arbitration may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary for an understanding and determination of the dispute. The arbitrator shall determine the admissibility of the evidence offered. All evidence shall be taken in the presence of the arbitrator and all of the parties, except when any of the parties is absent in default or has waived its right to be present.

10.7 Excluded Matters. Notwithstanding the foregoing, the following matters shall not be subject to mediation or arbitration under this Article 10 (but shall be subject to the applicable provisions of Section 10.8 below): (a) actions relating to the collection of fees, Assessments, fines and other charges imposed or levied by the Association (other than disputes as to the validity or amount of such fees, Assessments, fines or charges, which disputes shall be subject to mediation/arbitration as provided above); and (b) actions to enforce any order, decision or award rendered by arbitration pursuant to this Article 10. The filing of a lis pendens or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal Rules of Civil Procedure shall not constitute a waiver of the right or duty to utilize the procedures specified in this Article 10.

10.8 Costs and Attorneys' Fees. The fees of any mediator and the costs of mediation shall be divided and paid equally by the parties. Each party shall pay its own attorneys' fees and costs in connection with any mediation. The fees of any arbitrator and the costs of arbitration shall be paid by the nonprevailing party or parties; if none, such fees and costs shall be divided and paid equally by the parties. Should any suit, action or arbitration be commenced in

connection with any dispute related to or arising out of this Declaration, the Bylaws or the Rules and Regulations; to obtain a judicial construction of any provision of this Declaration, the Bylaws or the Rules and Regulations; to rescind this Declaration; or to enforce or collect any judgment or decree of any court or any award obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute as the court or arbitrator may adjudge reasonable, at trial, in the arbitration, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit, action or arbitration proceeding. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party shall be decided by the arbitrator (with respect to attorneys' fees incurred before and during the arbitration proceeding) and by the court or courts, including any appellate or review court, in which such matter is tried, heard or decided, including a court that hears a request to compel or enjoin arbitration or that hears exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorneys' fees incurred in such proceedings).

10.9 Survival. The mediation and arbitration agreement set forth in this Article 10 shall survive the transfer by any party of its interest or involvement in the Property and any Lot therein and shall survive the termination of this Declaration.

Article 11

MORTGAGEES

11.1 Reimbursement of First Mortgagees. First mortgagees of units may, jointly or singly, pay taxes or other charges that are in default and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for any Unit. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association, to the extent the same was the responsibility of the Association.

11.2 Right of First Mortgagees Relating to Maintenance. At any time that the exterior of a Unit is not maintained or repaired by the Association pursuant to Article 7 to the extent reasonably necessary to protect and preserve the value of the Property for security purposes, then the record mortgagee, upon giving written notice as hereinafter provided, shall be entitled to exercise the rights of the Owner of the Unit as a member of the Association to vote at all regular and special meetings of the members of the Association for a period of one (1) year following the date of such notice. During this one (1) year period, the Association shall give notice of all regular and special meetings to both the Owner and the mortgagee, and the Owner may attend such meetings as an observer. Notice from the mortgagee under this section shall quote this Section 11.2 and shall be sent postage prepaid by certified United States mail, return receipt requested, to the Owner with a copy sent by regular mail to the Association at the last known address of each.

Article 12

AMENDMENT AND REPEAL

12.1 How Proposed. Amendments to or repeal of this Declaration shall be proposed by either a majority of the Board of Directors or by Owners holding thirty percent (30%) or more of the Association's voting rights. The proposed amendment or repeal must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment or repeal.

12.2 Approval Required. This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of Owners representing not less than seventy-five percent (75%) of the Lots, based upon one vote for each such Lot, together with the written consent of the Class B member, if such Class B membership has not been terminated as provided in this Declaration. In no event shall an amendment under this section create, limit or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted under this Declaration or change the method of determining liability for common expenses, the method of determining the right to common profits or the method of determining voting rights of any Lot, unless the Owners of the affected Lots unanimously consent to the amendment. Declarant may not amend this Declaration to increase the scope of special Declarant rights reserved in this Declaration after the sale of the first Lot unless Owners representing seventy-five percent (75%) of the total vote, other than Declarant, agree to the amendment. To the extent any amendment relates to the preservation or maintenance of the Common Maintenance Areas or private utility lines, or the existence of an entity responsible for accomplishing the same, such amendment shall be approved by the zoning administrator of City of Bend.

12.3 Recordation. Any such amendment or repeal shall become effective only upon recordation in the Deed Records of Deschutes County, Oregon of a certificate of the president and secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that such amendment, amendments or repeal have been approved in the manner required by this Declaration and ORS 94.590, and acknowledged in the manner provided for acknowledgment of deeds.

12.4 Regulatory Amendments. Notwithstanding the provisions of Section 12.1 above, until the Turnover Meeting, Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community. After the Turnover Meeting, any such amendment shall require the approval of a majority of the voting rights of the Association voting in person, by proxy or by ballot at a meeting or ballot meeting of the Association at which a quorum is represented.

Article 13

MISCELLANEOUS PROVISIONS

13.1 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his unit and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner himself or herself.

