

AFTER RECORDING, RETURN TO:
Lennar Northwest, LLC
Attn: David Force
17801 SE 6th Way, Suite 100
Vancouver, WA 98683

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
Community Name**

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THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR Community Name (“Declaration”) is made this _____ day of _____, 2026 by Lennar Northwest, LLC, a Delaware limited liability company, as the (“Declarant”).

WHEREAS, the Declarant is the owner, or controls, all that certain real property and improvements thereon located in the City of Stayton, County of Marion, State of Oregon, described in the Plat of Recorded Plat Name, incorporated herein by reference, and also referred to as Community Name (“the Property”), recorded concurrently with this Declaration; and

WHEREAS, Declarant intends to develop the Property as a subdivision and to establish the residential development of Community Name, Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments, and liens on the Property under a comprehensive general plan of improvement and development for the benefit of all of the Owners, the Lots and Common Area within the Property; and

WHEREAS, Declarant has deemed it desirable for the preservation of the values and amenities within the Property to create a homeowners association, to which will be delegated and assigned the powers and authority to own, maintain, and administer the Association and the Common Area and facilities, and administer and enforce the covenants, conditions, and restrictions of this Declaration, and collect and disburse the assessments and charges hereinafter created.

NOW THEREFORE, Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens, or as noted herein, which shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in the Property or any part thereof and shall inure to the benefit of the Association and of each Owner.

ARTICLE 1

DEFINITIONS

1.1 “Architectural Review Committee” or the “ARC” shall be appointed as provided in Section 6.1 below.

1.2 “Articles” shall mean the Articles of Incorporation for the non-profit corporation, Community Name Homeowners Association, or such similar name approved by and which have been or shall be filed by Declarant with the Oregon Corporation Commissioner on or prior to conveyance of the first Lot to an Owner other than Declarant.

1.3 “Association” shall mean the Community Name Homeowners Association, its successors and assigns.

1.4 “Plat Name” shall mean the real property and all Common Areas described on the recorded Plat for the Property, as well as any annexations of additional lands.

1.5 “Board” or “Board of Directors” shall mean the Board of Directors of the Association.

1.6 “Bylaws” shall mean the Bylaws of the Association, which have been or shall be recorded as required by Oregon law, which has been or shall be recorded by Declarant on or prior to conveyance of the first Lot to an Owner other than Declarant as required by Oregon law.

1.7 “City” shall mean the City of Stayton, located in the State of Oregon

1.8 “Common Area” shall mean any areas of land shown on the recorded Plat, including any improvements thereon, which are intended to be devoted to the common use and enjoyment of the Members of the Association, and areas outlined herein as the maintenance responsibility of the Association.

1.9 “County” shall mean Marion County, located in the State of Oregon

1.10 “Declarant” shall mean Lennar Northwest, LLC, a Delaware limited liability company, its successors or assigns, or any successor or assign to all remainder of their interests in the development of the Property. All successors to Declarant shall have the same rights and interests as the initial Declarant. “Declarant” shall not refer to any other subsequent purchaser of a Lot or Home.

1.11 “Declaration” shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration of Covenants, Conditions and Restrictions for the Property

1.12 “General Common Expenses” shall mean those Common Area expenses incurred by the Association for the benefit of all of the Owners of the Lots within the Property. Such definition shall also apply to the words “Common Expenses” as used in this Declaration.

1.13 “General Plan of Development” shall mean Declarant’s general plan of development of the Property as approved by appropriate governmental agencies, as may be amended from time to time.

1.14 “Governing Documents” shall mean this Declaration, together with Articles of Incorporation, Bylaws of the Association, rules and regulations as adopted by the Board of Directors of the Association and those documents defined in ORS Chapter 94 as may be amended from time to time.

1.15 “Home” shall mean any portion of a structure situated on a Lot designed and intended for use and occupancy as a residence by a single family or household.

1.16 “Lot” shall mean any plot of land indicated upon the recorded Plat of the Property or any part thereof creating individual Home sites, including any annexations to the Plat. These do not include Common Areas, Tracts, or areas deeded to a government authority or utility.

1.17 “Lot Easement Area” shall mean those portions of any Lot subject to any easement benefiting the Association.

1.18 “Members” shall mean the Owners of Lots within the Property who are Members of the Association.

1.19 “Occupant” shall mean the occupant of a Home who shall be the Owner, lessee, or any other person authorized by the Owner to occupy the premises.

1.20 “Owner” shall mean the record Owner, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession under a land sale contract. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.

1.21 “Plat” shall mean the recorded Plat of Plat Name and any annexations to the original Plat.

1.22 Intentionally omitted.

1.23 “Property” shall mean all real property described on the Plat, and any annexations of additional property, including the Common Area Tracts, and all improvements located on the real property, as may be brought within the jurisdiction of the Association and be made subject to this Declaration.

1.24 “Rules and Regulations” shall mean the documents containing rules and regulations and policies adopted by the Board or the ARC and as may be from time to time amended by the Board or the ARC.

1.25 “Sale” shall mean the conveyance of a Lot to a party other than Declarant or a successor Declarant.

1.26 “Sign” shall mean any printed or written words or pictures placed on cloth, plastic, metal, or wood. Examples include banners, flags, pendants, windsocks, etc.

1.27 “Tract” shall mean a parcel of land shown on the Plat and denoted by the word “Tract.”

1.28 “Turnover Meeting” shall be the meeting called by Declarant to turn over control of the Association to the Class A members.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

2.1 The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the City of Stayton, County of Marion, State of Oregon, in that certain Plat entitled Plat Name filed in the plat records of County Name, State of Oregon, more particularly described as Lots First Lot through Last Lot and Tracts First Tract through Last Tract of Plat Name.

2.2 Declarant may, at its sole option, annex additional property into the Association to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. Declarant currently anticipates that there will be a total of approximately Total # of Lots Lots in the subdivision, including the Lots on this Plat, and Lots expected to be created in property to be annexed to the subdivision, but this number may be adjusted at the sole discretion of Declarant.

2.3 Eligible Property. There is no limitation on the number of Lots which Declarant may annex to the Property, or the right of Declarant to annex common property, except as may be established by applicable ordinances, agreements, or land use approvals.

2.4 Consent or Joinder Not Required. No consent or joinder of any Class A Member as defined in this Declaration or other party except the record owner of the land being annexed shall be necessary to affect any annexation made pursuant to this Article.

2.5 Declaration of Annexation. Annexation shall be evidenced by a written Declaration of Annexation executed by Declarant or (in the case of an annexation by action of members) by the Board and the owners of the property being annexed, setting forth the legal description of the property being annexed and any additional covenants, conditions, and restrictions to be applied to such annexed property. Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed property may:

- (a) establish such new land classifications and such limitations, uses, restrictions, covenants, and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property;
- (b) with respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants, and conditions with respect thereto as Declarant may deem to be appropriate for the development of such annexed property; or
- (c) contains provisions necessary or appropriate to comply with any condition, requirement, or imposition of any governmental or regulatory authority.

Without limitation of the meaning of the foregoing provisions of Article 2, in any Declaration of Annexation, Declarant may, but shall not be obligated to:

- (a) establish different types of Lots and have particular rights and obligations pertain to different types of Lots;
- (b) establish easements particular to different Lots;
- (c) establish assessments that pertain only to certain types of Lots;
- (d) establish maintenance obligations of the Association or of Owners that vary in accordance with different types of Lots or different tracts of Common Area;
- (e) establish insurance and casualty provisions that relate to certain types of Lots and not others; and
- (f) establish limited Common Areas that benefit particular Lots to the exclusions of other Lots and provisions particular to such limited Common Areas.

