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**DECLARATION SUBMITTING  
ESSEX PARK CONDOMINIUM  
TO CONDOMINIUM OWNERSHIP**

**PSM CONSTRUCTION LLC**

**Declarant**

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**DECLARATION SUBMITTING  
ESSEX PARK CONDOMINIUM  
TO CONDOMINIUM OWNERSHIP**

**THIS DECLARATION**, pursuant to the provisions of the Oregon Condominium Act, is made and executed by **PSM CONSTRUCTION LLC**, an Oregon limited liability company ("**Declarant**"). This Declaration will be operative upon recordation.

Declarant proposes to create a condominium to be known as Essex Park Condominium in Multnomah County, Oregon pursuant to this Declaration and the Plat (as defined below). The purpose of this Declaration is to submit the property described in Article 2 below to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act.

**NOW, THEREFORE**, Declarant does hereby declare and provide as follows:

**Article 1**

**DEFINITIONS**

When used in this Declaration the following terms have the following meanings:

1.1 "**Association**" means the association of unit owners established pursuant to Article 14 below.

1.2 "**Bylaws**" means the Bylaws of the Essex Park Condominium Owners Association adopted pursuant to Section 14.4 below as they may be amended from time to time.

1.3 "**Condominium**" means all of the property submitted to the condominium form of ownership by this Declaration.

1.4 "**Declarant**" means PSM Construction LLC, an Oregon limited liability company, and its successors and assigns.

1.5 "**Declaration**" means this Declaration as it may hereafter be amended.

1.6 "**Mortgage**" and "**Mortgagee**" mean, respectively, a recorded mortgage, trust deed or contract of sale that creates a lien against a unit, and the holder, beneficiary, or vendor of such a mortgage, trust deed or contract of sale.

1.7 "**Plat**" means the plat of Essex Park Condominium recorded simultaneously with the recording of this Declaration.

1.8 **Incorporation by Reference; Gender.** Except as otherwise provided in this Declaration, each of the terms defined in ORS 100.005, a part of the Oregon Condominium Act, have the meaning set forth in that section. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, include all other genders and sexes, and the singular includes the plural and vice versa.

## Article 2

### SUBMISSION OF PROPERTY TO CONDOMINIUM STATUTE

The property submitted to the Oregon Condominium Act by this Declaration is held by Declarant and conveyed by Declarant in fee simple estate. The land submitted is located in the City of Portland, Multnomah County, Oregon, and is more particularly described in the attached Exhibit A. The property submitted includes the land so described, all buildings, improvements and structures, all easements, and rights and appurtenances located on, belonging to, or used in connection with such land.

## Article 3

### NAME OF CONDOMINIUM

The name by which the Condominium will be known is “**Essex Park Condominium.**”

## Article 4

### UNITS

4.1 **General Description of Buildings.** The Condominium consists of three separate buildings comprising three units, each containing two stories, each with an attached one-car garage, and each without basement. The buildings are of wood frame construction on concrete foundation with cementitious siding and asphalt composition roofing.

4.2 **General Description, Location and Designation of Units.** The Condominium contains three units, each of which are free-standing single dwelling homes without basement. Unit A contains 3-bedrooms and 2 ½-bathrooms, with an attached one-car garage. Units B and C each contain 2-bedrooms and 1 ½-bathrooms, with an attached one-car garage. The designation, location, description of boundaries, and area in square feet of each unit are shown on the Plat and the attached Exhibit B.

4.3 **Boundaries of Units.** Each unit is comprised of approximately one freestanding building, each of which is surrounded by cubic airspace, the boundaries of which are planes located on the Plat as follows: (1) for **Unit A** (a) the upper vertical boundary is a horizontal plane located above the building’s highest roof peak which is 31.00 feet above the finished floor elevation of the first floor; and (b) the lower vertical boundary is a horizontal plane beneath the foundation of the building that is 6.00 feet below the finished floor elevation of the lower floor; (2) for each of **Units B and C** (a) the upper vertical boundary is a horizontal plane located above the building’s highest roof peak which is 27.00 feet above the finished floor elevation of the first floor; and (b) the lower vertical boundary is a horizontal plane beneath the foundation of the building that is 6.00 feet below the finished floor elevation of the lower floor; and (3) the exterior walls of each unit are surrounded by vertical planes that are generally coterminous with the exterior face of the each building’s respective foundation walls, on each of the four exterior sides of each unit, which vertical planes run from the lower vertical boundary to the upper vertical boundary) and expand outwards at the level of each story of the building so as to: (i) completely encase and surround all recessed walls and cantilevered projections of living space beyond the foundation line, including bay windows, exterior walls and roof

lines of such projecting sections of the building, (ii) and so as to enclose and surround all wing-walls, pony walls, supporting pillars outside the exterior walls or beyond the foundation line.

Each unit includes all structural components of its building to the exterior surfaces thereof, including framing and siding, girders, beams, joists, columns, and foundation, attics, roof and roofing, windows, glazing and window frames, and access doors and door frames and trim, in their entirety. Each unit includes all chimneys, gutters, lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of its finished surfaces. In addition, each unit includes the following: (a) all spaces inside the unit boundaries, nonbearing interior partitions, windows (including window glazing and screens), doors and door frames, and all other fixtures and improvements within the boundaries of the unit; and (b) all utility, sewer, and communications service lines serving only the unit, including but not limited to power and gas, and lines and piping for light, gas, hot and cold water, heating, refrigeration, air conditioning, and, security, cable television, internet and telephone lines, outlets, and equipment, within the boundaries of the unit. Notwithstanding that they may protrude into the common elements, attached projections from the roofline or the sides of the unit including window and door frames, siding, roofing materials, chimneys, antennae, satellite dishes, gutters and downspouts, roof overhangs and eaves (including roof overhanging an LCE Patio, LCE Driveway or LCE Entry and support pillars for same, if any), vents, and the like, are part of each respective unit to which they are attached. No part of the units includes the land.

The elevations of the first floor and second floor for each building in the Condominium are as shown on the Plat.

Each heat pump or condenser located in the LCE Yard of each unit belongs to the unit owner to which the LCE Yard pertains.

## **Article 5**

### **GENERAL COMMON ELEMENTS**

The general common elements consist of all portions of the Condominium that are not part of a unit or a limited common element, including, but not limited to, the following:

- (a) the land, including any appurtenant easements and hereditaments; and
- (b) drywell, pipes and other utility installations up to the exterior of the units if such elements serve more than one unit.

## **Article 6**

### **LIMITED COMMON ELEMENTS**

The following constitute limited common elements, the use of which is restricted to the units to which they adjoin and pertain:

- (a) each entry porch labeled as “LCE ENTRY” on the Plat pertains to the unit that it adjoins, as shown on the Plat;

(b) each patio labeled as “LCE PATIO” on the Plat pertains to the unit that it adjoins, as shown on the Plat;

(c) each private yard labeled as “LCE YARD” on the Plat, include the parking pads and pathways, if any, constructed within each of the LCE Yards, which LCE Yard pertains to the unit which it surrounds and that it adjoins, as shown on the Plat;

(d) each driveway labeled as “LCE DRIVEWAY” on the plat pertains to the unit that it adjoins, as shown on the Plat;

(e) the driveway labeled as “LCE SHARED DRIVEWAY” on the plat pertains to Units B and C;

(f) the parking pad labeled as “LCE PARKING A” on the plat pertains to Unit A, the parking pad labeled as “LCE PARKING B” on the plat pertains to Unit B, and the parking pad labeled as “LCE PARKING C” on the plat pertains to Unit C.

(g) pipes, ducts, flues, chutes, conduits, wires and other utility and communications installations located in, under, over or through the LCE Yards, LCE Parking, LCE Shared Driveway and LCE Driveways pertain to each respective unit that such features serve and not the other units, notwithstanding that some such features may be partially located in and run through or under the LCE Yard, LCE Parking, LCE Shared Driveway and/or LCE Driveway of another unit; and

(h) any and all improvements, including but not limited to fencing and gates enclosing a unit’s LCE Yard, walkways, garden beds, decks and concrete patios and the like, attached additions to a unit, existing now, or constructed or located by the unit owner in the unit’s LCE Yard in the future, also pertain, or (in the case of future construction) automatically will pertain, to the unit to which such LCE Yard adjoins.

## Article 7

### ALLOCATION OF UNDIVIDED INTERESTS IN COMMON ELEMENTS

Each unit will be entitled to an equal one-third undivided ownership interest in the common elements. Each unit’s interest in the common elements is inseparable from the unit and any conveyance, encumbrance, judicial sale, or other transfer, voluntary or involuntary, of an undivided interest in the common elements will be void unless the unit to which that interest is allocated is also transferred.

## Article 8

### COMMON PROFITS AND EXPENSES; VOTING

8.1 Allocation of Common Profits and Expenses. The common profits and common expenses of the Condominium are allocated equally to the owner of each unit; however, upon the sale of each unit to a person other than a successor declarant, the purchaser must make a contribution to the working capital of the Association equal to 1/6<sup>th</sup> of regular annual Association assessments for the

unit as further described in the Bylaws. Except upon termination of the Condominium or as otherwise provided in the Bylaws with respect to damage, destruction, or condemnation, common profits must be used solely for expenses of the Association.

8.2 **Allocation of Voting Rights.** Each unit owner is entitled to one vote in the affairs of the Association and for the purposes of this Declaration for each unit owned by such owner; provided, however, that Declarant has two votes for each unit owned by Declarant until the earlier of (a) when Declarant has sold and conveyed to a person other than a successor declarant both of the units in the Condominium, or (b) three years after the date of the first conveyance of a unit to a person other than a successor declarant. The method of voting will be as specified in the Bylaws.

## **Article 9**

### **SERVICE OF PROCESS**

The designated agent to receive service of process in cases provided in subsection (1) of ORS 100.550 will be named in the Condominium Information Report to be filed in accordance with ORS 100.250(1)(a).

## **Article 10**

### **USE OF PROPERTY**

Each unit is to be used for residential purposes as described in the Bylaws. Additional limitations on use are contained in the Bylaws and the rules and regulations adopted by the association pursuant to the Bylaws. Each unit owner is bound by each of these documents. Each unit owner has the right, without consent from the other unit owners, to use and improve the LCE Yard pertaining to their unit in any manner permitted by applicable law, including the right to build and locate improvements in or over such LCE Yard, steps, decks, or other typical yard structures decks, or other enclosed or unenclosed structures including but not limited to additions attached to the unit, or other such improvements, so long as such improvements are properly permitted, constructed according to applicable code and zoning and land use ordinances, and designed and painted so as to blend aesthetically with the units' architecture and color. No such improvement may be so constructed or located if its location affects any other unit's legal setback requirements so as to create a violation of such laws and ordinances for the other units, for which purpose the dividing lines between the unit's LCE Yards will be treated like boundaries for setbacks under the local building code. The Association will have no responsibility to maintain, repair, replace, or insure such improvements or structures built and located by the unit owner in their LCE Yard. Any such structure, alteration or improvement will be characterized and remain a limited common element pertaining to the owners' units and will not become a part of any such unit even if it is attached to the unit. No unit owner may submit their unit to condominium ownership without the prior approval of the other owners.

## **Article 11**

### **MAINTENANCE OF COMMON ELEMENTS**

11.1 **Responsibility for Maintenance.** The necessary work to maintain, repair or replace the common elements is the responsibility of the unit owner designated in the Bylaws, which must be

carried out as provided in the Bylaws. Each unit owner will be responsible for maintaining such unit's limited common element yard, entry, patio, driveway and parking pad in a neat and attractive condition. There are no areas of the Condominium that are not designated as limited common elements.