13.2 Enforcement. The Association, or any Owner or the owner of any recorded mortgage on any part of the Property shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

13.3 Construction; Severability; Number; Caption. This Declaration shall be liberally construed as an entire document to accomplish the purposes hereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

As used herein, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

13.4 Notices and Other Documents. Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail, with postage prepaid, addressed as follows: If to Declarant, 16771 Boones Ferry Road, Lake Oswego, OR 97035; if to an Owner, at the address given by the Owner at the time of his or her purchase of a Lot, or at the Unit; if to the Association, to the mailing address of the Association as filed with the Oregon Secretary of State. The address of a party may be changed by him at any time by notice in writing delivered to the Association as provided herein.

13.5 Private Agreement. This Declaration and the covenants and agreements contained herein constitute a private agreement among the Owners of Lots in Fremont Place. This Declaration does not restrict City of Bend's authority to adopt or amend its development regulations. There may be conflicting requirements between this Declaration and regulations of City of Bend, which will limit its review of a development application to the requirements of its regulations. It is the duty of every person engaged in development or remodeling of a Lot and/or improvement in Fremont Place to know the requirements of this Declaration and the covenants and agreements contained herein. In the event there is a conflict between a regulation of City of

Bend and this Declaration, any question regarding which provision controls shall be directed to the Association. In no event will City of Bend be liable for any approvals or permits that are granted in compliance with the regulations of City of Bend, the State of Oregon or any other jurisdiction, but that are not in compliance with this Declaration. Declarant and/or the Association will not be liable for any approvals that are granted in compliance with this Declaration, but that are not in compliance with the regulations of City of Bend, the State of Oregon or any other jurisdiction.

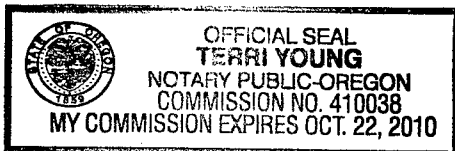
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date set forth above.

Renaissance at NW Crossing, LLC, an Oregon
limited liability company

By: _____
Its: member

STATE OF OREGON)
) ss.
County of Clackamas)

The foregoing instrument was acknowledged before me this 27 day of July, 2007 by
Randal Sebastian, member of **Renaissance at NW**
Crossing, LLC, an Oregon limited liability company, on its behalf.



Terri Young
Notary Public for Oregon
My commission expires: October 22, 2010
Commission No.: 410038

EXHIBIT A

**BYLAWS OF
FREMONT PLACE OWNERS ASSOCIATION**

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS.....	1
1.1 Association.....	1
1.2 Articles of Incorporation.....	1
1.3 Declaration.....	1
1.4 Incorporation by Reference.....	1
ARTICLE 2 MEMBERSHIP.....	1
2.1 Membership.....	1
2.2 Membership List.....	1
ARTICLE 3 MEETINGS AND VOTING	1
3.1 Place of Meetings.....	1
3.2 Turnover Meeting.....	2
3.3 Annual Meeting.....	2
3.4 Special Meetings.....	2
3.5 Notice of Meeting.....	2
3.6 Quorum.....	3
3.7 Voting Rights.....	3
3.8 Fiduciaries and Joint Owners.....	3
3.9 Tenants and Contract Vendors.....	3
3.10 Absentee Ballots and Proxies.....	4
3.11 Majority Vote.....	4
3.12 Rules of Order.....	4
3.13 Ballot Meetings.....	4
ARTICLE 4 DIRECTORS: MANAGEMENT	5
4.1 Number and Qualification.....	5
4.2 Interim Directors.....	5
4.3 Transitional Advisory Committee.....	5
4.4 Election and Tenure of Office.....	6
4.5 Vacancies.....	6
4.6 Removal of Directors.....	6

4.7	Powers.....	7
4.8	Meetings.....	8
4.9	Open Meetings.....	9
4.10	Notice of Meetings.....	9
4.11	Quorum and Vote.....	9
4.12	Liability.....	10
4.13	Compensation.	10
4.14	Executive, Covenants and Other Committees.	10
4.15	Enforcement Procedures.	10
	(a) Notice.....	10
	(b) Response.	10
	(c) Proof of Notice.....	11
	(d) Hearing.....	11
	(e) Appeal.....	11
	(f) Enforcement Policies.	11
ARTICLE 5	OFFICERS.....	11
5.1	Designation and Qualification.	11
5.2	Election and Vacancies.....	11
5.3	Removal and Resignation.	12
5.4	President.....	12
5.5	Vice Presidents.	12
5.6	Secretary.	12
5.7	Treasurer.	13
5.8	Compensation of Officers.....	13
ARTICLE 6	ASSESSMENTS, RECORDS AND REPORTS.....	13
6.1	Assessments.....	13
6.2	Records.	14
6.3	Statement of Assessments Due.....	14
6.4	Inspection of Books and Records.....	14
6.5	Payment of Vouchers.....	15
6.6	Execution of Documents.....	15
6.7	Reports and Audits.	15