2.6 Voting Rights; Allocation of Assessments. Upon annexation, additional lots so annexed shall be entitled to voting rights and shall be responsible for payments or assessments as required for that fiscal year. At the beginning of the next fiscal year, assessments shall be reallocated and reapportioned equally based on the total number of lots following such annexations.

2.7 No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of Declarant or any member to annex any property into the Association and no owner of property excluded from the Association shall have any right to have such property annexed thereto.

ARTICLE 3

OWNERSHIP AND EASEMENTS

3.1 Non-Severability. The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. No Lot shall be conveyed by the Owner separately from the interest in the Common Area, subject to the provisions of Section 3.3. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Common Area. Each Owner, whether by deed, gift, devise, or operation of law, for the Owner's own benefit and for the benefit of all other Owners, specifically waives and abandons all rights, interests, and causes of action for judicial partition of any interest in the Common Area and does further agree that no action for judicial partition shall be instituted, prosecuted, or reduced to judgment. The ownership interest in the Common Area and Lots described in this Article are subject to the easements granted and reserved in this Declaration and in the Plat. Each of the easements reserved or granted herein shall be deemed to be established

upon the recordation of this Declaration and shall forever be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots and shall be superior to all other encumbrances applied against or in favor of any portion of the Property.

3.2 Ownership of Lots. Title to each Lot within the Property shall be conveyed in fee to an Owner. If more than one person or entity owns an undivided interest in the same Lot, such persons or entities shall constitute one Owner. No Lot shall be divided or combined with any other Lot without the prior written approval of the ARC, and of Declarant so long as Declarant owns any Lot.

3.3 Ownership of Common Areas. Title to the Common Area shall be conveyed to the Association not later than the date the first Lot is conveyed from Declarant to Owners other than Declarant successors or assigns, or seven years from the date this Declaration is recorded, whichever is earlier. Declarant or the Board may convey title to any present or future Common Area Tracts to the City, County, or other government agency.

3.4 Easements. Individual deeds to Lots may, but shall not be required to, set forth the easements specified in this Article.

3.5 Easements on Plat. The Common Area and Lots are subject to the easements and rights of way shown or noted on the Plat.

3.6 Easements for Common Area. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot.

3.7 Easements Reserved by Declarant. So long as Declarant owns any Lot, Declarant reserves an easement over, under, and across the Common Areas in order to carry out sales activities necessary or convenient for the sale of Lots. In addition, Declarant hereby reserves to itself, and for its successors and assigns, a perpetual easement and right-of-way for access over, upon, and across the Common Areas for construction, utilities, communication lines, drainage, and ingress and egress for the benefit of the Lots or 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 Area 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 in such a way as to not unreasonably interfere with the occupancy, use, enjoyment, or access to an Owner's Lot by that Owner or that Owner's family, tenants, guests, or invitees. Further, Declarant reserves the right to install and maintain landscape improvements and hereby reserves a landscape maintenance easement on any Lot(s) or Common Area as Declarant deems necessary for sales and marketing purposes. Declarant is not obligated to provide any landscaping in said areas noted in this Article.

3.8 Additional Easements. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of the Property. No

structure, planting, or other material shall be placed or permitted to remain within any easement area which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company, or the Association is responsible.

3.9 Association's Easements. There are hereby reserved to the Association and its duly authorized agents and representatives such easements on, under and over the Property as are necessary to perform the duties and obligations of the Association set forth in this Declaration, the Bylaws, and Articles, as the same may be amended or supplemented.

3.10 Easement to Governmental Entities. There is hereby reserved and granted a non-exclusive easement over the Common Area to all governmental and quasi-government entities, agencies, utilities, and their agents for the purposes of performing their duties within the Property.

3.11 Maintenance Obligations/Owner Restrictions. Except as otherwise provided in this Declaration, the Owner, at the Owner's expense, shall maintain, repair and replace the improvements and utility installations in any Lot Easement Area in a condition acceptable by the Board and shall hold the Association harmless from any such costs.

3.12 Vision Clearance Easement. All lots located at the corner of an intersection within the Community are subject to vision clearance easements for the benefit of the City and/or County as shown on the Plat and are subject to the City and/or County visual clearance area standards

3.13 Conservation Easement. The conservation easement contains non-standard fill and no buildings are permitted within the easement. The Association is responsible for ensuring that no buildings are constructed within the easement.

ARTICLE 4

LOTS AND HOMES

4.1 Residential Use. Lots shall be used for residential purposes only. Except with the consent of the Board, no trade, craft, business, profession, commercial, or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit:

- (a) activities relating to the sale of an individual Home or Lot;
- (b) the right of Declarant or any contractor or home builder to construct residences in any Lot, to store construction materials and equipment on such Lots in the

normal course of construction, to use any residence as a sales office or model home for purposes of sales, and to maintain on-site a temporary construction office or trailer; and

- (c) the right of the Owner of a Lot to maintain the Owner's professional or personal library, keep the Owner's personal business or professional records or accounts, handle the Owner's personal business or professional telephone calls or confer with business or professional associates, clients, or customers, in the Owner's residence, so long as such activity is not observable outside of the residence, does not significantly increase parking or vehicular traffic, or is in violation of applicable local government ordinances.

The Board shall not approve commercial activities otherwise prohibited by this paragraph unless the Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances.

4.2 Construction. Except for construction performed by or contracted for by Declarant, no construction, reconstruction, or exterior alterations shall occur on any Lot unless the approval of the ARC is first obtained pursuant to Article 6.

- (a) No Owner, other than Declarant or their assigns, may partition or subdivide any Lot without the prior written approval of the Board, which approval may be granted or denied at the sole discretion of the Board. If any Lot is subdivided into two (2) or more Lots, then the subdivided Lots shall be deemed separate Lots for the purposes of this Declaration, including voting rights and allocation of Assessments. A permitted subdivision shall be affected by the recording of a supplemental declaration stating that the affected Lot(s) are subdivided, which declaration shall be executed at the sole cost of the Owner(s) of the affected Lot(s). Executed documents must include the signature of the Association President and Secretary. In addition to the foregoing, the partition or subdivision of any Lot is subject to the prior approval of the City of Stayton, and/or Marion County.
- (b) Consideration such as siting or location on the lot, shape, size, color, design, height, solar access, or material may be taken into account by the ARC in determining whether or not to consent to any proposed work. Such work includes but is not limited to, Homes, storage shelters, swimming pools, spas, landscaping, greenhouses, patios, fencing, basketball hoops, or remodeling. The intent of this covenant is to ensure the quality of workmanship and material and harmony of external design with the existing and planned structures as to location and visual compatibility and finish grade elevations.
- (c) All construction must comply with the City and/or County Development Code and Building Code Standards. Original construction designs, materials, and product specifications by Declarant may vary from any or all specified in this document. All construction performed by or contracted for by Declarant shall be

presumed to have met these minimum requirements or have been granted a variance thereto.