11.2 **Mortgagee's Rights upon Failure to Maintain.** If the Mortgagee of any unit determines that the board of directors is not providing an adequate maintenance, repair, and replacement program for the common elements for which the Association has responsibility under this Declaration and the Bylaws, such Mortgagee, at its option, may give a notice to the board of directors by delivering it to the registered agent, setting forth the particular defect that the Mortgagee believes exists in the maintenance, repair, and replacement program. If the specified defects are not corrected within 90 days subsequent to receipt of such notice, then the Mortgagee, upon written notice to the registered agent that it is exercising its proxy rights, will have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each unit on which it holds a Mortgage on all business coming before such meeting. Such proxy rights will continue until the defects listed on the notice are corrected.

11.3 **Rights of City Upon Failure to Maintain.** The provisions of this Declaration and of the Bylaws regarding the maintenance, repair and replacement of each unit and the common elements will be deemed to be for the benefit of the City of Portland, as well as the other unit owners, and the County may enforce such provisions by appropriate proceedings at law or in equity.

11.4 **Declarant's Rights Upon Failure to Maintain.** So long as Declarant owns a unit or Declarant holds a mortgage on any unit, the provisions of this Declaration and of the Bylaws regarding the maintenance, repair, and replacement of the exterior of the units and the common elements will be deemed to be for the benefit of Declarant as well as the unit owners, and the Declarant may enforce such provisions by appropriate proceedings at law or in equity.

## Article 12

### EASEMENTS

12.1 **In General.** Each unit has a perpetual, nonexclusive easement in and through the common elements for all utility, wiring, heat, plumbing and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation and maintenance of the Condominium, including, without limitation, easements as required for the electrical wiring, public utility connections, and plumbing for each unit through the limited common element yard of the other units, as located as of the time of the recording of this Declaration. There are easements over the Condominium for surface water run-off and detention in any drywell or other storm water collection feature that benefit each unit, notwithstanding that the drywell may be located within a limited common element yard. Each unit owner and each unit have an easement over the common elements, to access the exterior of their unit for maintenance, repairs, and replacement activities, notwithstanding that access may require entry for such purposes over and through the LCE Yard and/or LCE Driveway of another unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common elements reserved by law or in the preceding sentence. Each unit owner has an unrestricted right of ingress and egress to their unit. This right is perpetual and passes with the ownership of the unit. For clarification and not limitation of the foregoing, the owner of Unit A has an easement over the portion of the LCE Shared

Driveway for Units B and C as necessary for vehicular and pedestrian ingress and egress to Unit A from the public street. The owners of Units B and C each have an easement over the portion of the LCE Driveway for Unit A as necessary for vehicular and pedestrian ingress and egress to Units B and C from the public street. No one may block or obstruct or park over the boundary between the LCE Shared Driveway and the LCE Driveway that pertains to Unit A so as to obstruct the unit owners' reciprocal rights of ingress and egress to their units over such area.

12.2 **Encroachments.** Each unit and all common elements have an easement over the other units and over all common elements for the purpose of accommodating any present or future encroachment due to minor misplacements of fencing or due to building overhang or projection out of, over or under the units' boundaries or the boundaries of the units' LCE Yards. All overhanging roof overhangs and eaves, gutters, window and door frames, and trim, and any other feature of the unit such as utility, communication and power lines, and any chimneys, antennae, and other projections from the roof, extending over or through the common elements outside the boundaries of the unit otherwise have an encroachment easement over the common elements. There are valid easements for the maintenance of fences and common elements so long as the fences or encroachments exist, and the rights and obligations of owners will not be altered in any way by the encroachment. This provision does not relieve a unit owner of liability in the case of willful misconduct of the unit owner or relieve Declarant or any contractor, subcontractor, or materialman from any liability as a result of failure to adhere to the Plat. The encroachments described in this Section 12.2 may not be construed to be encumbrances affecting the marketability of title to any unit.

12.3 **Granting of Easements by Association.** Subject to the requirements of ORS 100.405(6), the Association may grant, execute, acknowledge, and deliver on behalf of the unit owners leases, easements, rights-of-way, licenses, and similar interests affecting the common elements and consent to vacation of any roadways within and adjacent to the Condominium. Any such instrument must be executed by the chairperson and secretary of the Association. The granting of any such interest in a limited common element must have the approval or consent of the owners to which the use of the limited common element is reserved and the holders of any first Mortgage affecting such unit or units, except that if the limited common element is reserved for five or more units, then the provisions of ORS 100.405(8) apply.

12.4 **Right of Entry.** Upon request given to the unit owner and any occupant, any person authorized by the Association may enter any unit and any limited common element to make emergency repairs to the unit or common elements that are necessary for the public safety or to prevent damage to common elements or to the other units or to enforce this Declaration, the Bylaws, or the rules and regulations of the Association. Requests for entry must be made in advance and for a reasonable time, except in the case of an emergency, when the right of entry is immediate. An emergency entry does not constitute a trespass or otherwise create a right of action for the owner of a unit.

12.5 **Easements for Declarant.** Declarant and Declarant's agents, successors and assigns have an easement over and upon the common elements as may be reasonably necessary for completing or making repairs to existing structures, if access thereto is otherwise not reasonably available, for the purpose of carrying out sales and rental activities necessary or convenient for the sale or rental of units, including, without limitation, the right to use the units owned by Declarant as model units and the right to use a unit as a sales office and for the purpose of discharging any other obligation of Declarant or exercising any other special Declarant right, whether arising under the Oregon Condominium Act or reserved in this Declaration or the Bylaws. For a period of 10 years following

closing of the sale of the last unit by Declarant to a person other than a successor declarant, Declarant and Declarant's members, managers and their successors, agents and designees have a right to inspect the units and the Association's records regarding inspections and maintenance of the Condominium. Such persons have the right to enter units for the purpose of performing such inspections; provided that requests for entry are made in advance and that such entry is at a time convenient to the owner.

12.6 **Declarant's Personal Property.** Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the Condominium that has not been represented as property of the Association. Declarant reserves the right to remove from the Condominium (promptly after the sale and close of escrow of the last unit) any and all goods and improvements used in development, marketing, and construction, whether or not they have become fixtures.

### Article 13

#### **APPROVAL BY MORTGAGEES**

13.1 **Notice of Action.** The Mortgagee, insurer, or guarantor of a Mortgage on any unit in the Condominium is entitled to timely written notice of the following:

(a) Any condemnation or casualty loss that affects a material portion of the Condominium or affects the unit securing its Mortgage.

(b) Any 60-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the Mortgage.

(c) A lapse, cancellation or material modification of any insurance policy maintained by the Association.

(d) Any proposed action that would require consent of a specified percentage of Mortgagees as required by this article.

#### 13.2 **Termination and Amendment to Documents.**

(a) Unless a greater vote is required by this Declaration, the Bylaws or the Oregon Condominium Act, the approval of Mortgagees holding Mortgages on units that represent at least 51 percent of the voting rights of units subject to Mortgages is required to terminate the legal status of the project as a condominium.

(b) Except when a greater percent is required by the Declaration or Bylaws, or a greater or lesser percent is required by the Oregon Condominium Act, the consent of the Mortgagees holding Mortgages on units that represent at least 51 percent of the voting rights of units subject to Mortgages is required for any amendments to the Declaration or Bylaws of a material adverse nature to Mortgagees.

(c) Except as otherwise provided in the Oregon Condominium Act, any eligible Mortgagee who receives a written request to approve any termination, additions or amendments under this Article 13 and who fails to submit a negative response to the requesting party within 60 days after

it receives written notice of the proposal identifying the property securing the Mortgage by legal description or address, identifying the Mortgage by loan number or recording information and delivered by certified or registered mail, return receipt requested, will be deemed to have approved such request.

## Article 14

### ASSOCIATION OF UNIT OWNERS

14.1 **Organization.** Upon the recording of this Declaration an association of unit owners was organized to serve as a means through which the unit owners may take action regarding the administration, management, and operation of the Condominium. The name of this association is “**Essex Park Condominium Owners Association.**”

14.2 **Membership; Board of Directors.** Each unit owner is a member of the Association. The affairs of the Association are governed by a board of directors as provided in the Bylaws.

14.3 **Powers and Duties.** The Association has such powers and duties as may be granted to it by the Oregon Condominium Act, including each of the powers set forth in ORS 100.405(4), together with such additional powers and duties afforded it by this Declaration or the Bylaws. Notwithstanding the powers listed in ORS 100.405(4), the Association only has standing to initiate litigation on behalf of any of the unit owners in respect of loss, damage, or loss of use of a defective general common element or damage caused by a defect of a general common element. To clarify the limitations of the Association’s rights: there are no general common elements in the Condominium other than the land.

14.4 **Adoption of Bylaws, Declarant Control of Association.** Declarant has adopted Bylaws for the Association, which Bylaws are attached as Exhibit C. Declarant specifically reserves the right to control the Association by appointing the interim directors of the Association until the organizational and turnover meeting of the Association has been held and the unit owners have elected regular directors as provided in Sections 2.2 and 3.3 of the Bylaws. In addition, Declarant has the right to consent to any amendment to the Declaration or the Bylaws as provided in Section 15.2 below and Section 9.2 of the Bylaws, and a weighted vote in the Association as provided in Section 8.2 above.

## Article 15

### AMENDMENT

15.1 **How Proposed.** Amendments to the Declaration may be proposed by either of the directors on the board or by any unit owner. The proposed amendment must be reduced to writing and will 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.

15.2 **Approval Required.** Except as may otherwise be provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if the amendment is approved unanimously by the unit owners, and by Mortgagees to the extent required by Article 13. Declarant’s prior written consent is also required for a period of 10 years from the date of closing of the sale by Declarant of the last unit to a person other than a successor declarant. If this project has been

approved by the Department of Housing and Urban Development or the Veterans Administration, then notwithstanding any other provision of this Section 15.2 to the contrary, Declarant will relinquish any right to veto amendments to this Declaration not later than the date by which the turnover meeting described in the Bylaws must occur. Except as otherwise permitted by the Oregon Condominium Act, no amendment may change the size, location, allocation of undivided interest in the common elements, 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 unit unless the amendment has been approved by the owners and Mortgagees of the affected unit.

**15.3 Regulatory Amendments.** Notwithstanding the provisions of Section 15.2 above, until the turnover meeting as described in the Bylaws has occurred, Declarant has the right to amend this Declaration or the Bylaws in order to comply with the requirements of the Federal Housing Administration; the United States Department of Veterans Affairs; the Rural Development or the Farm Service Agency of the United States Department of Agriculture; 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 condominium or units in a condominium. Declarant has reviewed this Declaration and the Bylaws established hereunder and hereby declares that the provisions therein do not contain any restriction, rule or regulation against the use of the Condominium by a person or persons based on race, color, religion, sex, or sexual orientation, national origin, ancestry, marital status, familial status, source of income, disability, or the number of individuals, including family members, persons of close affiliate or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits pursuant to House Bill 3395 (2023), Sections 24-28, also codified as Oregon Law Chapter 223. If this Declaration contains any restriction for use of the Condominium based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry, as defined in House Bill 3395 (2023), Sections 24-28, or other Oregon Revised Statutes as to the definition of such terms, that restriction is void and may be removed pursuant to House Bill 3395 (2023), Sections 24-28, whether or not such bill or its amendment is effective at the time of the removal of the offending restriction.

**15.4 Recordation.** The amendment will be effective upon recordation in the Deed Records of Multnomah County, Oregon of the Declaration as amended or of the amendment thereto, certified to by the chairperson and secretary of the Association as being adopted in accordance with this Declaration and the provisions of the Oregon Condominium Act, and approved by the county assessor and the Real Estate Commissioner if such approvals are required by the Oregon Condominium Act.