ARTICLE 7	INSURANCE.....	15
7.1	Types of Insurance.....	15
(a)	Property Damage Insurance.....	16
(b)	Liability Insurance.....	16
(c)	Workers' Compensation Insurance.....	16
(d)	Fidelity Insurance.....	17
7.2	Insurance by Unit Owners.....	17
7.3	Other Insurance Requirements.....	17
7.4	Optional Provisions.....	19
7.5	FannieMae and GNMA Requirements.....	19
7.6	Planned Community Act Requirements.....	19
ARTICLE 8	GENERAL PROVISIONS	19
8.1	Seal.....	19
8.2	Notice.....	19
8.3	Waiver of Notice.....	19
8.4	Action Without Meeting.....	20
8.5	Conflicts.....	20
ARTICLE 9	AMENDMENTS TO BYLAWS	20
9.1	How Proposed.....	20
9.2	Adoption.....	20
9.3	Execution and Recording.....	21

**BYLAWS OF
FREMONT PLACE OWNERS ASSOCIATION**

Article 1

Definitions

1.1 Association. "Association" means **FREMONT PLACE OWNERS ASSOCIATION**, a nonprofit corporation organized and existing under the laws of the State of Oregon.

1.2 Articles of Incorporation. "Articles of Incorporation" means the Articles of Incorporation of the Association.

1.3 Declaration. The "Declaration" means the Amended and Restated Declaration of Protective Covenants, Conditions, Restrictions and Easements for Fremont Place to which these Bylaws are attached, as the same may be subsequently amended or supplemented pursuant to the terms thereof.

1.4 Incorporation by Reference. Except as otherwise provided herein, the terms that are defined in Article 1 of the Declaration are used in these Bylaws as therein defined.

Article 2

Membership

2.1 Membership. Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such ownership, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

2.2 Membership List. The Secretary shall maintain at the principal office of the Association a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board of Directors.

Article 3

Meetings And Voting

3.1 Place of Meetings. Meetings of the members of the Association shall be held at such reasonable place convenient to the members as may be designated in the notice of the meeting.

3.2 Turnover Meeting. Declarant shall call the first meeting of the Owners to organize the Association within ninety (90) days after termination of the Class B membership as provided in Section 3.7 below. Notice of such meeting shall be given to all Owners as provided in Section 3.5. If the Declarant fails to call the meeting, the meeting may be called and notice given by any Owner or mortgagee of a Lot. The expense of giving notice shall be paid or reimbursed by the Association. In the event of a lack of quorum at such Turnover Meeting, it may be adjourned as provided in Section 3.6. Nothing in this section shall be construed as preventing Declarant from calling the Turnover Meeting prior to such date, or from calling informal, informational meetings of the Owners.

3.3 Annual Meeting. The annual meeting of the members for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day as may be established by the Board of Directors or, if the Board should fail to designate a date by the first day of September, then at 7:30 p.m. on the second Thursday in October. The first annual meeting shall be held within one year after the date of the Turnover Meeting.

3.4 Special Meetings. A special meeting of the Association may be called at any time by the President or by a majority of the Board of Directors. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from members having at least thirty percent (30%) of the voting rights entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

3.5 Notice of Meeting.

(a) Written or printed notice stating the place, day and hour of the meeting, the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, any proposal to remove a director or officer and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) or more than fifty (50) days before the date of the meeting. Such notice shall be given either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member entitled to vote at such meeting, and to all mortgagees who have requested such notice. Notices to Declarant shall be mailed. If mailed, such notices shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the member at his most recent address as it appears on the records of the Association or to the mailing address of his Lot.

(b) When a meeting is adjourned for thirty (30) days or more, or when a redetermination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases, no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

(c) For a period of ten (10) years following recording of the Declaration, notices of meetings (including agendas) shall also be given to Declarant in the same manner as given to unit owners, and Declarant or a representative of Declarant shall be entitled to attend such meetings.

3.6 Quorum. At any meeting of the Association, members having at least twenty percent (20%) of the voting rights entitled to be cast at such meeting, present in person or by proxy, shall constitute a quorum, except when a larger quorum is required by the Declaration. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a member or members. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time not less than forty-eight (48) hours or more than thirty (30) days from the time the original meeting was called until a quorum is present. The quorum for the adjourned meeting shall be reduced to ten percent (10%) of the voting rights entitled to be cast at the meeting, present in person or by proxy.

3.7 Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three votes for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (1) When all of the Lots in Fremont Place have been sold and conveyed to Owners other than a successor Declarant or a builder for development; or
- (2) At such earlier time as Declarant may elect in writing to terminate Class B membership.

3.8 Fiduciaries and Joint Owners. An executor, administrator, guardian or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot 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 Secretary that he or she is the executor, administrator, guardian or trustee, holding such Lot in such capacity. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of disagreement among the co-Owners, the vote of such Lot shall be disregarded completely in determining the proportion of votes given with respect to such matter, unless a valid court order establishes the authority of a co-owner to vote.

3.9 Tenants and Contract Vendors. Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a Lot shall be exercised by the Owner. Unless otherwise stated in the contract, all voting rights allocated to a Lot shall be exercised by the vendee of any recorded land sale contract on the Lot.

3.10 Absentee Ballots and Proxies. A vote may be cast in person, by absentee ballot or by proxy. A proxy given by an Owner to any person who represents such Owner at meetings of the Association shall be in writing and signed by such Owner, and shall be filed with the secretary at any time prior to or at the start of the meeting. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one year after its date unless the proxy specifies a shorter term. Every proxy shall automatically cease upon sale of the Lot by its Owner. An Owner may pledge or assign such Owner's voting rights to a mortgagee. In such a case, the mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled under these Bylaws and to exercise the Owner's voting rights from and after the time that the mortgagee shall give written notice of such pledge or assignment to the Board of Directors. Any first mortgagee may designate a representative to attend all or any meetings of the Association.