4.3 Design Guidelines. The following restrictions are minimum standards applicable to all Lots:

- (a) Height. No Home shall exceed two (2) stories, excluding basement and garage levels in height above the ground.
- (b) Garages. A garage must be constructed on each Lot. Garages may be used as a sales office by Declarant but must be converted to a garage before permanent occupancy. Garages are to be maintained primarily for the storage of automobiles or similar vehicles. No garage may be enclosed or otherwise used for habitation, nor may any garage door be removed except when necessary to repair or replace a garage door with the same type of garage door.
- (c) Security Doors/Windows and Screen Doors. No security doors and no exterior security bars or devices on windows and doors shall be installed without the prior written approval of the ARC. If the ARC approves any type of security door or window security, such approval shall encourage or require a single style for all Homes so they will maintain a uniform and aesthetic appearance.

4.4 Completion of Construction. The construction of any building on any Lot, including painting and all exterior finish, shall be completed within six (6) months from the beginning of the construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the ARC. The Lot and building area shall be kept reasonably clean and in workmanlike order, free of litter, during the construction period with a garbage disposal facility located on site during such construction period. If construction has not commenced within three (3) months after the project has been approved by the ARC, the approval shall be deemed revoked unless the Owner has applied for and received an extension of time from the ARC. All provisions of this Article 4 shall exclude any construction by Declarant.

4.5 Improvements and Landscaping. Except as otherwise provided in this Declaration, the Association shall pay for and maintain any improvements and landscaping associated with any maintenance easement held by the Association. Maintenance of all landscape on Lots, including street frontage landscaping, is the Owner's sole responsibility. Notwithstanding the foregoing:

- (a) All street trees shall be preserved and maintained in good condition at all times by the Lot Owner and replaced if necessary. Replacement of any street trees or rear yard trees shall be approved by the ARC and must be consistent with the City and/or County Development Code regarding size and type.
- (b) All landscaping and improvements on any Lot or Common Area shall be maintained and cared for in a manner consistent with the standard of design and

quality as originally established by Declarant or the ARC. Maintenance of landscaped areas shall include, but not be limited to watering, weeding, pruning, fertilization, mowing and other forms of maintenance.

- (c) All Lots and Common Areas shall be kept free of weeds and diseased or dead lawn, trees, ground cover, or shrubs shall be promptly removed and replaced. All lawn areas shall be watered, fertilized, and neatly mowed. Trees and shrubs shall be fertilized and neatly trimmed on a regular basis.
- (d) Landscape installation on Lots by Owners are subject to approval by the ARC. All landscape on all Lots shall be completed no later than six (6) months after occupancy.
- (e) No Owner may connect to any Association owned and/or maintained irrigation system.
- (f) Except as otherwise provided herein, all landscaping on Lots shall be maintained by Owners in good condition, including watering, weeding, pruning, fertilization, mowing, and other forms of maintenance. If Owner fails to maintain or repair Owner-maintained areas, Declarant or the Board reserves the right to cause such maintenance or repair to be performed on behalf of Owner.
- (g) Declarant reserves the right to install and maintain landscape improvements on any Lots or Common Area as described in Section 3.8 above.

4.6. Rental of Homes. An Owner shall be entitled to rent its residence if:

- (a) Written Rental Agreements Required. There is a written rental or lease agreement specifying that:
 - (h) the tenant shall be subject to all provisions of the Declaration, Bylaws, and Rules and Regulations;
 - (ii) failure to comply with any provision of the Declaration, Bylaws, and Rules and Regulations shall constitute a default under the rental agreement; and
 - (iii) a copy of the Rental Agreement is available upon request by the HOA.
- (b) Minimum Rental Period. The period of the rental or lease is not less than thirty (30) days.
- (c) Tenant Must Be Given Documents. The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations.
- (d) Owner Responsibility. Owner shall be responsible for any violations by tenants and shall be solely responsible for either correcting or eliminating such violations

either by enforcement of the Rental Agreement on the tenant or at their own expense.

4.7 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, kept, or permitted within any Lot other than a reasonable number of domestic household pets which are not kept, bred, or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance. Any inconvenience, damage, or unpleasantness caused by such pets, including noise, shall be the responsibility of the respective Owners thereof. No dogs shall be permitted to roam the Property unattended, and all dogs shall be kept on a leash while outside a Lot. It is the sole responsibility and requirement of any pet owner to immediately clean up any pet waste deposited upon any Lot, Common Area, or Association maintained easement area. An Owner may be required to remove a pet from the Property upon the receipt of the third notice in writing from the Board of violation any rule, regulation or restriction governing pets within the Property. A “reasonable number of domestic household pets” and the definition of “domestic household pets” shall be subject to rules adopted and approved by the Board in its sole discretion.

4.8 Nuisance. No noxious, harmful or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the enjoyment, or which is a source of annoyance to the other Owners or Occupants.

4.9 Parking. Parking of boats, trailers, commercial vehicles, mobile homes, campers, other recreational vehicles or equipment regardless of weight shall not be allowed on any part of the Lot or Common Area except within a fenced area as approved by the ARC. All fencing must conform to Section 4.13. Parking shall only be in garages or driveways if no portion of the vehicle overhangs the street, sidewalks or pathways. Garages shall be primarily used for vehicular parking and not solely for storage. In addition, parking of vehicles is prohibited on any public street, private street or Common Area within the Property if designated as a “no parking” area and are subject to tow at the Vehicle Owner’s expense.

4.10 Vehicles in Disrepair. No Owner shall permit any vehicle, which is not currently licensed or is in a “state of disrepair” to be abandoned or to remain parked upon any Lot for a period in excess of forty-eight (48) hours, or on a Common Area for any length of time. A vehicle shall be deemed in a “state of disrepair” when the Board or its Agent reasonably determines that its presence offends the Owners and Occupants. Should any Owner fail to remove such vehicle within five (5) days following the date on which the notice is mailed to the Owner by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner. All oil or grease on roadways and driveways shall be cleaned up immediately by Owner.

4.11 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 by a licensed real estate agent, not exceeding twenty-four (24) inches high and thirty-six (36) inches long, may be temporarily displayed on any Lot, subject to the provisions of Section 9.2 below and applicable law. The restrictions contained in this paragraph shall not prohibit the temporary placement of “political” signs on any Lot by the Owner or Occupant, or construction and marketing-related signage by Declarant or its

contractors, subject to compliance of the sign and its placement with applicable law. No signs of any kind, other than Declarant's marketing signs or any Association signs for the common good of the Community, which have been previously approved by the Board, will be allowed on Common Areas. The foregoing restrictions shall not be deemed to prohibit the display of the flag of the United States by an Owner or occupant of a Lot if the flag is displayed on the Lot in a manner consistent with federal flag display law, 4 U.S.C. § 1 *et seq.* The Board may adopt reasonable rules and regulations consistent with federal flag display law regarding the placement and manner of display of such flag and the location and size of the flagpole.

4.12 Rubbish and Trash. No Lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for timely and proper disposal, out of public view. Yard debris, dirt, and other materials resulting from landscaping work shall not be dumped onto streets, the Common Areas or any other Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard debris, or any such materials from any Lot, any roadways, or Common Area where deposited by the Owner within five (5) days following the date on which notice is provided to the Owner by the Board, the Association may have such materials removed and charge the expense of such removal to the Owner. Each Owner is responsible for trash disposal, placing trash and recycling containers at the curb no more than eighteen (18) hours before collection and twelve (12) hours post collection. No trash, recycling, or storage containers shall be visible from any adjacent street or neighboring Lot and shall not be allowed to emit any odors or attract insects or rodents.