## **Article 16**

### **ADDITIONAL RIGHTS OF DECLARANT**

**16.1 Assignment of Declarant's Rights.** The Declarant has the right to assign any or all of its rights, including without limitation, Declarant's special rights as set forth in this Declaration, Declarant's reserved easement rights, or to share such rights with one or more other persons exclusively, simultaneously, or consecutively.

16.2 **Declarant's Other Special Rights.** The rights reserved to the Declarant in this Declaration in no way limit any other special rights that Declarant, as a declarant may have whether pursuant to the Oregon Condominium Act or otherwise. Upon expiration of such special rights, the Declarant will have the same rights as any other owner in the Condominium with respect to the Declarant's ownership of any property in the Condominium.

**Article 17**

**SEVERABILITY**

Each provision of this Declaration and the Bylaws will be deemed independent and severable, and the validity or partial invalidity of any provision will not affect the validity or enforceability of the remaining part of that or any other provision of this Declaration or the Bylaws.

**Article 18**

**APPLICABILITY**

Each unit owner, including Declarant as to any unsold unit, is subject to all of the rights and duties assigned to unit owners under the terms of the Declaration and Bylaws. All present and future owners, tenants, subtenants, and occupants of units, and all present and future employees, agents, visitors and licensees of unit owners, are subject to and must comply with the provisions of this Declaration, the Bylaws, and all rules and regulations adopted thereunder, as they may be amended from time to time.

(signatures on following pages)

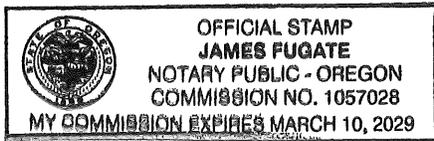
DECLARANT

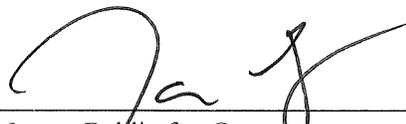
PSM CONSTRUCTION LLC,  
an Oregon limited liability company

By:   
Paul Scott Manton, Manager

STATE OF OREGON            )  
  ) ss.  
County of Multnomah        )

The foregoing instrument was acknowledged before me this 17 day of JUNE, 2025 by Paul Scott Manton, as Manager of PSM Construction LLC, an Oregon limited liability company, on its behalf.



  
Notary Public for Oregon  
My commission expires: MARCH 10, 2029  
Commission No.: 1057028

The foregoing Declaration is approved pursuant to ORS 100.110 this 24th day of June, 2025, and in accordance with ORS 100.110(8), this approval automatically expires if this Declaration is not recorded within one year from this date.



**OREGON REAL ESTATE COMMISSIONER**

By: *Michael Hanifin*  
Michael Hanifin

The foregoing Declaration is approved this 27th day of June, 2025.

**ASSESSOR AND TAX COLLECTOR  
FOR MULTNOMAH COUNTY**

By: *[Signature]*

## EXHIBIT A

### Legal Description

THAT TRACT OF LAND DESCRIBED IN DEED RECORDED AS DOCUMENT NO. 2025-019538, MULTNOMAH COUNTY DEED RECORDS, BEING A PORTION OF LOT 26, "ESSEX PARK", MULTNOMAH COUNTY PLAT RECORDS, LOCATED IN THE S.E. 1/4 OF SECTION 8, T.1S., R.2E., W.M., CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, BEING A 5/8" IRON ROD WITH A RED PLASTIC CAP MARKED "CENTERLINE CONCEPTS" FOUND AT THE SOUTHEAST CORNER OF SAID LOT 26; THENCE ALONG THE NORTH LINE OF LOT 25 OF SAID "ESSEX PARK", NORTH 89°59'21" WEST, 255.75 FEET TO THE NORTHWEST CORNER THEREOF; THENCE ALONG THE EAST LINE OF LOT 7 OF SAID "ESSEX PARK", NORTH 00°00'00" EAST, 49.67 FEET TO THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED RECORDED AS DOCUMENT NO. 2004-171088, MULTNOMAH COUNTY DEED RECORDS; THENCE ALONG THE SOUTH LINE OF SAID TRACT OF LAND DESCRIBED IN DEED RECORDED AS DOCUMENT NO. 2004-171088, SOUTH 89°59'21" EAST, 255.75 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE ALONG THE WEST RIGHT OF WAY LINE OF SE 76TH AVENUE, BEING 25.00 FEET WEST OF THE CENTERLINE THEREOF WHEN MEASURED AT RIGHT ANGLES, SOUTH 00°00'00" EAST, 49.67 FEET TO THE INITIAL POINT.

CONTAINING 12,702 SQUARE FEET

**EXHIBIT B**

**Unit Square Footages**

<b>Unit</b>	<b>Unit Square Footage (Total First Floor Foot Prints)</b>	<b>Garage Square Footage</b>	<b>Percentage Undivided Interest</b>
A	1210	269	1/3
B	692	242	1/3
C	692	242	1/3
<b>Total</b>			<b>100%</b>

---

**NOTICE**

**THE SQUARE FOOTAGE AREAS STATED IN THIS DECLARATION AND THE PLAT ARE BASED ON THE BOUNDARIES OF THE UNITS AS DESCRIBED IN THIS DECLARATION AND MAY VARY FROM THE AREA OF UNITS CALCULATED FOR OTHER PURPOSES. LIVING SQUARE FOOTAGE ARE ILLUSTRATIONS ONLY, BASED ON THE BOUNDARIES OF THE UNITS SQUARE FOOTAGE AND MAY VARY FROM THE AREA OF HOMES CALCULATED FOR OTHER PURPOSES OR BY OTHER METHODS.**

---

**EXHIBIT C**

**Bylaws**

**EXHIBIT C**

**BYLAWS**

**OF**

**ESSEX PARK CONDOMINIUM OWNERS ASSOCIATION**

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**BYLAWS OF  
ESSEX PARK CONDOMINIUM OWNERS ASSOCIATION**

**Article 1**

**PLAN OF CONDOMINIUM OWNERSHIP**

1.1 **Name and Location.** These are the bylaws of the **ESSEX PARK CONDOMINIUM OWNERS ASSOCIATION** (the “**Association**”). **ESSEX PARK CONDOMINIUM** (the “**Condominium**”) is located in the City of Portland, Multnomah County, Oregon, and has been submitted to the Oregon Condominium Act by a declaration recorded simultaneously with these Bylaws (the “**Declaration**”). The location of the Condominium is more specifically described in the Declaration.

1.2 **Principal Office.** The principal office of the Association will be located at such address as may be designated by the board of directors from time to time.

1.3 **Purposes.** This Association is formed under the provisions of the Oregon Condominium Act to serve as the means through which the unit owners may act regarding the administration, management and operation of the Condominium.

1.4 **Applicability of Bylaws.** The Association, all unit owners, and all persons using the Condominium property are subject to these Bylaws and to all rules and regulations that may be adopted pursuant to these Bylaws.

1.5 **Composition of Association.** The Association is composed of all the unit owners of the Condominium, including **PSM Construction LLC**, an Oregon limited liability company, and its successors and assigns (the “**Declarant**”), and the Association, itself, to the extent any of these own any unit or units of the Condominium.

1.6 **Incorporation.** The Association has been incorporated under the Oregon Non-Profit Corporation Law as an association of unit owners pursuant to ORS 100.405. The Articles of Incorporation of the Association must be consistent with the Declaration and these Bylaws, and these Bylaws constitute the bylaws of the incorporated association.

1.7 **Definitions.** The definitions contained in or adopted by the Declaration are applicable to these Bylaws.

**Article 2**

**MEETINGS OF ASSOCIATION**

2.1 **Place of Meetings.** The Association will hold meetings at such suitable place convenient to the unit owners as may be designated by the board of directors from time to time.

2.2 **Turnover Meeting.** Within three years after the date of conveyance of the first unit to a person other than a successor declarant, or within 90 days after Declarant has sold and conveyed to a person other than a successor declarant all of the units in the Condominium, whichever is earlier, Declarant must call a meeting of the unit owners to relinquish control of the administration of the Association, to organize the Association, and to have directors appointed. Notice of the turnover meeting must be given to all owners as provided in Section 2.6. If Declarant fails to call the meeting, the meeting may be called and notice given by any unit owner or Mortgagee of a unit. The expense of giving notice will be paid or reimbursed by the Association. At the meeting, Declarant must deliver to the Association such information and documents as may be required by the Oregon Condominium Act. Nothing in this Section may be construed as preventing Declarant from calling the organizational and turnover meeting prior to such date, or from calling informal, informational meetings of the unit owners.

2.3 **Annual Meetings.** The annual meetings of the Association will be held on a date each year that is established by the board of directors from time to time, or if the board does not establish such a date, then in the month of February at the hour and on the date the chairperson may designate, or if the chairperson does not designate a date by the first day of February, then on the last Tuesday in February. The annual meetings are for appointing directors and for the transaction of such other business as may properly come before the meeting.

2.4 **Special Meetings.** Special meetings of the Association may be called by any owner and must be called by the chairperson or secretary upon receipt of a written request from any owner stating the purpose of the meeting. Business transacted at a special meeting must be confined to the purposes stated in the notice of the meeting.

2.5 **Electronic Meetings.** Meetings of the owners, including special meetings, may be conducted as an electronic meeting if the electronic meeting: (i) allows all owners participating to hear and communicate to each other simultaneously; (ii) provides for the verification that a person participating is an owner or is otherwise authorized to participate in the meeting; and, (iii) during or before the meeting, provides for owners to have access to material necessary to participate or vote in the meeting. For purposes of these Bylaws, “**electronic meeting**” means a meeting that is conducted through telephone, tele-conference, video conference, web conference, or any other live electronic means where at least one participant is not physically present.

2.6 **Notice of Meetings.** Written or printed notice of a meeting 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 elections or appointments, 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, will be delivered not less than 10 or more than 50 days before the date of the meeting. Such notice will be given either personally, by mail, or by electronic communication as set forth below. If mailed, it will be sent to the owner at their address as it appears on the books of the Association. A copy must be sent to any first Mortgagee requesting such notice. Proof of such notice will be given by the affidavit of the person giving the notice.

(a) For a period of 10 years following closing of the sale of the last unit by Declarant to a person other than a successor declarant, notices of meetings (including agendas) must also be given to Declarant (or any designee of Declarant specified in any written notice to the

Association) in the same manner as given to unit owners, and Declarant or a representative of Declarant is entitled to attend such meetings.

(b) Notice of meeting may be waived by any unit owner before or after meetings. When a meeting is adjourned for less than 30 days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

(c) Notice by electronic communication under this section is considered delivered and effective when it: (i) is initiated to an address or system designated by the recipient for that purpose, or (ii) is posted on an electronic network and a separate record of the posting has been delivered to the recipient together with instruction regarding how to obtain access to the posting on the electronic network. An owner or director may decline to receive or to continue to receive notice by electronic mail, facsimile, or other form of electronic communication and may direct the board of directors to provide notice in the manner required under the Declaration or these Bylaws, or the Oregon Condominium Act.

(d) Notice of an electronic meeting must state: (i) whether the meeting may or must be attended by electronic means; (ii) the electronic means to be used; (iii) and how unit owners, board members, and officers may attend the electronic meeting by telephone, internet connection, if applicable, or by meeting at a physical location, if applicable; and (iv) any other information to enable a unit owner, board member, or officer to attend the meeting electronically.