3.11 Majority Vote. The vote of a majority of the voting rights entitled to be cast by the members present or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by law, by the Declaration, by the Articles of Incorporation, or by these Bylaws.

3.12 Rules of Order. Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Association shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

3.13 Ballot Meetings.

(a) At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every member that is entitled to vote on the matter; provided, however, that a ballot meeting may not substitute for the Turnover Meeting or, if a majority of the Lots are the principal residences of the occupants, for the annual meetings of the Association. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(b) The Board of Directors shall provide Owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board of Directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner, and instructions for making and returning the ballot. The notice shall state the general subject matter of the vote, the right of the Owners to request secrecy procedures, the date after which ballots may be distributed, the date and time by which any petition must be received by the Board requesting secrecy procedures and the address where any petition must be received. Notwithstanding the applicable provisions of paragraph (c) of this section, written ballots that are

returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(c) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of Lot Owners has voted, and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected. If approval of a proposed action otherwise would require a meeting at which a specified percentage of Lot Owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met. Except as otherwise provided in paragraph (b) of this section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(d) All solicitations for votes by written ballot shall state the number of responses needed to meet any applicable quorum requirement and the total percentage of votes needed for approval. All such solicitations for votes shall specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of (i) the date on which the Association has received a sufficient number of approving ballots to pass the proposal, or (ii) the date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage, or (iii) a date certain by which all ballots must be returned to be counted. A written ballot may not be revoked.

Article 4

Directors: Management

4.1 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors of three (3) to five (5) persons. All directors, other than interim directors appointed by Declarant, shall be Owners or co-Owners of Lots. For purposes of this section, the officers of any corporate Owner, the members of any limited liability company and the partners of any partnership shall be considered co-Owners of any Lots owned by such corporation or partnership.

4.2 Interim Directors. Upon the recording of the Declaration, Declarant shall appoint an interim board of one (1) to three (3) directors, who shall serve until replaced by Declarant or until their successors have been replaced by the Owners as provided below.

4.3 Transitional Advisory Committee. Unless the Turnover Meeting has already been held, Declarant shall call a meeting of the Owners for the purpose of forming a Transitional Advisory Committee. The meeting shall be called within sixty (60) days after the date Declarant conveys fifty percent (50%) or more of the Lots then existing in Fremont Place to Owners other than a successor Declarant. The committee shall consist of two (2) or more Owners elected by the Owners other than Declarant and not more than one (1) representative of Declarant. The

members shall serve until the Turnover Meeting. The Transitional Advisory Committee shall be advisory only and its purpose shall be to enable ease of transition from administrative control of the Association by Declarant to control by the Owners. The committee shall have access to any information, documents and records that Declarant must turn over to the Owners at the time of the Turnover Meeting. If Declarant fails to call the meeting to elect a Transitional Advisory Committee within the time specified, the meeting may be called and notice given by any Owner. If the Owners fail to elect a Transitional Advisory Committee at the meeting called for such purpose, Declarant shall have no further obligation to form the committee.

4.4 Election and Tenure of Office.

(a) At the Turnover Meeting, the interim directors shall resign and the members shall elect three (3) directors, two (2) to serve for two (2) years and one (1) to serve for one (1) year. The two nominees receiving the greatest number of votes shall serve for two (2) years. In the event of a tie, term selection shall be by random means. Thereafter the successors to each director shall serve for terms of two (2) years each.

(b) Upon a majority vote of the voting rights entitled to be cast by the members present or represented by absentee ballot or proxy at a meeting or ballot meeting at which a quorum is present, the Board of Directors may be increased from three (3) directors to five (5) directors. At the next annual meeting or a special meeting called for such purpose, two (2) additional directors shall be elected, one (1) to serve for a two-year term and one (1) to serve for a one-year term. Term selection shall be in the same manner as provided in paragraph (a) above.

(c) All directors shall hold office until their respective successors shall have been elected by the members. Election shall be by plurality.

4.5 Vacancies.

(a) A vacancy in the Board of Directors shall exist upon the death, resignation or removal of any director, or if the authorized number of directors is increased, or if the members fail at any annual or special meeting of members at which any director or directors are to be elected to elect the full authorized number of directors to be voted for at that meeting. Vacancies in interim directors shall be filled by Declarant.

(b) Vacancies in the Board of Directors, other than interim directors, may be filled by a majority of the remaining directors even though less than a quorum, or by a sole remaining director. Each director so elected shall hold office for the balance of the unexpired term and until his successor is elected.

4.6 Removal of Directors. All or any number of the directors, other than interim directors, may be removed, with or without cause, at any meeting of members at which a quorum is present, by a vote of a majority of the number of votes entitled to be cast at an election of directors. No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting as provided in these Bylaws.

4.7 Powers. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors by the Owners. The Board of Directors may delegate responsibilities to committees or a managing agent, but shall retain ultimate control and supervision. The powers and duties to be exercised by the Board of Directors shall include, but not be limited to, those set forth in the Declaration and the following:

(a) Carry out the program for maintenance, upkeep, repair and replacement of any property required to be maintained by the Association as described in the Declaration and these Bylaws including, without limitation, implementation of the Maintenance Plan and inspections as required by the Declaration.