4.13 Fences and Hedges.

(a) Fences. All fences built within Community Name shall conform to the standard set forth in Appendix 1A recorded with this document. Fences shall be stained using Sherwin Williams Woodscapes- Hawthorne 3518 150%. No fences shall be installed, painted, stained, or otherwise modified without approval of the ARC and all fences must meet the standards and permitting requirements of the local jurisdiction's development code standards.

(b) Fence Maintenance by Owner. Except as otherwise provided in this Declaration, any fencing installed on Owner's Lots either by Owner or Declarant, is the Owner's maintenance responsibility.

(c) Fence Maintenance by Association. The following sections of fence shall be maintained by the Association:

(i) Add sections as needed;

(ii) If none, "intentionally omit" section

(d) Side Yard Fencing. Side yard fencing on any lot shall maintain a minimum five (5) foot-setback from the front of the home.

(e) Boundary Hedges. No boundary hedges shall be installed without prior written approval of the ARC.

4.14 Basketball Equipment, Service Facilities; Utilities. All basketball hoops and backboards shall be portable and shall not be affixed to a garage, residence, stationary post or other structure on a Home. When not in use, basketball hoops and backboards shall be stored out of sight of neighboring Homes. Service facilities (e.g. garbage containers, clotheslines, air conditioning compressors, etc.) shall be screened such that the elements screened are not visible at any time from the street or a neighboring Home. All utility lines shall be maintained, repaired and replaced by the Owner of each Lot, or all Owners collectively at their sole expense. The Association is not responsible for the maintenance of any utility, cable TV, or phone service facilities. The exterior location of any heating and air conditioning compressors or heat pumps shall be approved in advance by the ARC. Said locations must take into consideration the noise and view from adjacent Homes.

4.15 Antennas, Satellite Dishes and Solar Collectors. No Owner may erect or maintain a television or radio receiving or transmitting antenna, or similar implement or apparatus, or solar collector panels or equipment upon any Lot unless such apparatus is erected and maintained in such a way that it is screened from public view along the public street right-of-way directly in front (and side, in the case of a corner Lot) of the house erected on such Lot; and no such apparatus shall be erected without the prior written consent of the ARC. Exterior satellite dishes with a surface diameter of eighteen (18) inches or less may be placed on any Lot, subject to ARC approval, so long as they are installed above the first story (at least eight feet off the ground) and fully below the highest peak of the roof, in the least noticeable location as possible, such as at the eaves or other break in the natural lines of the residence. The ARC shall have the absolute authority to determine whether the placement of the satellite dish fits these standards. The authority of the ARC in this matter shall be subject to any regulations issued by the Federal Communications Commission ("FCC") or any other applicable governmental authority.

4.16 Exterior Lighting or Noisemaking Devices. Except with the consent of the ARC, no exterior lighting or noisemaking devices shall be installed or maintained on any Lot, other than security and fire alarms. Area, flood, and ornamental lighting must be of a subdued nature. False alarms of security and fire systems will not be allowed to repeatedly occur. 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.

4.17 Grades, Slopes, and Drainage. There shall be no modification to or interference with the established grading and drainage patterns or other systems over or through any Lot or Common Area on the Property unless properly engineered and permitted by the governing jurisdiction, if required, and as approved by the ARC. Notwithstanding the foregoing, however, any permitted modifications to the established grading and drainage patterns may not affect other Lots, Common Areas, or real property on or outside of the Property. The term "established grading and drainage patterns" shall mean any Declarant installed walls, grading, drainage systems, conduits, inlets, and outlets, designed and constructed on the Property.

4.18 Damage or Destruction to Home or Lot. If all or any portion of a Lot or Home is damaged by fire or other casualty, the Owner shall either:

- (a) restore the damaged improvements; or

- (b) remove all damaged improvements, including foundations, and leave the Lot in a clean and safe condition.

Any restoration proceeding under (a) in the immediately preceding sentence must be performed so that the improvements are in substantially the same condition in which they existed prior to the damage, subject to current governmental regulations and building codes. The Owner must commence such work within sixty (60) days after the damage occurs and must complete the work within six (6) months thereafter. In the event the Owner fails to commence such work within the six (6)-month period, the Association shall have the right, but not the obligation, to commence such work on behalf of and at the expense of the Owner.

4.19 Detached Building. No permanent or removable detached accessory buildings, including, but not limited to, storage buildings, pre-fabricated patio covers, custom patio covers, pergolas, gazebos, greenhouses, children's playhouses, and similar structures, shall be built without the prior written consent of the ARC and may not be built in any front or side yards adjacent to a street. All such detached buildings must meet the City and/or County Development Code and Building Code Standards. No detached buildings shall be used as additional living space and none shall contain any plumbing. Permanent outbuildings shall be of a one (1) story design and shall not exceed nine (9) feet above the existing grade of the Lot. They shall be constructed of materials considered complimentary to the exterior of the home and the neighborhood at the ARC's discretion. Metal sheds are prohibited. Heavy-duty rubber or unbreakable plastic or composite storage sheds that are portable and temporary in nature may be approved providing that they are:

- (a) screened or hidden from the view of neighboring Lots and Common Areas;
- (b) aesthetically harmonious with the home in terms of color and texture/finish (e.g. pebbled/muted/dull).

4.20 Owner's Maintenance Obligations. Each Owner shall maintain their Lot and improvements in a clean and attractive condition, in good repair, and in such a fashion as not to create a hazard of any kind. Such maintenance shall include, without limitation, painting or staining, repair, replacement, and care of roofs, gutters, downspouts, surface water drainage, walks, and other exterior improvements and glass surfaces. In addition, each Owner shall keep shrubs, trees, grass, and plantings of every kind neatly trimmed, fertilized, properly cultivated, and free of trash, weeds, and other unsightly materials. The provisions of this Article include all areas on Lots, except as provided in Section 4.5 above.

4.21 Right of Maintenance and Entry by Association. If an Owner fails to perform maintenance or repair which the Owner is obligated to perform pursuant to this Declaration for buildings or landscaping, and if the Board determines, after notice and a hearing (given pursuant to the provisions of the Bylaws), that such maintenance or repair is necessary to preserve the attractiveness, quality, nature or value of the Property, the Board may cause such maintenance or repair in connection therewith to be performed and may enter any such Lot whenever entry is necessary in connection with the performance of any maintenance or construction which the Boards authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than forty-eight (48) hours, except in

emergency situations. Such right of maintenance shall include, but not be limited to, buildings, street trees and front and side yard landscape. All maintenance or repairs performed on behalf of Lot Owners shall be at the Owner's sole expense.

4.22 Association Rules and Regulations. The Board, from time to time, may adopt, modify, or revoke Rules and Regulations governing the conduct of persons and the operation or use of Lots and Common Areas, as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of any Rules and Regulations, upon adoption, amendment, modification or revocation thereof shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and Occupants of all Lots upon the date of delivery or actual notice thereof. The method of adoption of such Rules and Regulations shall be provided in the Bylaws of the Association.

4.23 City and County Ordinances and Regulations. The standards and restrictions of this Article 4 shall be the minimum required. To the extent the ordinances and regulations of the City of Stayton, State of Oregon or Marion County are more restrictive or provide for a higher or different standard, the ordinances and regulations of the City of Stayton, State of Oregon, Marion County, or any jurisdiction the Property may be annexed into, shall prevail.