**2.7 Voting.** Each owner of a unit has one vote for each unit of the Condominium owned by such unit owner; provided, however, that Declarant will have two votes for each unit owned by Declarant until the earlier of (a) when Declarant has sold and conveyed to a person other than a successor declarant all of the units in the Condominium, or (b) three years after the date of the first conveyance of a unit to a person other than a successor declarant. Declarant is entitled to vote as the unit owner of any units retained by Declarant. The board of directors is entitled to vote on behalf of any unit that has been acquired by or on behalf of the Association.

**2.8 Casting of Votes and Consents.** The voting rights or consent of a unit owner may be cast in person at a meeting of the Association or, at the discretion of the board of directors, by proxy in accordance with paragraph (a) of this Section, by absentee ballot in accordance with paragraph (b) of this Section, by written ballot in accordance with paragraph (c) of this Section, or by any other method specified in the Declaration, these Bylaws or the Oregon Condominium Act, except as otherwise provided in Section 2.9 below.

(a) **Proxies.** A proxy must be dated and signed by the unit owner, is not valid if it is undated or purports to be revocable without notice and terminates one year after its date unless the proxy specifies a shorter term. The board of directors may not require that a proxy be on a form prescribed by the board. A unit owner may not revoke a proxy given pursuant to this paragraph except by actual notice of revocation to the person presiding over a meeting of the Association or to the board if a vote is being conducted by written ballot in lieu of a meeting. A copy of a proxy in compliance with this paragraph provided to the Association by facsimile, electronic mail or other means of electronic communication utilized by the board is valid.

(b) **Absentee ballots.** An absentee ballot, if authorized by the board of directors, must set forth each proposed action and provide an opportunity to vote for or against each proposed

action. All solicitations for votes by absentee ballot must include instructions for delivery of the completed absentee ballot, including the delivery location and instructions about whether the ballot may be canceled if the ballot has been delivered according to the instructions. An absentee ballot will be counted as a unit owner present for establishing a quorum. Even if an absentee ballot has been delivered to a unit owner, the unit owner may vote in person at a meeting if the unit owner has returned the absentee ballot and canceled the absentee ballot, if cancellation is permitted in the instructions given under this paragraph.

(c) **Ballot meetings.** 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 by written ballot to the extent and in the manner provided in ORS 100.425.

(d) **Electronic ballots.** To the extent authorized by the board of directors and permitted by the Oregon Condominium Act, any vote, approval or consent of a unit owner may be given by electronic ballot.

(e) **Mortgagees.** A unit owner may pledge or assign such owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative is entitled to receive all notices to which the unit owner is entitled under these Bylaws and to exercise the unit owner's voting rights from and after the time that the Mortgagee must 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.

2.9 **Votes Involving Major Decisions.** For votes of the Association involving a Major Decision, unit owners choosing to vote by proxy or absentee ballot will be required to vote either in the affirmative or in the negative for the proposed Major Decision. Unit owners will not be permitted to assign proxy voting discretion to any other person or entity on matters involving Major Decisions of the Association. The term "**Major Decision**" includes the following:

(a) Any vote of the Association to terminate professional management pursuant to Section 3.7 below;

(b) Any vote of the Association to incur or commit the Association to incur legal fees greater than \$5,000 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$100,000 pursuant to Section 3.5(e) below;

(c) Any vote of the Association proposing to borrow of any sum of money more than an amount or amounts, aggregated for the calendar year in question, exceeding 20 percent of the estimated budget of the Association pursuant to Section 3.5(h) below; and

(d) Any vote of the Association to approve an amendment to these Bylaws or the Declaration.

2.10 **Fiduciaries and Joint Owners.** An attorney-in-fact, executor, administrator, guardian, conservator or trustee may vote or grant consent with respect to any unit owned or held in a fiduciary capacity, even if the specific right has not been transferred to their name; provided, that such person satisfies the secretary of the Association that they are the attorney-in-fact, executor, administrator, guardian, conservator or trustee, holding title to the unit in a fiduciary capacity.

Whenever any unit is owned by two or more persons jointly, according to the records of the Association, the vote of such unit may be exercised by any one of the owners, in the absence of protest by a co-owner. In the event of disagreement among the co-owners, the vote of the unit will 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.

2.11 **Tenants and Contract Vendors.** Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a unit will be exercised by the owner/landlord. Unless otherwise stated in the contract, all voting rights allocated to a unit are to be exercised by the vendee of any recorded land sale contract on the unit.

2.12 **Quorum of Unit Owners.** At any meeting of the Association, two members' voting rights, present in person, by proxy or by absentee ballot, if permitted by the board of directors, will constitute a quorum. The subsequent joinder of a unit owner in the action taken at a meeting by signing and concurring in the minutes of the meeting will constitute the presence of such person for determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a unit owner or owners. 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 until a quorum is present.

2.13 **Majority Vote.** The vote of the holders of more than 50 percent of the voting rights, present in person or by proxy at a meeting at which a quorum is constituted, is binding on all unit owners for all purposes unless a higher percentage vote is required by law, by the Declaration or by these Bylaws.

2.14 **Deadlock Resolution.** If the Association members are deadlocked on any matter properly before the Association in accordance with these Bylaws or the Declaration, and the matter cannot be settled through direct discussions, the members will resolve the matter by mediation within 10 business days following the date of the meeting. The mediation will be held in Portland, Oregon by a mediator mutually selected by the directors. If the directors cannot agree upon a mediator, then one will be selected through the process provided by a recognized mediation service designated by the first director who notifies the others of the mediation service selected. Thereafter, if the matter cannot be resolved by mediation, the matter will be resolved by arbitration as provided in Section 10.4 below.

2.15 **Continued Votes.** If at a meeting to consider action on a Major Decision, as defined in Section 2.9, insufficient votes are cast to approve the action, then the action will be deemed rejected. The meeting or vote may not be continued in order to obtain additional votes. Any further voting on such matter must be taken at a new duly called meeting at which new votes must be cast in person or by proxy.

2.16 **Order of Business.** The order of business at annual meetings of the Association will be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;

- (d) Reports of officers;
- (e) Reports of committees, if any;
- (f) Election of directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

2.17 **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 will be conducted according to the latest edition of *Robert's Rules of Order* published by Robert's Rules Association.

### **Article 3**

#### **BOARD OF DIRECTORS**

3.1 **Number and Qualification.** The affairs of the Association are governed by a board of directors composed of one interim director or three regular directors, as provided in Sections 3.2 and 3.3 of this Article. All directors, other than interim directors appointed by Declarant, must be owners or co-owners of units of the Condominium. For purposes of this Section, an officer, employee or agent of a corporation, a member, manager, employee or agent of a limited liability company, or a partner, employee or agent of a partnership may serve on the board if such corporation, limited liability company or partnership is an owner or co-owner of a unit. In addition, a trustee may serve on the board if the trustee holds legal title to a unit for the benefit of the owner of the beneficial interest in the unit; and an executor, administrator, guardian, conservator, or other individual appointed by a court to serve in a fiduciary capacity for an owner of a unit, or an officer or employee of an entity if an entity is appointed, may serve on the board.

3.2 **Interim Director.** Upon the recording of the Declaration submitting the Condominium to the Oregon Condominium Act, Declarant will appoint an interim board of one director, who will serve until replaced by Declarant or their successors have been appointed by the unit owners as provided below.

3.3 **Appointment and Term of Office.** At the first organizational and turnover meeting called by Declarant pursuant to Section 2.2 of these Bylaws, the interim director will resign, and one successor will be appointed by each unit owner. Directors will hold office until their respective successors have been appointed by the unit owner whom the director will represent. Appointments will be in writing, dated, executed and kept in the records of the Association.

3.4 **Vacancies.** Vacancies in the board of directors caused by any reason are filled by appointment by the unit owner whose director position is vacant. Even though they may constitute less than a quorum, a sole remaining director may appoint a director on behalf of the other owner, if the other owner after two notices, has not filled that unit's vacancy. Each person so appointed will

be a director until a successor is appointed to fill the unexpired term. Vacancies in interim directors will be filled by Declarant.

3.5 **Powers and Duties.** The board of directors has all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties that by law or by the Declaration or by these Bylaws may not be delegated to the board by the unit owners; provided, however, that the board may not take any action that could unreasonably interfere with the sale, lease or other disposition of a unit owned by Declarant or that could abridge, modify, eliminate or otherwise affect any right, power, easement, privilege or benefit reserved for Declarant or that would impose any discriminatory charge or fee against Declarant, without the prior written consent of Declarant. The powers and duties to be exercised by the board include, but are not limited to, the following:

(a) Operation, care, upkeep, maintenance, repair, and replacement of the general common element drywell (located in the LCE Yard of Unit C), shared utility lines, if any, and Association property, if any. (To clarify the responsibility of the common elements, the maintenance of general and limited common elements is to be performed by the owners as provided in the Declaration or these Bylaws.)

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

(c) Preparation and adoption of budgets, preparation, review and update of reserve studies (if instituted by the board of directors) and assessment and collection of the common expenses, all in accordance with the provisions of these Bylaws.

(d) Employment and dismissal of such personnel as necessary for the efficient maintenance, upkeep, and repair of the common elements.

(e) Employment of 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 of directors may not incur or commit the Association to incur legal fees in excess of \$2,500 for any specific litigation or claim matter or enter into any contingent fee contract on any claim in excess of \$25,000 unless the unit owners have enacted a resolution authorizing the incurring of such fees or contract by a vote of 75 percent of the total voting rights of the Association. These limitations are not applicable to legal fees incurred in defending the Association and the board from claims or litigation brought against them. The limitations set forth in this paragraph will increase by 10 percent on each fifth anniversary of the recording of the Declaration.

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

(g) Preparation and distribution of annual financial statements in accordance with these Bylaws and annual preparation and filing of all required income tax returns or forms for the Association.

(h) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the common elements and Association property; provided, however, that (i) the consent of all of the unit owners is required for the borrowing of any

sum in excess of an amount or amounts, aggregated for the calendar year in question, exceeding 10 percent of the estimated budget of the Association for that calendar year to cover the operation, care upkeep and maintenance of the common elements, and (ii) no lien to secure repayment of any sum borrowed may be created on any unit or its appurtenant interest in the common elements without the consent of the owner of such unit. The Association may pledge Association income to secure such borrowing. If any sum borrowed by the board of directors on behalf of the Association pursuant to the authority contained in this paragraph is not repaid by the Association, a unit owner who pays to the creditor such proportion thereof equal to their interest in the common elements is entitled to obtain from the creditor a release of any judgment or other lien that the creditor has filed, or has the right to file, against such owner's unit.

(i) Purchasing units of the Condominium at foreclosure or other judicial sales in the name of the Association, or its designee, on behalf of all the unit owners as provided in these Bylaws, and selling, leasing, mortgaging, voting the votes appurtenant to, or otherwise dealing with, units of the Condominium acquired by the Association or its designee on behalf of all the unit owners.

(j) Obtaining insurance pursuant to the provisions of these Bylaws and at least annually reviewing the insurance coverage of the Association.

(k) Making additions and improvements to, or alterations of, the common elements if such work is urgently needed for reasons of life, safety, or structural integrity. Notwithstanding any other provisions of these Bylaws apparently to the contrary, the Association may not redesign the surface water and building rainwater drainage systems from the systems originally designed by the building architect or engineers and in existence at the time these Bylaws are recorded without the prior written approval of the Declarant for a period of 10 years following the closing of the sale of the last unit by Declarant to a person other than a successor declarant.

(l) Designating one or more committees that, to the extent provided in the resolution designating the committee, has the powers of the board of directors in the management of the affairs of the Association. At least one member of each committee must be a member of the board.