(b) Determine of the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

(c) Prepare of a budget for the Association, and assessment and collection of the Assessments.

(d) Employ and dismiss such personnel as may be necessary for such maintenance, upkeep and repair.

(e) Employ legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the Board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$100,000 unless the Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five percent (75%) of the voting rights of the Association. These limitations shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitations set forth in this paragraph shall increase by ten percent on each fifth anniversary of the recording of the Declaration. To the extent required by the Oregon Planned Community Act, the Board shall notify the Owners before instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association, the Board shall periodically report to the Owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the Board to disclose any privileged communication between the Association and its counsel.

(f) Open of bank accounts on behalf of the Association and designating the signatories required therefor.

(g) Prepare and file, or cause to be prepared and filed, any required income tax returns or forms for the Association.

(h) Purchase Lots at foreclosure or other judicial sales in the name of the Association, or its designee.

(i) Sell, lease, mortgage, vote the votes appurtenant to (other than for the election of directors), or otherwise deal with Lots acquired by the Association or its designee.

(j) Obtain insurance or bonds pursuant to the provisions of these Bylaws, and reviewing such insurance coverage at least annually.

(k) From time to time adopt, modify, or revoke such rules and regulations governing the details for the operation of the Association, the conduct of persons and the operation and use of the Lots as the Board of Directors may deem necessary or appropriate to ensure the peaceful and orderly use and enjoyment of the Property. Such action may be overruled or modified by vote of not less than seventy-five percent (75%) of the voting rights of each class of members present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of rules and regulations will be under consideration.

(l) Enforce by legal means of the provisions of the Declaration, these Bylaws and any rules and regulations adopted hereunder.

(m) In the name of the Association, maintain a current mailing address of the Association, file annual reports with the Oregon Secretary of State and maintain and keep current the information required to enable the Association to comply with ORS 94.670(7).

(n) Subject to Section 6.8 of the Declaration, enter into management agreements with professional management firms.

4.8 Meetings.

(a) Meetings of the Board of Directors shall be held at such place as may be designated from time to time by the Board of Directors or other persons calling the meeting.

(b) Annual meetings of the Board of Directors shall be held within thirty (30) days following the adjournment of the annual meetings of the members.

(c) Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by any two directors.

(d) Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Board of Directors shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

(e) For a period of ten (10) years following recording of the Declaration, notices of meetings (including agendas) shall also be given to Declarant in the same manner as given to directors, and Declarant or a representative of Declarant shall be entitled to attend such meetings.

4.9 Open Meetings.

(a) All meetings of the Board of Directors shall be open to Owners except that, in the discretion of the Board, the following matters may be considered in executive session: (i) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (ii) personnel matters, including salary negotiations and employee discipline; (iii) negotiation of contracts with third parties; and (iv) collection of unpaid assessments. Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in the executive session shall be included in the minutes of the meeting, and any contract or action considered in executive session shall not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which shall be reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the Board of Directors may be conducted by telephonic communication or by other means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting, except that if a majority of the Lots are principal residences of the occupants, then: (i) for other than emergency meetings, notice of each Board of Directors' meeting shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Owners of such meeting; and (ii) only emergency meetings of the Board of Directors may be conducted by telephonic communication or such other means. The meeting and notice requirements of this Section may not be circumvented by chance or social meetings or by any other means.

4.10 Notice of Meetings.

(a) Notice of the time and place of meetings shall be given to each director orally, or delivered in writing personally or by mail or telecopy at least twenty-four (24) hours before the meeting. Notice shall be sufficient if actually received at the required time or if mailed or telecopied not less than seventy-two (72) hours before the meeting. Notice mailed or telecopied shall be directed to the address shown on the Association's records or to the director's actual address ascertained by the person giving the notice. Such notice need not be given for an adjourned meeting if such time and place is fixed at the meeting adjourned.

(b) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

4.11 Quorum and Vote.

(a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn from time to time but may not transact any business.

(b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors unless a greater number is required by law, the Declaration, the Articles of Incorporation or these Bylaws.

4.12 Liability. Neither a member of the Board of Directors nor an officer of the Association shall be liable to the Association or any Owner or third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, so long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. In the event any member of the Board of Directors or any officer of the Association is threatened with or made a party to any proceeding because the individual was or is a director or officer of the Association, the Association shall defend such individual against such claims and indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the Association, the Owners or any third party on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent and its officers and employees from any such claims, other than for gross negligence or intentional misconduct.

4.13 Compensation. No director shall receive any compensation from the Association for acting as such.

4.14 Executive, Covenants and Other Committees. Subject to law, the provisions of the Declaration and these Bylaws, the Board of Directors, may appoint an Executive Committee, a Covenants Committee to be responsible for covenant enforcement as provided in Section 4.15 and such other standing or temporary committees as may be necessary from time to time consisting of Owners and at least one member of the Board of Directors and having such powers as the Board of Directors may designate. Such committees shall hold office at the pleasure of the Board.