4.24 Violation. The Association may impose a fine, charge, or penalty for any violation of this Declaration, the Bylaws, and Rules and Regulations after reasonable notice of the violation and a reasonable opportunity for a hearing. Additionally, the Association may seek injunctions or other equitable relief or may file an action for money damages owing from such violations.

4.25 Security. The Association is not responsible for the security of the neighborhood or any Homes. The Owners are exclusively responsible for the security of their Home and Property.

4.26 Environmental Issues. Each Owner acknowledges that Plat Name includes environmentally sensitive areas and that there are common stormwater drainage systems within Plat Name. The stormwater drainage systems shall be kept free from debris. Each Owner and the Association shall comply with all applicable laws and ordinances regarding the storage, disposal or release of hazardous materials. No dumping, spilling, releasing, or washing of hazardous materials, waste, or debris shall be done or permitted by any Owner or the Association within Plat Name. All Owners and the Association shall dispose of any hazardous materials off-site.

ARTICLE 5

COMMON AREA

5.1 Use of Common Areas. Use of Common Areas is subject to the provisions of the Declaration, Bylaws, Articles, and Rules and Regulations promulgated by the Board.

- (a) Tract A is _____ owned and maintained by _____
- (b) Tract B is _____ owned and maintained by _____

Access to Common Areas may be withheld in the Board's sole discretion. No alterations or additions to the Common Area shall be permitted without the prior written approval by the Board, which may also be withheld in the Board's sole discretion. Nothing shall be stored or kept in the Homes or Common Area which will increase the rate of insurance on the Common Area without the prior written consent of the Board.

5.2 Maintenance of Common Area. Except as otherwise provided in this Declaration, the Association shall pay for and maintain any improvements within the boundaries of Tract A, Tract B, and any maintenance easement held by the Association as described in Section 3.9. The Association shall keep the Common Area and improvements thereon in good condition and repair, provide for all necessary services, and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area stay in good condition and repair. All landscaping and improvements on any Lot or Common Area shall be maintained and cared for in a manner consistent with the standard of design and quality as originally established by Declarant or the ARC. The Common Areas shall be kept free of weeds and diseased or dead lawns, trees, ground cover, and shrubs shall be promptly removed and replaced. All lawn areas shall be fertilized and neatly mowed. Trees and shrubs shall be fertilized and neatly trimmed on a regular basis.

5.3 Alterations to Common Area. Declarant does not choose to limit its rights to add improvements to the Common Area and nothing in this Declaration shall be deemed to require Declarant to build any improvement on the Common Area. After all Lots to have been conveyed to Owners other than Declarant or a Declarant assignee, the Association may construct, reconstruct, or alter any improvement situated upon the Common Area as allowed hereunder. A proposal for any construction of or alteration, maintenance, or repair to an improvement may be made at any meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws and the Declaration.

5.4 Funding. Expenditures for alterations, maintenance, or repairs to an existing capital improvement for which a reserve has been collected shall be made from the reserve account(s). As provided in Article 10, the Board may levy a special assessment to fund any construction, alteration, repair, or maintenance of an improvement (or any other portions of the Common Area or the Plat Side Yards) for which no reserve has been collected or for which the reserve account is insufficient to cover the cost of the proposed improvement.

5.5 Condemnation of Common Area. If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be received by and expended by the Board in a manner which in their discretion is in the best interest of the Association. The Association shall represent the interest of all Owners in any negotiations, suit, action, or settlement in connection with such matters.

5.6 Damage or Destruction of Common Area. In the event any portion of a Common Area is damaged or destroyed by an Owner or any of the Owner's Occupants, guests, tenants, licensees, agents, or members of the Owner's family in a manner that would subject such Owner to liability for such damage under Oregon law, such Owner does hereby authorize the Association to repair

such damage. The Association shall repair the damage and restore the area in a workmanlike manner as originally constituted or as may be modified or altered subsequently by the Association at the discretion of the Board. The reasonable cost necessary for such repairs shall become a special assessment upon the Lot of the Owner who caused or is responsible for such damage.

ARTICLE 6

ARCHITECTURAL REVIEW COMMITTEE

6.1 Architectural Review. No improvement shall be commenced, erected, placed, or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the improvement have been submitted to and approved in writing by the ARC. It is the intent and purpose of this Declaration to assure quality of workmanship and materials and to assure harmony of exterior design with the existing improvements and landscaping. The ARC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes, or other governmental regulations, all of which are the responsibility of the Owners. The procedure and specific requirements for review and approval of construction may be set forth in design guidelines adopted from time to time by the ARC. Construction by Declarant is presumed to have been approved and is thereby exempt from this review. In all cases in which the ARC consent is required by this Declaration, the provision of this Article shall apply.

6.2 Architectural Review Committee, Appointment and Removal. The ARC shall consist of no fewer than three (3) members and no more than five (5) members, as the Board may appoint from time to time. Declarant reserves the right to appoint all members of the ARC and all replacements thereto until the turnover. Declarant may appoint a single person to serve as the ARC. After turnover, Declarant shall delegate the right to appoint and remove members of the ARC to the Board. The terms of office for each member of the ARC shall be for one (1) year unless lengthened by the Board at the time of appointment or unless the Board serves as the ARC in which event the terms of the ARC members shall be the same as their terms as Board members. The Board may appoint any or all of its members for the ARC and there shall be no requirement for non-Board members on the ARC. The Board may appoint one or more non-voting members to the ARC who are not Owners, but who have special expertise regarding the matters which come before the ARC. In the sole discretion of the Board, such non-Owner members of the ARC may be paid and that cost paid by applicants or the Association.

6.3 Majority Action. Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a meeting and without the necessity of consulting the remaining members of the ARC. The ARC may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

6.4 Duties. The ARC shall consider and act upon the proposals, plans, or both submitted pursuant to this Article. The ARC, from time to time and at its sole discretion, may adopt

architectural rules, regulations, and guidelines (“Architectural Standards”). The Architectural Standards shall interpret and implement the provisions of this Declaration for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, and similar features which may be used in the Property; provided, however, that the Architectural Standards shall not be in derogation of the minimum standards established by this Declaration.

6.5 ARC Decision. The ARC shall render its approval or denial decision with respect to the construction proposal within thirty (30) days after an ARC Application is deemed “Complete.” The Board and ARC may define the term “Complete” but must provide a list of required documents and actions to achieve completion upon request. All decisions shall be in writing. In the event the ARC fails to render its decision of approval, approval with conditions, or denial in writing within thirty (30) days of deeming an ARC application Complete, the application will be automatically approved. Approval by the ARC does not imply government approval which is solely the responsibility of the Owner.

6.6 ARC Discretion. The ARC may, at its sole discretion, withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the ARC intends for the Property. Consideration such as siting or location on the Lot, shape, size, color, design, height, solar access, or other effects on the enjoyment of other Lots or the Common Area, and any other factors which the ARC reasonably believes to be relevant, may be taken into consideration by the ARC in determining whether or not to consent to any proposed work.

6.7 Nonwaiver. Consent by the ARC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing the ARC’s right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

6.8 Appeal. At any time after Declarant has delegated appointment of the members of the ARC to the Board pursuant to Section 6.2, any Owner adversely impacted by action of the ARC may appeal such action to the Board. Appeals shall be made in writing within ten (10) days of the ARC’s action and shall contain specific objections or mitigating circumstances justifying the appeal. If the Board is already acting as the ARC, the appeal shall be treated as a request for a rehearing, but in such case, the Board must set an official meeting (either in person, telephonically, or electronically) and receive evidence and argument. A final, conclusive decision shall be made by the Board within fifteen (15) days after receipt of such notification. The determination of the Board shall be final.