(m) Enforcement by legal means of the provisions of the Oregon Condominium Act, the Declaration, these Bylaws and any rules and regulations adopted hereunder; provided however that no rule or regulation, or provision of the Declaration or Bylaws may be construed or enforced in such a manner so as to discriminate against an Owner based on race, color, religion, sex, or sexual orientation, national origin, marital status, familial status, source of income, disability or the number of individuals, including family members, persons of close affiliate or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits pursuant to House Bill 3395 (2023). Nothing in these Bylaws will be construed as requiring the Association to take any specific action to enforce violations.

(n) Maintaining a current mailing address for the Association, filing an Annual Report and any amendment in accordance with ORS 100.250, and maintaining and keeping current the information required to enable the Association to comply with ORS 100.480(8).

(o) Subject to the restrictions in subsection (e) above, initiating or intervening in litigation or administrative proceedings (including mediation under Section 10.1(a) of these Bylaws) in

the name of the Association, and without joining the individual unit owners, as permitted under ORS 100.405(4)(e) and (11); provided that no litigation or administrative proceeding may be initiated on a matter relating to or affecting the unit or interest of a unit owner unless the unit owner has consented in writing to such action after full disclosure of the potential cost, duration and possible outcomes of the proposed litigation or administrative proceeding. Notwithstanding, the Association has no standing to make any claim regarding the condition of a unit, because other than the land, drywell and shared utility lines, if any, in the Condominium, there are no general common elements, and there are no structural general common elements. To the extent required by ORS 100.490, the board of directors will notify the owners prior to instituting litigation or administrative proceedings. Regarding any pending litigation involving the Association, the board will periodically report to the unit owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph may be construed as requiring the board to disclose any privileged communication between the Association and its counsel.

3.6 **Managing Agent or Manager.** On behalf of the Association, the board of directors may employ or contract for a managing agent or a manager at a compensation to be established by the board. The board may delegate to the managing agent or manager such duties and powers as the board may authorize. In the absence of such appointment, the board will act as manager; provided, however, that the board may not terminate professional management and assume self-management unless the decision to do so is approved by at least two-thirds of the total voting rights of the Association. The managing agent has the right to contract with any unit owner, individually or collectively with other unit owners, for personal services for a particular unit or units.

3.7 **Contracts Entered into by Declarant or Interim Board.** Notwithstanding any other provision of these Bylaws, any management contracts, service contracts or employment contracts entered into by Declarant or the interim board on behalf of the Association must not have a term in excess of three years. In addition, any such contract must provide that it may be terminated without cause or penalty by the Association or board of directors upon not less than 30 days' notice to the other party given not later than 60 days after appointment of the permanent board at the organizational and turnover meeting described in Section 2.2 of these Bylaws. The limitations contained in this Section 3.7 do not apply to those contracts referred to in ORS 100.485(2).

3.8 **[reserved].**

3.9 **Organizational Meeting.** Unless otherwise agreed by the board of directors, within 14 days following the annual meeting of the Association or following any appointment of a new director, the board must hold an organizational meeting at such place and time fixed by the directors as necessary following new appointments.

3.10 **Regular and Special Meetings.** Regular meetings of the board of directors may be held at the time and place that the directors determine, from time to time, by a majority. Special meetings of the board may be called by the chairperson and must be called by the secretary at the written request of at least two directors. Notice of any special meeting must be given to each director personally or as otherwise provided in Section 3.11 at least seven days prior to the day named for such meeting, and must state the time, place and purpose of such meeting. For a period of 10 years following closing of the sale of the last unit by Declarant to a person other than a successor declarant, notices of meetings (including agendas) must also be given to Declarant in the same manner as given to the directors. Unless other rules of order are adopted by resolution of the Association or the board,

all meetings of the board will be conducted according to the latest edition of *Robert's Rules of Order* published by Robert's Rules Association.

**3.11 Open Meetings; Electronic Meetings; and Meeting Notice.**

(a) All meetings of the board of directors must be open to unit owners, but no owner has any right to participate in a meeting except as may be provided in these Bylaws or by the board. And, for a period of 10 years following closing of the sale of the last unit by Declarant to a person other than a successor declarant, all meetings of the board of directors must be open to Declarant or a representative of Declarant. However, in the discretion of the board, the board may close the meeting to owners other than board members and meet in executive session to consult with legal counsel or to consider personnel matters, including salary negotiations and employee discipline, negotiation of contracts with third parties or collection of unpaid assessments. Except in the case of an emergency, the board must vote in an open meeting whether to meet in executive session. If the board votes to meet in executive session, the presiding officer must 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 must be included in the minutes of the meeting, and any contract or action considered in executive session is not effective unless the board, following the executive session, reconvenes in open meeting and votes on the contract or action, which is reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the board of directors may be conducted as an electronic meeting if:

(1) the meeting allows all participating board members at the meeting to (i) hear and communicate to each other simultaneously, and (ii) have access to materials before or during the meeting necessary to participate or vote in the meeting; and

(2) the meeting allows all persons attending the meeting to simultaneously hear all participating board members.

(c) If a majority of the units are principal residences of the occupants, then: (i) for other than emergency meetings, notice of each board's meeting must be posted at a place or places on the property at least three days prior to the meeting, or notice must be provided by a method otherwise reasonably calculated to inform the unit owners of such meeting, including by electronic means as set forth just below. In the case of electronic meeting, notice of the electronic meeting to board members and unit owners must state: (i) whether the meeting may or must be attended by electronic means; (ii) the electronic means to be used; (iii) and how unit owners, board members, and officers may attend the electronic meeting by telephone, internet connection, if applicable, or by meeting at a physical location, if applicable; and (iv) any other information to enable a unit owner, board member, or officer to attend the meeting electronically.

(d) The meeting and notice requirements of this Section and Section 3.10 may not be circumvented by chance or social meetings or by any other means.

(e) For purposes of this Section, “**electronic meeting**” means a meeting that is conducted through telephone, tele-conference, video conference, web conference, or any other live electronic means where at least one participant is not physically present.

3.12 **Waiver of Notice; Electronic Attendance.** Any director may, at any time, waive notice of any meeting of the board of directors in writing, and such waiver is deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board constitutes a waiver of notice by such director unless the director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. A person attending or participating in an electronic meeting is considered to be attending or participating at the meeting for all purposes. If all of the directors are present at any meeting of the board, no notice to directors is required and any business may be transacted at such meeting.

3.13 **Quorum of Board of Directors.** At all meetings of the board of directors, two directors then serving will constitute a quorum for the transaction of business, and the votes of at least two directors will constitute the decision of the board. If at any meeting of the board only one director is present, they may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice to the directors.

3.14 **Voting.** Each director has one vote in the board’s decisions. A director who is present at a meeting of the board of directors at which action is taken on any Association matter is presumed to have assented to the action unless the director votes against the action or abstains from voting on the action because the director claims a conflict of interest. When action is taken on any matter at a meeting of the board, the vote or abstention of each director present must be recorded in the minutes of the meeting. Directors may not vote by proxy or by secret ballot at meetings of the board.

3.15 **Compensation.** No director may receive any compensation from the Association for acting as director.

3.16 **Liability and Indemnification of Directors, Officers, and Manager.** A member of the board of directors or an officer of the Association is not liable to the Association, any unit owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of their duties as 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. A director appointed under Section 3.2 of these Bylaws and Section 15.4 of the Declaration, or acting under ORS 100.200, is not liable to the Association, any unit owner or any third party under ORS 65.357-65.361; ORS 100.417 or associated rules of common law for any damage, loss or prejudice suffered or claimed on account of any action or failure to act that represents the exercise of authority established in Section 15.4 of the Declaration and ORS 100.200, including any action or failure to act requested by Declarant or resulting from any prior or concurrent duty or loyalty owed by such director to Declarant; provided that nothing in this section limits the liability of Declarant for such actions or failure to act by a director. If any member of the board 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 will defend the individual against such claims and indemnify the individual against liability and expenses incurred to the maximum extent permitted by law.

3.17 **Deadlock Resolution.** If the board of directors is deadlocked on any matter properly before the board in accordance with these Bylaws, and the matter cannot be settled through direct discussions, the board will resolve the matter by mediation within 15 business days following the date of the meeting. The mediation will be held in the Portland, Oregon area by a mediator selected by the board. If the board cannot agree upon a mediator, then one will be selected through the process provided by a recognized mediation service designated by the first director who notifies the others of the mediation service selected. Thereafter, if the matter cannot be resolved by mediation, the matter will be resolved by arbitration as provided in Section 10.4 below.

3.18 **Insurance.** The board of directors must obtain the insurance required in Article 8 of these Bylaws. In addition, the board, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association or unit owners. The board will conduct an annual insurance review that, if appropriate, will include an appraisal of all improvements contained in the Condominium.

## Article 4

### OFFICERS

4.1 **Designation.** The principal officers of the Association are the chairperson, the secretary and the treasurer, all of whom are unanimously appointed by the board of directors. The chairperson must be a member of the board, but other officers need not be owners or directors.

4.2 **Appointment of Officers.** The officers of the Association will be appointed at least every two years by the board of directors at the organizational meeting following appointment of a new director and will hold office at the pleasure of the board. If any office becomes vacant, the board will appoint a successor to fill the unexpired term at any regular meeting of the board, or at any special meeting of the board called for such purpose.

4.3 **Removal of Officers.** Upon the affirmative vote of a majority of the directors, any officer may be removed either with or without cause, and a successor may be appointed at any regular meeting of the board of directors, or at any special meeting of the board called for such purpose.

4.4 **Chairperson.** The chairperson is the chief executive officer of the Association. The chairperson presides at all meetings of the Association and of the board of directors. The chairperson has all of the general powers and duties that are usually vested in the chief executive officer of an association, including but not limited to the power to appoint committees from among the unit owners from time to time as the chairperson may in their discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.5 **Secretary.** The secretary keeps or supervises the keeping of the minutes of all proceedings of the board of directors and the minutes of all meetings of the Association. The secretary attends to the giving and serving of all notices to the unit owners and directors and other notices required by law. The secretary keeps the records of the Association, except for those of the treasurer, and performs all other duties that are incidental to the office of secretary of an association and as may be required by the directors or the chairperson. In addition, the secretary acts as vice chairperson, taking the place of the chairperson and performing the chairperson's duties whenever the chairperson is absent or unable to act, unless the directors have appointed another vice chairperson.

4.6 **Treasurer.** The treasurer has the responsibility for Association funds and securities and is responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of required financial statements. The treasurer is responsible for overseeing the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the board of directors and disburses or causes to be disbursed funds of the Association upon properly authorized vouchers. The treasurer performs all other duties incident to the office of treasurer of an association and such other duties as may be assigned to them by the board.

4.7 **Execution of Instruments.** All agreements, contracts, deeds, leases, and other instruments of the Association, except checks, must be executed by such person or persons as may be designated by general or special resolution of the board of directors, and, in the absence of any general or special resolution applicable to any such instrument then such instrument must be signed by the chairperson. All checks must be signed by the manager (if one has been contracted with) or by the treasurer, or in the absence or disability of the treasurer, by the chairperson or any duly appointed assistant treasurer.

4.8 **Compensation of Officers.** No officer who is a member of the board of directors may receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the unit owners. The board may fix any compensation to be paid to any officers who are not also directors.

## Article 5

### BUDGET, EXPENSES AND ASSESSMENTS

5.1 **Budget.** The board of directors will, from time to time, and at least annually, prepare a budget for the Association, estimate the common expenses expected to be incurred, less any previous over assessment and plus any underassessment, and assess the common expenses to each unit owner in the proportion set forth in the Declaration. The budget will provide for a reserve fund in accordance with Section 5.5 below only if the directors have elected to establish a reserve fund. Within 30 days after adopting the annual budget, the board will provide a summary of the budget to all owners. If the board fails to adopt an annual budget, the last adopted budget will continue in effect.