4.15 Enforcement Procedures. The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Declaration, these Bylaws or the Rules and Regulations. To the extent specifically required by the Declaration, the Board of Directors shall comply with the following procedures prior to the imposition of sanctions:

(a) **Notice.** The Board of Directors or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator shall have fourteen (14) days to present a written request for a hearing before the Board of Directors or a Covenants Committee appointed by the Board of Directors, if any; and (iv) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within fourteen (14) days of the notice.

(b) **Response.** The alleged violator shall respond to the notice of the alleged violation in writing within such fourteen (14) day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the

alleged violation and notifies the Board of Directors in writing within such fourteen (14) day period the Board of Directors may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided, however, that the Board of Directors or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period. Any response or request for a hearing shall be delivered to the Association's manager, President or Secretary, or as otherwise specified in the notice of violation.

(c) **Proof of Notice.** Prior to the effectiveness of sanctions imposed pursuant to this section, proof of proper notice shall be placed in the minutes of the Board of Directors or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

(d) **Hearing.** If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held before the Board of Directors or the Covenants Committee, as applicable. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing (i.e., the decision) and the sanction, if any, to be imposed.

(e) **Appeal.** Following a hearing before the Covenants Committee, if applicable, the violator shall have the right to appeal the decision to the Board of Directors. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President or Secretary within ten (10) days after the hearing date.

(f) **Enforcement Policies.** The Board of Directors, by Resolution, may adopt additional policies and procedures governing enforcement of the Declaration, these Bylaws or the Rules and Regulations.

Article 5

Officers

5.1 Designation and Qualification. The officers of the Association shall be the President, the Secretary, the Treasurer, and such Vice Presidents and subordinate officers as the Board of Directors shall from time to time appoint. Each officer shall be a member of the Board of Directors. Any two offices, except the offices of President and Secretary, may be held by the same person.

5.2 Election and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board to serve for one (1) year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of

Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

5.3 Removal and Resignation.

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever, in their judgment, the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided, however, that the Board of Directors may reject any postdated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

5.4 President. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have powers of general supervision, direction and control of the business and affairs of the Association. He or she shall preside at all meetings of the members and of the Board of Directors. He or she shall be an ex officio member of all the standing committees, including the executive committee, if any, shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.5 Vice Presidents. The Vice Presidents, if any, shall perform such duties as the Board of Directors shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Senior Vice President as designated by the Board of Directors.

5.6 Secretary.

(a) The Secretary shall keep or cause to be kept a book of minutes of all meetings of directors and members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at members' meetings and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the members and of the Board of Directors as is required by these Bylaws or by law. The Secretary shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

5.7 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of accounts shall at all reasonable times be open to inspection by any director. The Treasurer shall deposit or cause to be deposited all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse or cause to be disbursed the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

5.8 Compensation of Officers. No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the members. The Board of Directors may fix any compensation to be paid to other officers.

Article 6

Assessments, Records And Reports

6.1 Assessments. As provided in the Declaration, the Association, through its Board of Directors, shall do the following:

(a) Assess and collect from every Owner Assessments in the manner described in the Declaration.

(b) Keep all funds received by the Association as Assessments, other than reserves described in the Declaration, in the Operations Fund and keep all reserves collected pursuant to the Declaration in the Reserve Fund and use such funds only for the purposes described in the Declaration.

(c) From time to time, and at least annually, prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves based upon the reserve study required by the Declaration, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt a budget, the last adopted annual budget shall continue in effect.

(d) Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any Assessment shall be sent to every Owner subject thereto and to any first mortgagee requesting such notice. The due dates shall be established by the Board of Directors, which may fix a regular flat Assessment payable on a monthly, quarterly, semiannual or annual basis. The Board of Directors shall cause to be prepared a roster of the Lots showing Assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner or mortgagee

during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board of Directors, and every Owner as to the amounts of unpaid Assessments

(e) Enforce the Assessments in the manner provided in the Declaration.

(f) Keep records of the receipts and expenditures affecting the Operations Fund and Reserve Fund and make the same available for examination by members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each member written notice of each Assessment at least 30 days before the time when such Assessments shall become due and payable; and for a reasonable charge, promptly provide any Owner or mortgagee who makes a request in writing with a written certificate of such Owner's unpaid Assessments.

6.2 Records. The Association shall keep within the State of Oregon correct and complete financial records sufficiently detailed for proper accounting purposes, keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors, and retain all documents, information and records turned over to the Association by Declarant. All documents, information and records delivered to the Association by Declarant pursuant to ORS 94.616 and other records of the Association shall be kept within the State of Oregon for the time periods specified in ORS 94.670.

6.3 Statement of Assessments Due. The Association shall provide, within ten (10) business days after receipt of a written request from an Owner, a written statement that provides: (a) the amount of assessments due from the Owner and unpaid at the time the request was received, including regular and special assessments, fines and other charges, accrued interest, and late-payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed-rate charge for late payment. The Association is not required to comply with this section if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.