6.9 Effective Period of Consent. The ARC’s consent to any proposed work shall automatically be revoked three (3) months after issuance unless construction of the work has been commenced or the Owner has applied for and received an extension of time from the ARC.

6.10 Determination of Compliance. The ARC shall inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the ARC finds that the work was not performed in substantial conformance with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify

the Owner in writing of the noncompliance. The notice shall specify the particulars of any noncompliance and shall require the Owner to take the necessary action to bring the work into compliance with the approved project.

6.11 Noncompliance. If the ARC determines that an Owner has not constructed an improvement consistent with the specifications on which approval is based, and if the Owner fails to diligently commence to remedy such noncompliance in accordance with the provisions of the notice of noncompliance, then at the expiration of the third (3rd) day from the date of such notification, the ARC shall provide a notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than thirty (30) days from the date of the notice of noncompliance. At the hearing, if the ARC finds that there is no valid reason for the continuing noncompliance, the ARC shall determine the estimated costs of correcting it. The ARC shall then require the Owner to remedy or remove the same within a period of not more than ten (10) days from the date of the ARC's determination. If the Owner does not comply with the ARC's ruling within such period or within any extension of such period as the ARC, at its discretion, may grant, the Association may:

- (a) remove the noncomplying improvement;
- (b) remedy the noncompliance; or
- (c) file suit to compel compliance.

The costs of such action shall be assessed against the Owner and the Owner's Lot, including all attorneys' fees and other costs expended and incurred to enforce compliance before suit or action is filed and at trial or on any appeal or review of therefrom.

6.12 Liability. Neither the ARC, the Board, their agents, nor any member thereof shall be liable to any Owner, Occupant, or builder for any damage, loss or prejudice suffered or claimed or claimed to be suffered arising from any action by the ARC or a member thereof or failure of the ARC or a member thereof, provided only that the member has acted in good faith in accordance with the actual knowledge possessed by the member.

6.13 Estoppel Certificate. Within thirty (30) days after written request is delivered to the ARC by an Owner, and upon payment to the ARC of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the Chairman of the ARC, and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof either:

- (a) all improvements made on, done, upon, or within such Lot by the Owner comply with this Declaration or any Rules and Regulations either promulgated by the Board or the ARC or
- (b) such improvements do not so comply, in which event, the certificate shall also identify the noncomplying improvements and set forth with particularity the nature of such noncompliance. The Owner and the Owner's heirs, devisees,

successors, and assigns shall be entitled to rely on the certificate with respect to the matters set forth. The certificate shall be conclusive as between Declarant, the ARC, the Association, all Owners, and all such persons deriving an interest through any of them.

ARTICLE 7

COMMUNITY NAME **HOMEOWNERS ASSOCIATION**

7.1 Members. Each Owner shall be a mandatory member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot. Transfer of ownership of a Lot automatically transfers membership in the Association. Without any other act or acknowledgment, Occupants and Owners shall be governed and controlled by this Declaration the Articles, Bylaws, Rules and Regulations, and any amendments thereof.

7.2 Proxy. Each Owner may cast the Owner's vote in person, pursuant to a proxy executed by the Owner, or by written ballot, as provided by ORS 94.647. An Owner may not revoke a proxy given pursuant to this Article except by actual notice or revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

7.3 Voting Rights. The Association shall have two (2) classes of voting members.

- (a) Class A. Class A members shall be all Owners of Lots other than Declarant, and each Class A member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote.
- (b) Class B. The Class B member shall be the Declarant, its successors, and assigns. The Class B member shall have three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier of:
 - (i) The date that Lots representing one hundred percent (100%) of Lots anticipated to be created and subject to this Declaration, including any anticipated annexation of additional Lots, have been conveyed to Owners other than Declarant ("Termination Date"); or
 - (ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

Thereafter, each Owner, including Declarant, shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots.

7.4 When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event will fractional voting be allowed. Fractional or split votes shall be disregarded, except for purposes of determining a quorum. The total number of votes as of the Termination Date and thereafter shall be equal to the total number of Lots.

7.5 Procedure. All meetings of the Association, the Board, the ARC, and Association committees shall be conducted with such rules of order as may from time to time be adopted by the Board. Notwithstanding which rule of order is adopted, the chairman shall be entitled to vote on all matters, not merely to break a tie vote. A tie vote does not constitute a majority or approval of any motion or resolution.

ARTICLE 8

DECLARANT CONTROL

8.1 Interim Board and Officers. Declarant hereby reserves administrative control of the Association. Declarant, in its sole discretion, shall have the right to appoint and remove members of the interim Board, which shall manage the affairs of the Association and which shall be vested with all powers and rights of the Board. The interim Board shall consist of from one (1) to three (3) members. Notwithstanding the provision of this Section, at the Turnover Meeting (as hereinafter defined) at least one (1) Director shall be elected by Owners other than Declarant, even if Declarant otherwise has voting power to elect all of the members of the Board.

8.2 Turnover Meeting. Within ninety (90) days after the Termination Date, Declarant shall call the Turnover Meeting as provided in Section 3.2 of the Bylaws for the purpose of turning over administrative control of the Association from Declarant to the Class A members. Declarant shall give notice of the meeting to each Owner as provided in the Bylaws. If Declarant does not call the meeting required under this Article, any Owner may do so.

8.3 Board of Directors. At and following the Turnover Meeting, the Board shall be comprised of three (3) directors. The directors will be elected in the manner provided in the Bylaws.

ARTICLE 9

DECLARANT'S SPECIAL RIGHTS

9.1 General. Declarant is undertaking the work of developing Lots and other improvements within the Property. The completion of the development work and the marketing and sale of the Lots is essential to the establishment and welfare of the Property as a residential community. Until the Homes on all Lots on the Property have been constructed, fully completed, and sold, with respect to the Common Areas and each Lot on the Property, Declarant shall have the special rights set forth in this Article 9.

9.2 Marketing Rights. Declarant shall have the right to maintain a construction trailer, sales office, and model on one or more of the Lots which Declarant may or may not own, to be staffed by the employees of Declarant or any licensed real estate sales agents. Declarant and prospective purchasers and their agents shall have the right to use and occupy the construction trailer, sales office, and models during reasonable hours any day of the week. Declarant may maintain a reasonable number of “For Sale” signs at reasonable locations of the Property, including, without limitation, the Common Area.

9.3 Declarant’s Easements. Declarant has reserved easements over the Property as more fully described in Article 3.

9.4 Appearance and Design of the Property. Declarant shall not be prevented from changing the exterior appearance of the Common Area, including the landscaping or any other matter directly or indirectly connected with the project in any manner deemed desirable by Declarant, provided that Declarant obtains governmental consents required by law. The construction and material standards of Article 4 notwithstanding, Declarant may change exterior and interior designs of Homes and Lots from its initial plans and the provisions in this Declaration, without notice. This may include designs, colors, and types of materials, provided Declarant obtains any governmental consent required by law.

9.5 Construction by Declarant. All construction by Declarant is presumed to have been approved by the ARC and to meet any Design Guidelines of the Association.