5.2 **Determination of Common Expenses.** Common expenses include:

- (a) Expenses of administration, including management fees.
- (b) Expenses of operation, maintenance, repair, or replacement of the general common element shared drywell, and of any Association-owned property. Because none of these features are expected to need replacement in less than 30 years, however, there will be no reserves needed except as provided in Section 5.5 below.
- (c) Cost of insurance or bonds obtained in accordance with these Bylaws.
- (d) There are no common elements or features of the units to be maintained by the Association; accordingly, no property insurance is to be carried by the Association.

(e) Any deficit in common expenses for any prior period.

(f) Utilities and services for the common elements and other utilities and services with a common meter or commonly billed. If the board of directors determines that a particular unit's use of such services is greater than the average of other unit owners, the board may assess to such owner the cost attributable to such extra use; the board will use every effort to provide for a sub-metering of shared utilities, if any.

(g) Any other items properly chargeable as an expense of the Association.

### 5.3 **Assessment of Common Expenses.**

(a) **Obligation to pay.** All unit owners are obligated to pay common expenses assessed to them by the board of directors on behalf of the Association pursuant to these Bylaws and the Declaration. No unit owner by the owner's own action may claim exemption from liability for contribution toward common expenses by waiver by the owner of use or enjoyment of any of the common elements or by abandonment by the owner of the owner's unit. A unit owner may not claim an offset against an assessment for failure of the Association to perform its obligations and no unit owner may offset amounts owing or claimed to be owing by the Association or Declarant to the unit owner. If the board determines that any loss or cost incurred by the Association is the fault of one or more unit owners, the Association may assess the amount of the loss or cost exclusively against the units of the responsible owners. Declarant will be assessed as the unit owner of any unsold unit, but such assessments will be prorated to the date of sale of the unit. The board, on behalf of the Association, will assess the common expenses against the unit owners from time to time, and at least annually, and will take prompt action to collect from a unit owner any common expense due that remains unpaid for more than 30 days from the due date for its payment. The board may elect to round assessments to the nearest dollar.

(b) **Working capital fund.** At the time of closing of the initial sale of each unit to a person other than a successor declarant and thereafter on any subsequent sale of a unit, the purchaser must make a contribution to the working capital of the Association equal to 1/6<sup>th</sup> of the regular annual association assessment for the unit, which sums will be deposited in the operating fund established in the name of the Association. Such contribution will be in addition to the regular annual common expense assessment and will not be considered as an advance payment of regular assessments. Declarant may not use the working capital fund to defray any of Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association.

(c) **Commencement of regular operating expense assessments.** Regular annual assessments for common operating expenses commence upon closing of the first sale of a unit in the Condominium.

(d) **Commencement of assessment for replacement reserves.** If the Association elects at a future date to establish replacement reserves in accordance with Section 5.5, regular monthly assessments for replacement reserves as described in Section 5.5 for all units then in the Condominium would commence upon the date elected by the board of directors.

#### 5.4 Special or Extraordinary Assessments.

(a) Special assessments for capital improvements. In the case of any duly authorized capital improvement to the common elements, the board of directors may by resolution establish separate assessments for the same, which may be treated as capital contributions by the unit owners, and the proceeds of which may be used only for the specific capital improvements described in the resolution. The Association may not assess units owned by Declarant for additional capital improvements to the Condominium without the written consent of Declarant so long as Declarant owns more than one unit.

(b) Other special or extraordinary assessments. If the board of directors determines that the assessments established upon adoption of the budget as provided in Section 5.1 above will be insufficient to pay the common expenses, or the board determines that additional funds will be needed to meet unexpected or unbudgeted common expenses, the board may levy an additional special or extraordinary assessment. Such assessment will be allocated to each unit equally and may be payable in installments over a specified period, in a lump sum, or in a lump sum with option to pay in installments with interest, as determined by the board.

5.5 Replacement Reserves. If the Association were to acquire or construct property that were made common elements of the Condominium or if the Association were to decide to change the maintenance responsibilities of the Association to include structural elements for which reserves would be required under the Oregon Condominium Act, the provisions of this Section 5.5 would then apply, but not otherwise.

(a) Establishment of account. Because there are no general common elements in the Condominium other than the land, drywell and shared utility lines, if any, as set forth in the Declaration, and there are no limited common elements or portions of any unit for which the Association has any responsibility for maintenance, repair, or replacement under the Declaration or these Bylaws, neither a reserve study nor reserve account is required, and the provisions in this Section 5.5 do not apply. If the Association were to elect to establish a reserve fund, the reserve study and fund would not need to include those items that can reasonably be funded from the general budget or other funds of the Association or for common elements for which maintenance and replacement are the responsibility of one or more, but less than all, unit owners under the provisions of the Declaration or these Bylaws.

(b) Funding of account. The reserve account would be funded by assessments against the individual units for the purposes for which the reserve account is being established, which sums will be included in the regular annual assessment for the unit, except as otherwise provided in Section 5.3(b). The reserve account will be established in the name of the Association, which is responsible for administering the account and for making periodic payments into the account. The board of directors or the unit owners may not vote to eliminate funding the reserve account unless the board determines that the reserve account will be adequately funded for the following year, except that after the turnover meeting the board, with the approval of all unit owners, may, on an annual basis, elect not to fund the reserve fund for the following year.

(c) Reserve Studies. The board of directors would be required to annually conduct a reserve study or review and update an existing study to determine the reserve account requirements for the items described in paragraph (a) of this Section and may adjust the amount of

payments in accordance with the study or review and may provide for other reserve items that the board, in its discretion, may deem appropriate. The reserve account would not need to include items that could reasonably be funded from operating assessments. A reserve study must:

- (1) Identify all items for which reserves are or will be established;
- (2) Include, the estimated remaining useful life of each item as of the date of the reserve study; and
- (3) Include for each item, as applicable, an estimated cost of maintenance and repair and replacement at the end of the item's useful life.

(d) **Use of Reserve Funds.** The reserve account would be used only for the purposes for which the reserves have been established and must be kept separate from other funds. After the organizational and turnover meeting described in Section 2.2, however, the board of directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. No later than the adoption of the budget for the following year, the board would adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

(e) **Sale of Units.** Assessments paid into the reserve account will be the property of the Association and are not refundable to sellers of units. Sellers of the units, however, may treat their outstanding share of the reserve account as a separate item in any sales agreement.

(f) **Investment of Reserve Account.** Nothing in this Section prohibits prudent investment of the reserve account, in accordance with the Oregon Condominium Act.

#### 5.6 **Default in Payment of Assessments.**

(a) **Interest.** In the event of default by any unit owner in paying any assessments to the Association, including assessed common expenses and any other charge imposed or levied by the Association pursuant to the provisions of the Declaration, these Bylaws or the Oregon Condominium Act, such unit owner is obligated to pay interest at the rate of 12 percent per annum on such assessment from the due date thereof, or at such greater rate as may be established by the board of directors from time to time, not to exceed the maximum lawful rate, if any.

(b) **Late Charges and Expenses.** The defaulting unit owner must pay a late charge for any assessment not paid within 10 days of its due date in the amount of five percent of the delinquent payment, or such other reasonable late charge or administrative fee, or both, as may be established by the board of directors from time to time by resolution that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing address designated by the unit 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, and at trial or any appeal or petition for review therefrom).

(c) **Acceleration; Suspension of Services.** If the assessment is not paid within 30 days of its due date, the board of directors may declare any remaining installments of assessments for the balance of the fiscal year immediately due and payable.

(d) **Enforcement.** The board of directors has the right to recover for the Association such assessments, together with such charges, interest, and expense of the proceeding, including attorneys' fees, by an action brought against such unit owner or by foreclosure of the lien upon the unit granted by the Oregon Condominium Act. Upon any such default, the Association may, at any time after 10 days written notice to the unit 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, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply them, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of the indebtedness to the Association, and in such order as the Association may determine. Such action will not cure nor waive any such default or invalidate any act done pursuant to these Bylaws. This assignment of rents does not affect, and will in all respects be subordinate to, the rights and powers of the holder of any first or second Mortgage on any unit to do the same or similar acts.

(e) **Notices to First Mortgagees.** The board of directors must notify the holder of any first Mortgage upon a unit of any default not cured within 60 days of the date of default.

5.7 **Foreclosure of Liens for Unpaid Assessments.** In any suit brought by the Association to foreclose a lien on a unit because of unpaid assessments, the unit owner is required to pay a reasonable rental for the use of the unit during the pendency of the suit, and the plaintiff in such foreclosure suit will be entitled to the appointment of a receiver to collect such rental. The board of directors, acting on behalf of the Association, has the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the unit. A suit or action to recover a money judgment for unpaid assessments will be maintainable without foreclosing the liens securing them.

5.8 **Statement of Assessments.** The board of directors will advise each unit owner in writing of the amount of assessments payable by such owner and furnish copies of each budget on which such assessments are based to all unit owners and, if requested, to their Mortgagees. The board will promptly provide any unit owner who makes a request in writing with a written statement of the owner's unpaid assessments.

5.9 **Priority of Lien; First Mortgages.** To the extent provided by the Oregon Condominium Act, any lien of the Association against a unit for assessments must be subordinate to tax and assessment liens and any first Mortgage of record. Unless otherwise provided in the Oregon Condominium Act, if the purchaser or Mortgagee of a unit obtains title to the unit as a result of foreclosure of a first Mortgage, such purchaser or Mortgagee, its successors and assigns, will only be liable for a maximum of six months of the assessments that are chargeable to such unit and that became due prior to the acquisition of title to the unit by such purchaser or Mortgagee. Any additional unpaid share of assessments will be a common expense and be reallocated on a pro rata basis for all units, including the Mortgaged unit. The purchaser or Mortgagee will not be relieved of the obligation to pay further assessments. A deed in lieu of foreclosure accepted by the holder of a first Mortgage will extinguish a lien filed by the Association to secure unpaid assessments under the circumstances described in ORS 100.465.

5.10 **Voluntary Conveyance.** In a voluntary conveyance of a unit, the grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor of the unit 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 an owner's agent, for the benefit of a prospective purchaser, the board of directors must make and deliver a statement of the unpaid assessments against the prospective grantor or the unit effective through a date specified in the statement, and the grantee in that case will not be liable for any unpaid assessments against the grantor not included in the written statement.

## Article 6

### RECORDS AND AUDITS

6.1 **General Records.** The board of directors and the manager, if any, must keep detailed records of the actions of the board and the manager, minutes of the meetings of the board and minutes of the meetings of the Association. The board must maintain a book of resolutions containing the rules, regulations and policies adopted by the Association, board and the manager. The board must maintain a list of owners entitled to vote at meetings of the Association and a list of all Mortgagees of units. All documents, information and records delivered to the Association by Declarant pursuant to ORS 100.210 and other records of the Association must be kept within the State of Oregon for the time periods specified in ORS 100.480.

6.2 **Financial Records and Accounts.** The board of directors or its designee must keep within the State of Oregon financial records sufficient for proper accounting purposes and as required by the Oregon Condominium Act. All assessments must be deposited and maintained in the name of the Association in one or more separate federally insured accounts, including certificates of deposit, at a financial institution as defined in ORS 706.008, other than an extranational institution. Such funds may be used to purchase obligations of the United States government. All expenses of the Association must be paid from the Association's bank account.