6.4 Inspection of Books and Records. Except as otherwise provided in ORS 94.670(5), during normal business hours or under other reasonable circumstances, the Association shall make reasonably available for examination and, upon written request, available for duplication, by Owners, lenders, and holders of any mortgage of a Lot that make the request in good faith for a proper purpose, current copies of the Declaration, Articles, Bylaws, Rules and Regulations, amendments or supplements to such documents and the books, records, financial statements and current operating budget of the Association. The Association shall maintain a copy, suitable for purposes of duplication, of each of the following: (a) the Declaration, these Bylaws, the Rules and Regulations and any amendments or supplements to them, (b) the most recent financial statement of the Association, and (c) the current operating budget of the Association. The Association, within ten (10) business days after receipt of a written request by an Owner, shall furnish copies of such documents to the requesting Owner. Upon written

request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The Board of Directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs for furnishing the documents, information or records.

6.5 Payment of Vouchers. The Treasurer or managing agent shall pay all vouchers for all budgeted items and for any nonbudgeted items up to \$1,000 signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher for nonbudgeted items in excess of \$1,000 shall require the authorization of the President or a resolution of the Board of Directors.

6.6 Execution of Documents. The Board of Directors may, except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement, to pledge its credit, or to render it liable for any purpose or for any amount.

6.7 Reports and Audits. An annual financial statement consisting of a balance sheet and an income and expense statement for the preceding year shall be rendered by the Board of Directors to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. Commencing with the fiscal year following the Turnover Meeting, if the Annual Assessments exceed \$75,000 for the year, then the Board of Directors shall cause such financial statements to be reviewed within 180 days after the end of the fiscal year by an independent certified public accountant licensed in Oregon in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants, or if the Annual Assessments are \$75,000 or less, shall cause such review within 180 days after receipt of a petition requesting such review signed by at least a majority of owners. The Board of Directors need not cause such a review to be performed if so directed by an affirmative vote of at least sixty percent (60%) of the Owners, not including votes of Declarant with respect to Lots owned by Declarant. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association and furnish copies thereof to the members. At any time any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

Article 7

Insurance

7.1 Types of Insurance. For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the Operations Fund, the following insurance:

(a) **Property Damage Insurance.**

(1) The Association shall maintain a policy or policies of insurance covering loss or damage from fire, with standard extended coverage and "all risk" endorsements, and such other coverages as the Association may deem desirable.

(2) The amount of the coverage shall be for not less than one hundred percent (100%) of the current replacement cost of the Units (exclusive of land, foundation, excavation and other items normally excluded from coverage, subject to a reasonable deductible as determined by the Board of Directors.

(3) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the Common Maintenance Areas and all personal property and supplies belonging to the Association, together with all fixtures, improvements and alterations comprising a part of each Unit [as may be further defined by resolution of the Board of Directors].

(4) Such policy or policies shall name the Association, for the use and benefit of the individual Lot Owners, as insured, and shall provide for loss payable in favor of the Association, as a trustee for each Owner and each such Owner's mortgagee, as their interests may appear. The policies shall contain the standard mortgage clause, or equivalent endorsement (without contribution) which is commonly accepted by institutional mortgage investors in Oregon.

(b) **Liability Insurance.**

(1) The Association shall maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the Board of Directors, and the managing agent, against liability to the public or to Owners and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Property, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of an Owner (other than as a member of the Association or Board of Directors) for liability arising out of acts or omissions of such Owner and liability incident to the ownership and/or use of the part of the Property as to which such Owner has the exclusive use or occupancy.

(2) Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) on a combined single-limit basis.

(3) Such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

(c) **Workers' Compensation Insurance.** The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

(d) **Fidelity Insurance.**

(1) The Board of Directors may cause the Association to maintain blanket fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of, or administered by, the Association. In the event that the Association has retained a management agent, the Board of Directors may require such agent to maintain fidelity insurance for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The cost of such insurance, if any, may be borne by the Association.

(2) The total amount of fidelity coverage required shall be based upon the best business judgment of the Board of Directors.

(3) Such fidelity insurance shall name the Association as obligee and shall contain waivers by the issuers of the insurance of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The insurance shall provide that it may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association.

7.2 Insurance by Unit Owners. The Association has no responsibility to procure or assist in procuring property loss insurance for any Owner or tenant for (i) damage to a Unit not covered by the Association's policy (because of the deductible amount or because the claim for loss or damage is one not covered by fire and property loss insurance policies required by these Bylaws or held by the Association); or (ii) for any damage or loss to the Owner's or tenant's personal property. Owners must be responsible for purchasing insurance policies insuring their units for the deductible amount under the Association's policies and for insuring their own personal property for any loss or damage. Tenants must be responsible for insuring their own personal property for any loss or damage. The Association shall notify all Owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Association shall give at least thirty (30) days' notice to the Owners of any increase in the deductible proposed in renewal or replacement insurance policies. Owners and tenants of all Units must procure and maintain comprehensive liability policies having combined limits in amounts reasonably set by the Board of Directors no more often than every three years. Such insurance must provide coverage for, without limitation, the negligent acts of the Owner and tenant and their guests or other occupants of the Unit for damage to the Common Maintenance Area and other Units and the personal property of others located therein.

7.3 Other Insurance Requirements. Insurance obtained by the Association shall be governed by the following requirements:

(a) All policies shall be written with the State of Oregon or a company licensed to do business in the State of Oregon which falls into a B general policyholder's rating or a financial performance index of 6 or better, as designated in Best's Key Rating Guide, or an A or better rating from Demotech, Inc.