ARTICLE 10

FUNDS AND ASSESSMENTS

10.1 Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants and for the improvement, operation, and maintenance of the Common Area, including administrative costs and insurance for the Association.

10.2 Common Expense Designations. Common Expenses of the nature described in Section 10.1 which are to be, or are, incurred by the Association for the benefit of all of the Owners of Lots within the Property shall be separately budgeted for allocation among all such Owners, except Declarant or a Declarant assignee, and shall be designated “General Common Expenses”.

10.3 Insurance by the Association. The Board shall obtain, and maintain in effect, from reputable insurance companies authorized to do business in the State of Oregon, public liability insurance with respect to all the Common Area in such amounts and in such forms as the Board deems advisable to provide adequate protection for bodily injury, including deaths of persons, and property damage, whether caused by the negligence of the Association or otherwise; provided, however, that such policy(ies) shall not be for an amount of less than One Million and No/100 Dollars (\$1,000,000.00) per person, per occurrence, and that such policy(ies) shall

provide that the coverage thereunder cannot be canceled or substantially modified without at least ten (10) days written notice to the Association. No fire and casualty coverage will be purchased by the Association for Homes. The Association may obtain such other and further policies of insurance as it deems advisable. The named insured on the policy shall be the Association. The casualty insurance to be obtained by the Association pursuant to this Section 10.3 shall include the following terms, if the Board determines they are reasonably available:

- (a) A waiver of subrogation by the insurer as to any claims against the Board, any Owner, or any guest of an Owner;
- (b) A waiver by the insurer of its right to repair and reconstruct instead of paying cash;
- (c) A provision that no policy may be canceled, invalidated, or suspended because of the action of an Owner;
- (d) A provision that no policy may be canceled, invalidated, or suspended because of the conduct of any director, officer, or employee of the Association unless the insurer gives the Association a prior written demand that the Association correct the defect and allows the Association a reasonable time to make the correction; and
- (e) A provision that any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.
- (f) The Association shall purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Association, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of the Articles of Incorporation of the Association.

10.4 Covenants to Pay and Funds Held. Declarant, on behalf of each and every subsequent Owner of any Lot, covenants and agrees that each Lot will pay the Association the assessments and any additional charges levied pursuant to this Article 10. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely for the operation, care, and maintenance of the Property as provided by this Declaration. Upon the sale or transfer of any Lot, the Owner's interest in the funds shall be deemed automatically transferred to the successor in the interest of such Owner and is not refundable.

10.5 Basis of Assessments and Commencement of Assessments. Assessments are to be levied against all Lots, except those owned by Declarant or Declarant assignee, whether or not such Lots have been improved with a substantially completed Home. Provided, however, that no Assessment shall be levied against any Lot until such time as it is first sold to an Owner other than Declarant or Declarant assignee. Assessments for all Lots conveyed by Declarant to Owner,

either by deed or land sales contract, shall begin on the day of the recording of the deed or land sale contract conveying or contracting to convey the Lot of the new Owner.

10.6 Annual Assessments. Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. The fiscal year shall be the calendar year unless another year is adopted by vote of the Board members. Annual Assessments will be levied on a monthly basis unless otherwise approved by the Board.

10.7 Budget. Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve, and make available to each Member a pro forma operating statement (budget) containing:

- (a) estimated revenue and expenses on an accrual basis;
- (b) the amount of the total cash reserves of the Association currently available for replacement or major repair of the Common Area, and for contingencies;
- (c) an itemized estimate for the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the Common Area; and
- (d) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs and repair, replacement, or additions to major components of the Common Area. For the first fiscal year, the budget shall be approved by the Board no later than the date on which annual assessments are scheduled to commence. Thereafter, the Board shall annually prepare and approve the budget and distribute a summary thereof to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, not less than thirty (30) days and not more than ninety (90) days prior to the beginning of the fiscal year.

10.8 Allocation of General Assessments. The amount in the Association budget other than for special assessments, shall be charged equally against all Lots which have closed escrow to an Owner other than Declarant or a Declarant assignee as annual assessments. Any profits of the Association shall be similarly allocated.

10.9 Special Assessments. The Board shall charge all expenses for maintenance, repair, replacement, taxes, and insurance, including reserves if the Board elects pursuant to Section 10.6 below, for property that benefits only particular Lots to those benefitted Lots in equal shares.

10.10 Non-Waiver of Assessments. If before the expiration of any fiscal year, the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment is fixed.

10.11 Working Capital Fund. Declarant shall establish in the name of the Association a working capital fund for the Association. Amounts paid into this fund shall not be considered advance payments of the monthly assessments for common expenses assessments described in Section 10.5. Prior to the Turnover Meeting, the working capital fund shall be available for unexpected expenses, budget shortfalls, and capital expenditures, at the discretion of Declarant. At the time of closing of each sale of each Lot, the purchaser of such Lot shall make an initial contribution to the working capital fund equal to 2 (two) months of Association general assessments for such Lot. After the Turnover Meeting, the working capital fund shall be added to the General Fund, available for unexpected expenses, budget shortfalls and capital expenditures, at the discretion of the Board.

10.12 Reserve Funds

- (a) Reserve Fund for Replacing Common Area Improvements. Declarant shall establish a reserve fund in the name of the Association for replacement, in whole or in part, for any completed improvements located in, on, or under the Common Area or Lots for which the Association is responsible pursuant to this Declaration, that will normally require replacement within thirty (30) years. The reserve account need not include those items that could reasonably be funded from the maintenance fund or operating assessments, or for which one or more Owner is responsible for maintenance and replacement under the provisions of this Declaration or the Bylaws. For purposes of funding the reserve fund, Declarant initially, and thereafter the Association may impose an assessment to be called the "Reserve Fund Assessment" against each Lot, which assessment shall be spread equally over the Lots, except as otherwise provided in Section 10.5 above. The Reserve Fund Assessment, if any, shall be based on the statutorily required reserve study, and updates thereof, described in Section 10.13, or other sources of reliable information. Nothing herein shall limit the authority of Declarant or the Association to establish other separate and unrelated reserve funds that are funded by assessments for reserves that are in addition to the Reserve Fund or that relate only to a particular type or category of Lot. The Reserve Fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Article.
- (b) Declarant is exempt from the Reserve Fund Assessment during the period of Declarant control.
- (c) After the Turnover Meeting or at such time as the Owners have assumed responsibility for the administration of the Association, the Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other unexpected increases in expenses. Such funds borrowed from the Reserve Fund shall be repaid from regular annual or special assessments against the Lots, if the Board 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 shall adopt by

resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

- (d) The Board may adjust the amount of the Reserve Fund Assessments as indicated by any reserve study or update and provide for any other reserve items that the Board, in its discretion, may deem appropriate during a fiscal year. In addition, after the second anniversary of the Turnover Meeting, the Board may increase the Reserve Fund Assessments by up to five percent (5%) each year without approval of the Owners. Any annual increase of the Reserve Fund Assessments greater than five percent (5%) shall require a vote of seventy-five percent (75%) of the Owners. Any funds established for any of the purposes mentioned in this Article shall be deemed to be within the Reserve Fund notwithstanding that it may not be so designated by the Board. The amount of the Reserve Fund, if any, shall constitute an asset of the Association and shall not be refunded or distributed to any Owner.