6.3 **Assessment Roll.** The assessment roll must be maintained in a set of accounting books in which there is an account for each unit. The account will designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessment comes due, the amounts paid on the account and the balance due on the assessments.

6.4 **Payment of Vouchers.** The treasurer or manager will pay all vouchers for all budgeted items and for any nonbudgeted items up to \$1,000 signed by the chairperson, managing agent, manager or other person authorized by the board of directors. Any voucher for nonbudgeted items in excess of \$1,000 (or such other amount as may be established by the board) requires the authorization of the chairperson. Any checks written on reserve accounts must be signed by a member of the board.

6.5 **Reports and Audits.** An annual financial statement consisting of a balance sheet and income and expense statement for the preceding fiscal year must be rendered by the board of directors to all unit owners and to all Mortgagees of units who have requested it within 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 will cause such financial statements to be

reviewed within 300 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, will cause such review within 300 days after receipt of a petition requesting such review signed by owners holding at least a majority of the voting rights. The board need not cause such a review to be performed if so directed by an affirmative vote of unit owners holding at least 60 percent of the voting rights, not including votes of Declarant with respect to units owned by Declarant. Upon written request, any holder, insurer, or guarantor of a first Mortgage is entitled to an audited financial statement for the immediately preceding fiscal year at the expense of the requesting party, if the statement is not otherwise available.

**6.6 Notice of Sale, Mortgage, Rental or Lease.** Upon the sale, mortgage, rental or lease of any unit, such unit owner must promptly inform the secretary or manager of the name and address of the vendee, Mortgagee, lessee, or tenant.

**6.7 Availability of Records.** Except as otherwise provided in ORS 100.480, during normal business hours or under other reasonable circumstances, the Association will make reasonably available for examination and, upon written request, available for duplication, by unit owners, lenders and holders, insurers or guarantors of any first Mortgage that make the request in good faith for a proper purpose, current copies of the Declaration, Bylaws, other rules concerning the Condominium, amendments or supplements to such documents, and the books, records, financial statements and current operating budget of the Association. The Association must also make available to prospective purchasers current copies of the Declaration, Bylaws, other rules governing the Condominium, and the most recent annual audited financial statement, if it has been prepared. The Association, within 10 business days after receipt of a written request by a unit owner, must furnish copies of such documents to the requesting unit owner. Upon written request, the Association must 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 incurred to furnish the information.

**6.8 Statement of Assessments Due.** The Association must provide, within 10 business days of 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 above-referenced statement would otherwise be due.

## Article 7

### MAINTENANCE AND USE OF CONDOMINIUM PROPERTY

**7.1 Maintenance and Repair.** Except as otherwise provided in Section 7.4 for damage or destruction caused by casualty:

(a) **Units.** All repairs to and maintenance and replacement of any unit must be made by the owner of the unit, who must keep the unit in good order, condition, and repair. Each unit owner's maintenance responsibility extends to the Unit's exterior and all structural features that are part of the Unit, including the painting, staining, maintenance, repair, and timely replacement of the exterior and interior and all structural features of the unit, including the exterior walls, foundation, and the roofing system. Each unit owner is responsible for the maintenance, repair, and replacement of windows, glazing and window frames, access doors and frames; garage doors, automatic door openers and ancillary equipment, if any; heating and air conditioning fixtures, ventilation equipment and ducting serving only the owner's unit and located in within the boundaries of the unit or the owner's LCE Yard; any plumbing, telephones, water heaters, fans, vents, lighting fixtures, electrical outlets that serve only the owner's unit; any cabinetry, appliances and accessories, and any interior partitions or other structures and features that may be constructed within the boundaries of the unit, including those constructed by the unit owner within the boundaries of the unit. The Association, however, may repair or replace, at the Association's expense, portions of units or their limited common elements to the extent reasonably necessary for the preservation of the general appearance of the Condominium, and to keep such portions in good condition and working order, if a unit owner fails to do so after written notice from the Association.

(e) **Common elements.** All maintenance, repairs, and replacements to the general common element drywell that is located in the LCE Yard of Unit C and to Association property, must be made by the Association and will be charged to all the unit owners as a common expense. Each unit owner, however, must maintain the limited common elements pertaining solely to the owner's unit in a neat and well maintained condition that is safe, neat, clean, and sanitary. The cost of such maintenance, repair, and replacement will not be a common expense but will be each respective unit owner's responsibility. Notwithstanding, the episodic upkeep to the drywell that may be required will be the Association's responsibility, the cost of which will be assessed to the unit owners equally.

(1) Each owner is also responsible for the fencing around their LCE Yard and for the maintenance, repair and replacement cost thereof; however, the responsibility for and cost of maintenance, repair, and replacement of the fencing on boundary lines between the limited common element yards will be shared by the unit owners on either side of the fence in accordance with ORS Chapter 96 as if it were an existing boundary fence.

(2) The owner of Unit B is responsible for the maintenance and care for the LCE Shared Driveway during odd years; the owner of Unit C is responsible for such work during even years. During their year, the responsible owner is responsible for removal of leaves, ice, snow, moss, and other debris from the LCE Shared Driveway for its entire length (approximately 121.50 feet from the east right-of-way boundary of SE 76<sup>th</sup> Avenue). For the sake of clarity, the owner of Unit C is responsible for the remainder of the driveway, the portion labeled "LCE Driveway" on the Plat that is contiguous with Unit C. If any major repairs (costing more than \$250) or concrete replacement must be done, the responsible unit owner performing the work will invoice the other unit owner for half of the costs and payment will be due within 15 days of receipt of the notice thereof.

(3) So long as an owner uses substantially similar materials and matches the existing style, traditional Northwest color of paint and stain when painting, staining, repairing, or replacing the exterior features of their unit, including the limited common element yard fencing, the

owner does not need to provide notice or obtain consent from the other unit owners or the Association before doing the painting, staining, repair, or replacement.

7.2 **Preventive Maintenance Program.** Because the Association has no responsibility to repair, maintain, or replace any structure or improvement in the Condominium, including the buildings that comprise each unit, the Declarant has not prepared an Association maintenance plan for the common elements, which would otherwise be required under the Oregon Condominium Act. The Declarant has, however, prepared a “**Preventive Maintenance Program**” for each of the units, which are detached homes.

(a) **Contents of Preventive Maintenance Program.** The Preventive Maintenance Program will describe the maintenance, repair, or replacement to be conducted, include a schedule for maintenance, repair, or replacement, as appropriate for the unit and the limited common elements that pertain to the unit for which the unit owner is responsible.

(b) **Reviews and updates to Preventive Maintenance Program.** For a period of 10 years following closing of the sale of the last unit by Declarant to a person other than a successor declarant, any failure to follow the Preventive Maintenance Program may void any applicable warranty and will release the Declarant and the original contractor from liability for any damage resulting from such change. Notwithstanding, nothing in this Section may be construed to limit or be in derogation of the statutory condominium warranty offered by the Declarant to a unit owner.

7.3 **Additions, Alterations, or Improvements.** Any owner performing any additions, alterations, or improvements to their unit is liable for any damages caused by or resulting from such work and neither the Association or its directors, officers or managers nor 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, has any liability therefor, and the owner hereby indemnifies such persons and entities from and against any claims by unit owners or other persons or entities for loss or damage resulting from such work. All additions, alterations or improvements must be performed in compliance with all applicable laws, codes and ordinances. Air conditioners or portable cooling devices may be placed within any window of a unit or otherwise protruding through the unit boundaries only from May 1<sup>st</sup> through September 30<sup>th</sup> and only if installed in a manner that prevents the window unit’s risk of falling and provides it with adequate drainage to prevent damage to the unit or common elements. No such installation is allowed if the installation or use of the device would: violate building codes or state or federal law; violate the device manufacturer’s written safety guidelines for the device; interfere with the common elements of the Condominium; require amperage to power the device that cannot be accommodated by the power service to the unit or circuit serving the device in a unit; be installed in a necessary egress window; or, require the use of brackets or other hardware that would damage or void the warranty of the window or frame or siding.

7.4 **Damage or Destruction by Casualty of Condominium Property.** In the case of damage or destruction that affects a material portion of the Condominium, timely written notice will be given to the unit owners and their Mortgagees, and the following provisions apply:

(a) In the event of damage or destruction by casualty of Condominium property, the damage or destruction must be repaired, reconstructed or rebuilt unless, within 14 days of such damage or destruction, the board of directors or any unit owner requested a special meeting of the

Association. Such special meeting must be held within 60 days of the date of damage or destruction. At the time of such meeting, unless all unit owners, whether in person, by writing or by proxy, with the approval of Mortgagees holding Mortgages on units that represent at least 51 percent of the voting rights of units subject to Mortgages vote not to repair, reconstruct or rebuild the damaged property, the damage or destruction must be repaired, reconstructed or rebuilt by the respective owners thereof. If the damage or destruction is not repaired, re-constructed or rebuilt, leaving only one or no units, then the property must be removed from condominium ownership in the manner provided in the Oregon Condominium.

(b) The Association is responsible for repairing, reconstructing, or rebuilding all such damage or destruction to the general common elements, which other than the land itself, consist only of the shared drywell, stairs and walkway, and shared utility lines, if any. Each unit owner is responsible for the cost of repairing, reconstructing, or rebuilding of their own unit and the limited common elements pertaining to their unit, which is not covered by the Association's insurance, and each owner is responsible to the extent of any deductible under the Association's insurance.

(c) If, due to the act, failure to act, neglect, omission, gross negligence or willful misconduct of a unit owner, or of a member of the owner's family or household pet or of a guest or other occupant or visitor of such unit owner, damage or the cause of damage originates in an owner's unit, or is caused to the common elements or to a unit owned by others, or maintenance, repairs or replacements is required that would otherwise be a common expense, then such unit owner must pay for the damage and the maintenance, repairs, and replacements as may be determined by the Association, to the extent not fully covered by the Association's insurance. The Association may assess the owner responsible for the damages for the cost determined by the Association for such maintenance, repair, and replacements of such damages as an Individual Expense. And to the extent that the damages were caused to a unit by owner to be assessed, the responsible owner will remit the amounts to the Association that are attributable to the damaged unit being repaired by the owner of the damaged unit or by the Association. The Association will provide such portion of the reimbursement amounts from the responsible the unit owner to the unit owner suffering the damage to the extent of their out-of-pocket outlay after reimbursement to the Association for its repair expenses.

(d) If any portion of the insurance proceeds paid to the Association is not used to repair, reconstruct, or rebuild the damaged or destroyed property, the Association will distribute the proceeds among the unit owners and their Mortgagees (as their interests may appear) in the same proportion as common expenses are shared, unless the property is removed from unit ownership. If the property is removed from unit ownership, the insurance proceeds, together with the proceeds from the sale of the property, will be distributed to the unit owners and their Mortgagees (as their interests may appear) in the manner described in the Oregon Condominium Act.

**7.5 Condemnation.** If any portion of the Condominium is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition will promptly be given to each unit owner and to each Mortgagee. The Association will represent the unit owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of any portion of the common elements, and each unit owner appoints the Association to act as their attorney-in-fact for such purposes. All compensation, damages, or other

proceeds of the taking, other than any award for moving expenses of specific unit owners, is payable to the Association and allocated and distributed as provided in this Section 7.5.

(a) **Complete taking.** If the entire Condominium property is taken, or if all unit owners and mortgagees that represent at least 51 percent of the votes of the unit owners agree that such a substantial portion of the Condominium has been taken as to make the project obsolete, then the property will be deemed removed from unit ownership. In such event, any proceeds of the condemnation paid to the Association, together with any other proceeds upon sale of the remaining Condominium property, must be distributed among the unit owners and their Mortgagees, as their interests may appear, in accordance with the provisions of the Oregon Condominium Act.