(b) Notwithstanding the provisions of Section 7.1 above, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement, or any successor to such trustee. Such insurance trustee shall have exclusive authority to negotiate losses under any property or liability insurance policy. Each Owner appoints the Association, or any insurance trustee or substitute trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance including: the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purchase. The Association or insurance trustee shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their first mortgage holders, as their interests may appear.

(c) All property insurance policies shall contain endorsements providing for the following: recognition of any Insurance Trust Agreement, a waiver of the right of subrogation against the Board of Directors, any Owner or any guest of an Owner, that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively, and that the policy is primary in the event the Owner has other insurance covering the same loss, and any such other insurance policies of the Owners or their mortgagees shall not be brought into contribution with the insurance policies to be obtained by the Association.

(d) For purposes of this Article, insurance policies are unacceptable where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association or Owners, or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members, or (iii) policy includes any limiting clauses (other than insurance conditions) which could prevent Owners from collecting insurance proceeds.

(e) All policies required by this Article shall provide that they may not be canceled or substantially modified without at least 10 days' prior written notice to the Association and to each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the insurance policy. Evidence of insurance shall be issued to each Owner and mortgagee upon request.

(f) The Board of Directors may require each Owner to notify the Board of all improvements made by the Owner to his Unit, the value of which is in excess of an amount established by the Board. Nothing in this paragraph shall permit an Owner to make improvements without first obtaining the approval of the Board of Directors pursuant to the Declaration.

(g) Any Owner who obtains individual insurance policies covering any portion of the property other than his personal property and fixtures shall file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance.

7.4 Optional Provisions. The Board of Directors shall make every effort to secure insurance policies that will provide for the following:

(a) To the extent appropriate and available at reasonable cost, the Association shall maintain additional coverages against such other risks as are customarily covered with respect to projects similar in construction, location and use, including but not limited to, flood, host liquor liability, contractual and all-written contract insurance, employer's liability insurance, comprehensive automobile liability insurance, and an endorsement patterned after "use and occupancy" insurance providing relief from monthly assessments while a Unit is uninhabitable due to a covered loss.

(b) If reasonably available, the insurance policies shall include an Agreed Amount and Inflation Guard Endorsement, and Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement, and an Increased Cost of Construction Endorsement).

(c) Flood insurance, if the Property is in a Special Flood Hazard Area.

7.5 FannieMae and GNMA Requirements. Notwithstanding any other provisions of this Article, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity insurance meeting the insurance and fidelity requirements for planned unit development projects established by FannieMae and Government National Mortgage Association, if any, so long as either is a mortgagee or Owner, except to the extent such coverage is not available or has been waived in writing by FannieMae, or Government National Mortgage Association. FannieMae or FannieMae's servicer, its successors and assigns, shall be named as a mortgagee in the Association's policies, if required by FannieMae.

7.6 Planned Community Act Requirements. The insurance maintained by the Association shall comply with the requirements of the Oregon Planned Community Act, ORS 94.550 to 94.780.

Article 8

General Provisions

8.1 Seal. The Board of Directors may, by resolution, adopt a corporate seal.

8.2 Notice. All notices to the Association or to the Board of Directors shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time. All notices to members shall be sent to the member's Unit or to such other address as may have been designated by the member from time to time in writing to the Board of Directors.

8.3 Waiver of Notice. Whenever any notice to any member or director is required by law, the Declaration, the Articles of Incorporation, or these Bylaws, a waiver of notice in writing signed at any time by the person entitled to notice shall be equivalent to the giving of the notice.

8.4 Action Without Meeting. Any action that the law, the Declaration, the Articles of Incorporation or the Bylaws require or permit the members or directors to take at any meeting may be taken without a meeting or ballot meeting if a consent in writing setting forth the action so taken is signed by all of the members or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the members or directors, shall be filed in the records of minutes of the Association.

8.5 Conflicts. These Bylaws are intended to comply with the Oregon Planned Community Act, the Oregon Nonprofit Corporation Law, the Declaration and the Articles of Incorporation. In case of any irreconcilable conflict, such statutes and documents shall control over these Bylaws.

Article 9

Amendments To Bylaws

9.1 How Proposed. Amendments to these Bylaws shall be proposed by either a majority of the Board of Directors or by members holding at least thirty percent (30%) of the voting rights entitled to be cast for such amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or be attached to any request for consent to the amendment.

9.2 Adoption.

(a) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members and may be approved by the membership at a meeting called for such purpose, by a ballot meeting pursuant to Section 3.13, or by written consent of the members. Members not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by members holding a majority of the voting rights, together with the written consent of the Class B member, if any. Amendment or repeal of any provision of these Bylaws that is also contained in the Declaration must be approved by the same voting requirement for amendment of such provision of the Declaration.

(b) Notwithstanding the provisions of the preceding paragraph, until the Turnover Meeting has occurred, Declarant shall have the right to amend these Bylaws in order to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community. After the Turnover Meeting, any such amendment shall require the approval of a majority of the voting rights of the Association, voting in person, by proxy or by ballot, at a meeting or ballot meeting of the Association at which a quorum is represented.

9.3 Execution and Recording. An amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws and ORS 94.625, acknowledged and recorded in the Deed Records of Deschutes County.