10.13 Reserve Study. Declarant initially, and thereafter the Board, shall on behalf of the Association annually conduct a reserve study, or review and update an existing study, of the Common Area components to determine the requirements of the reserve fund described in Section 10.12 above. The reserve study shall include:

- (a) identification of all items for which reserves are required to be established;
- (b) the estimated remaining useful life of each item as of the date of the reserve study;
- (c) the estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and
- (d) a thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on the reserve fund, to meet the maintenance, repair, and replacement schedule.

10.14 Special Assessments. The Board shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:

- (a) Deficits in Operating Budget. To correct a deficit in the operating budget, by vote of a majority of the Board;
- (b) Breach of Documents. To collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Declaration, the Bylaws, or the Rules and Regulations, by vote of a majority of the Board;
- (c) Repairs. To make repairs or renovations to the Common Area if sufficient funds are not available from the operating budget or replacement reserve accounts by vote of a majority of the Board; or
- (d) Capital Additions. To make capital acquisitions, additions or improvements, by vote of at least seventy-five percent (75%) of all votes allocated to the Lots.

10.15 Accounts.

- (a) Types of Accounts. Assessments collected by the Association may be deposited into at least two (2) separate accounts with a bank, which accounts shall be designated as:

- (i) the Current Operating Account and
- (ii) the Reserve Account.

Those portions of the assessments collected for current maintenance and operation levied under Section 10.4 will be in the Current Operating Account and those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements, if any, into the Reserve Account. Special Assessments shall be deposited into one of the two accounts, whichever is deemed by the Board to be appropriate. Withdrawal of funds for the Association's Reserve Account, if any, shall require the approval of two (2) Directors.

- (b) Reserve Account. The Association shall pay out of the Reserve Account only those costs that are attributable to the maintenance, repair or replacement of capital improvements for which reserves have been collected and held.
- (c) Current Operating Account. All ordinary maintenance and operating expenses shall be paid from the Current Operating Account.

10.16 Default in Payment of Assessments, Enforcement of Liens.

- (a) Personal Obligation. All assessments properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligations of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance the grantees shall be jointly and severally liable with the grantor(s) for all Association assessments imposed through the recording date of the instrument affecting the conveyance. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.
- (b) Association Lien. At any time any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof is delinquent, the Association, by and through its Board or any management agent may file a notice of lien in the deed records of Marion County, against the Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorneys' fees (whether or not suitor action is instituted), and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. The provisions regarding the attachment, notice, recordation, duration, and foreclosure of liens established on real property under ORS 94.704 to 94.716, as the same may be amended, shall apply to the Association's lien. The lien shall be foreclosed in

accordance with the provisions regarding the foreclosure of liens under ORS Chapter 87, except that the Association's lien may be continued in force for a period not to exceed six (6) years from the date the assessment is due. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, and any first mortgage or deed of trust.

- (c) Interest; Fines; Late Fees; Penalties. The Board in its reasonable discretion may from time to time adopt resolutions to set the rate of interest, and to impose late fees, fines, and penalties on delinquent assessments or for violations of the provisions of this Declaration, the Bylaws, any Rules and Regulations, and any rules and regulations adopted by the ARC. The adoption of such impositions shall be communicated to all Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing addresses of such Owners. Such impositions shall be considered assessments which are lienable and collectible in the same manner as any other assessments.
- (d) Acceleration of Assessments. In the event an Owner is delinquent in payment of any assessment or installment on any assessment, the Association, upon not less than ten (10) days written notice to the Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.
- (e) Association's Right to Rents/Receiver. In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of his Lot or shall be entitled to the appointment of a Receiver. Any default by the Owner in any provisions of the Declaration or Bylaws shall be deemed to be a default by the Owner of any mortgage to which the Owner is party or to which the Lot is subject.

ARTICLE 11

GENERAL PROVISIONS

11.1 Indemnification of Directors, Officers, Employees and Agents. The Association shall indemnify any Director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the fact that such person is or was a Director, officer, employee, or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action, or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his conduct was unlawful. The termination of

any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interest of the Association, and with respect to any criminal action or proceedings, had reasonable cause to believe such person's conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit, or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee, or agent shall have a right of contribution over and against all other Directors, officers, employees, or agents and members of the Association who participated with or benefited from the acts which created said liability.

11.2 FHA, VA, USDA Loans. Notwithstanding any inconsistent or contrary provision in this Declaration, if there are any FHA, VA or USDA-insured loans affecting a Lot, and only for so long as any such loan(s) affect the Lot, any restrictions in this Declaration on renting, subleasing, or reconveyance that violate an FHA, VA or USDA requirements shall not apply to such Lot or its Owner.

11.3 Enforcement; Attorneys' Fees. The Association and the Owners within the Property or any mortgagee on any Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens, and charges now or hereinafter imposed by any of the provisions of this Declaration as may pertain specifically to such parties or owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition, or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. The prevailing party in any such action or appeal or review therefrom shall be entitled to recovery of reasonable attorneys' fees and costs.

11.4 Severability. Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

11.5 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of thirty-five (35) years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless rescinded by a vote of at least ninety percent (90%) of the Owners and ninety percent (90%) of the first mortgagees. **Provided, however, amendments which do not constitute rescission or termination of the Declaration may be adopted as provided in Article 11.6 below.

11.6 Amendment. Except as otherwise provided in Sections 11.6, 11.9, and the restrictions set forth elsewhere herein, this Declaration may be amended in accordance with the provisions of ORS 94.590 at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes (without regard to any weighted vote otherwise allocated to the Class B member) for all Lots subject to this Declaration of each class of members that are eligible to vote. However, prior to the transfer of any Lot to an Owner other than a Successor Declarant,

Declarant has the right to amend the Declaration, Bylaws, and Articles of Incorporation. Any amendment must be executed, certified, and recorded as provided by law. Provided, however, that no amendment of this Declaration shall effect an amendment of the Bylaws or Articles without compliance with the provisions of such documents. Provided further, until the Turnover Meeting, no amendment affecting the General Plan of Development or any other right of Declarant herein contained may be effected without the express written consent of Declarant or its successors and assigns.

11.7 Release of Right of Control. Declarant may give up its right of control in writing at any time by notice to the Association.

11.8 Personal Pronouns. All personal pronouns used in this Declaration, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall apply to the plural and vice versa.

11.9 Unilateral Amendment by Declarant. Declarant may unilaterally adopt, execute, and record an amendment to this Declaration with thirty (30) days-notice to all Class A Members in order to:

- (a) comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, the United States Department of Veterans Affairs, any department, bureau, board, commission, or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee, or provide financing in connection with development of the Property and sale of Lots.
- (b) Correct a mathematical mistake, an inconsistency, ambiguity, or scrivener's error with respect to an objectively verifiable fact including but without limitation, recalculating the undivided interest in the Common Areas or Common Elements, the liability for Common Expenses or the number of votes in the Association appertaining to a Lot, within five (5) years after the recordation or adoption of the Declaration containing or creating the mistake, inconsistency, error, or ambiguity.
- (c) Prior to the Turnover Meeting, no Unilateral Amendment by the Declarant shall require approval by any Class A member.

11.10 Resolution of Document Conflicts. In the event of a conflict among any of the provisions in the documents governing the Association, such conflict shall be resolved by looking to the following documents in the order shown below;

1. Declaration of Covenants, Conditions, and Restrictions;
2. Articles of Incorporation;

3. Bylaws;
4. Rules and Regulations.

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