(b) **Partial taking.** If less than the entire Condominium property is taken and the property is not determined to be obsolete as provided in paragraph (a) above, then as soon as practicable the board of directors will, reasonably and in good faith, allocate the award among the units in accordance with the reduction in the value of each unit and its interest in the common elements, compared to the total reduction in value of all units and their interest in the common elements. Any portion of the award allocated to a unit owner under this paragraph must be paid first to all Mortgagees and holders of liens on the unit owner's interest in accordance with the existing priorities, and the balance to the unit owner. If any reconstruction or repair is undertaken because of the condemnation, the board may retain and apply such portion of each unit owner's share of the award as is necessary to discharge the owner's liability for any special assessment arising from such reconstruction or repair.

(c) **Dispute Regarding Allocation.** If any unit owner or Mortgagee objects to the allocation determined by the board, the matter will be submitted to arbitration in accordance with Article 10 below. The cost of such determination will be paid out of the proceeds of the condemnation.

**7.6 Restrictions and Requirements Respecting Use of Condominium Property.** The following restrictions and requirements are in addition to all other restrictions and requirements contained in the Declaration and these Bylaws:

(a) **Residential use.** No commercial activities of any kind may be carried on in any unit or on the Condominium property without the consent of the board of directors of the Association, except activities relating to the rental or sale of units. This provision, however, may not be construed to mean that it prevents or prohibits a unit occupant from using the unit as a home office or studio, including meeting with associates, clients, or customers on a by-appointment basis, or as a homebased childcare facility, to the extent permitted by applicable zoning codes and state law.

(b) **Offensive or unlawful activities.** No noxious or offensive activities may be carried on in any unit nor may anything be done in or placed on any unit or common element that interferes with or jeopardizes the enjoyment of other units or the common elements or which is a source of annoyance to occupants. No unlawful use may be made of the Condominium or in any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof must be observed. Owners and other occupants may not engage in any abusive or harassing behavior, either verbal or physical, or in any form of intimidation or aggression directed at other owners, occupants, guests, or invitees, or directed at the manager, its agents or employees, or vendors.

(c) **Animals.** No animals or fowls may be raised, kept, or permitted within the Condominium or any part thereof, except for a reasonable number of ordinary household pets kept within a unit, laying hens, or other animals as permitted by local ordinance, so long as animals that are not kept in a unit are kept in an enclosed yard area out of view from the street. The board of directors have the authority to determine what is an "ordinary household pet." No dog, cat, or other pets may be kept, bred, or raised for commercial purposes or in unreasonable numbers. Any inconvenience, damage or unpleasantness caused by a pet is the responsibility of the owner thereof, and the owner is responsible for cleanup and removal of wastes of the owner's animal(s). Each owner and each occupant is responsible for seeing that their pets do not endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the owners and occupants of the other unit(s). The board, after notice and a hearing, may require the permanent removal of any animal that the board determines to be a danger to the health and safety of an occupant in the Condominium, or otherwise to be a nuisance within the Condominium, including, without limitation, hostile and overly aggressive pets. Following receipt by the owner of a written demand from the board to comply with these Bylaws or the Association rules regulating pets, the board may find that an animal is a nuisance if the animal or its owner continues to violate these Bylaws or the rules regulating pets.

(d) **Exterior lighting or noisemaking devices and antennas.** Except with the consent of the board of directors of the Association, no exterior lighting that would spill into the yard of the other units and no noisemaking devices may be installed, used, or maintained on any unit. Seasonal holiday lighting and decorations are permissible if consistent with any applicable rules and regulations and if removed within 30 days after the celebrated holiday. The owner installing any communication device will indemnify and hold harmless the Association, Declarant, the original contractor, or subcontractor and each other unit owner and unit lessee from any damage, loss, or liability resulting from such installation of any antenna, satellite dish or other equipment that penetrates the roof or the building envelope of a unit.

(e) **Windows, porches, and outside walls; fencing.** To preserve the attractive appearance of the homes in the Condominium no garments, rugs, laundry, sheets, reflective surfaces, and other similar items or personal property may not be hung from windows, facades, or stored in entries or porches. Clotheslines are permitted behind the enclosure fence of a private LCE Yard out of view of the street but not otherwise. No personal property such as strollers, wheelchairs, large toys or large gardening equipment, may be kept on any LCE Entry. All fencing must be good neighbor-style fencing of wood no taller in any case than 72 inches on grade; no vinyl or chain link fencing is permitted.

(f) **Parking of vehicles and bicycles.** No vehicles may be stored without regular use in a driveway or on the street in front of a unit, and no vehicles in an extreme state of disrepair may be parked anywhere in the Condominium except in a garage. No trailers, motor homes, or commercial vehicles larger than 1-ton may be parked anywhere on the Condominium except within an enclosed garage and except for temporary loading or delivery.

(g) **Trash.** No part of any unit or any part of the common elements may be used or maintained as a dumping or storage ground for rubbish, trash, garbage, recycling materials or other waste. No garbage, trash, recycling materials or other waste may be kept or maintained on any part of the property, except in sanitary containers in the designated areas.

(h) **Insurance.** Nothing may be done or kept in any unit or in the common elements that will increase the cost of insurance on the common elements. No owner may permit anything to be done or kept in their unit or in the common elements that will result in cancellation of insurance on any unit or any part of the common elements.

(i) **Association rules and regulations.** In addition, the board of directors 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 units and common elements as it may deem necessary or appropriate to insure the peaceful and orderly use and enjoyment of the Condominium property, including, without limitation, establishment of reasonable administrative fees. Any action by the board adopting, modifying, or revoking any rule or regulation may be overruled by unanimous vote of all of the owners, duly cast. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, must be delivered by the secretary promptly to each unit owner and are binding on all unit owners and occupants of all units from the date of delivery.

7.7 **Leasing and rental of units.** The following apply to all leases and rentals of units:

(a) Any owner who wishes to lease or rent their unit and any tenant who wishes to sublease or sublet the unit must meet each of the following requirements, and the lease or rental agreement will be subject to these requirements even if they are not included within the lease or rental agreement:

(1) all leases and rentals must be in writing;

(2) if Declarant arranges for any system development charges to be waived for any unit in the Condominium otherwise due to the City of Portland, then for a minimum of 10 years from the date of permit final inspection of any unit (the "**Restriction Period**"), all leases and rentals of any unit in the Condominium must be for a term no less than 30 days, unless (i) the respective owners of a Units B and C were to pay the system development charges to the City of Portland that Declarant had waived during construction associated with the instrument recorded for their unit, and (ii) the owners were to provide proof to the Association that the owner has received a receipt of payment from the City and a written release from the City of a particular "*Covenant for System Development Charge Waiver for an Accessory Dwelling Unit*" or similar instrument affecting the owner's unit; whereupon, this sub-paragraph will no longer apply (but so long as just one such covenant burdens a unit in the Condominium, the 30-day limitation will apply to all units);

(3) the lease or rental must be for the entire unit; except that if the owner remains in occupancy, parts of the unit may be leased;

(4) all such leases and rentals are subject in all respects to provisions of the Declaration, these Bylaws, and all rules and regulations adopted by the board; and

(5) all persons who lease or rent their units must promptly notify the Association in writing of the names of all tenants and members of tenants' household occupying such units and provide the Association with a complete copy of the lease or rental agreement. All persons leasing their unit must promptly notify the Association of the address and telephone number where such person can be reached.

(b) Any failure of a tenant to comply with the Declaration, Bylaws, or Association rules and regulations is a default under the lease or rental agreement, even if the lease or rental agreement does not so provide. In the event of any such default, the owner must immediately take all actions to cure the default including, if necessary, eviction of the tenant.

(c) If any tenant is in violation of the provisions of the Declaration, Bylaws, or rules and regulations of the Association, the Association may bring an action in its own name or in the name of the lessor to have the tenant evicted or to recover damages, or both; provided, however that any relocation or eviction fee imposed by any governmental jurisdiction that must be paid to the tenant, which is associated with such an eviction, will the responsibility of the unit owner to pay to the tenant. If the court finds that the tenant is violating or has violated any of the provisions of the Declaration, these Bylaws, or the rules and regulations of the Association, the court may find the tenant guilty of unlawful detainer notwithstanding the fact that the lessor is not the plaintiff in the action or that the tenant is not otherwise in violation of tenant's lease. The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies that the Association may have. If permitted by present or future law, the Association may recover all its actual costs, including court costs and reasonable attorneys' fees, incurred in prosecuting the unlawful detainer action. If such costs and fees are not available to recover from the tenant, then the Association may charge the landlord-unit owner for such costs as an Individual Expense.

(d) The Association must give the tenant and the lessor notice in writing of the nature of the violation and 20 days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

(e) Each lessor must provide a copy of the Declaration, these Bylaws and all rules and regulations of the Association to each tenant of the unit. By becoming a tenant, each tenant agrees to be bound by the Declaration, these Bylaws and the rules and regulations of the Association and recognizes and accepts the right and power of the Association to evict a tenant for any violation by the tenant of the Declaration, these Bylaws, and rules and regulations of the Association.

(f) The unit owner is responsible for any violations by tenants and is directly responsible for either correcting or eliminating such violations or causing tenant to do the same.

**7.8 Failure to Follow Preventive Maintenance Program.** Each unit owner must perform such inspections of and maintenance to the owner's unit as may be recommended by any Preventive Maintenance Program delivered to the owner by Declarant and as reasonably prudent. If the unit owner fails to follow such inspections and maintenance recommendations, neither the unit owner nor the Association has 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 the same results from such failure to follow the Preventive Maintenance Program, and hereby indemnifies such persons and entities from and against claims by the Association, unit owners or other persons or entities for loss or damage resulting from such failure. This Section 7.8 may not be construed or deemed to limit or modify the statutory condominium warranty that the Declarant provides to each original purchaser of any newly constructed unit in the Condominium.

**7.9 Abatement and Enjoining of Violations.** The violation of any provision of the Declaration or these Bylaws, of any rule or regulation adopted pursuant to these Bylaws, or of any

decision of the Association made pursuant to such documents, gives the board of directors, acting on behalf of the Association, the right, in addition to any other rights set forth in these Bylaws, to do any or all of the following after giving written notice and an opportunity to be heard:

(a) to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the board of directors will not thereby be deemed guilty of any manner of trespass; provided, however, that judicial proceedings will be instituted before any items of construction may be altered or demolished; or

(b) to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings; or

(c) to levy reasonable fines based on a resolution adopted by the board of directors that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing address designated by the owner of each unit in writing; or

(d) to terminate the right to receive utility and communication services paid for out of assessments or the right of access to and use of service facilities of the Condominium until the correction of the violation has occurred.

The offending unit owner is liable to the Association for a reasonable administrative fee as established by the board of directors and all costs and attorneys' fees incurred by the Association, even if legal proceedings are not instituted; such costs and fees include attorneys' fees at trial, in arbitration or on appeal or petition for review, or for bankruptcy, together with any expense incurred by the Association in remedying the default, damage incurred by the Association or unit owners, or fines so levied. Such sums will be assessed against the offending unit as an assessment and enforced as provided in Article 5. In addition, any aggrieved unit owner may bring an action against such other unit owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings; any such actions will be subject to the dispute resolution procedures set forth in Sections 10.1 and 10.4 below.

## Article 8

### INSURANCE

8.1 **Types of Insurance.** For the benefit of the Association and the unit owners, the board of directors will obtain and maintain at all times, and will pay for out of the common expense funds, the following insurance:

(a) **Liability insurance.**

(1) The Association will maintain commercial general liability insurance coverage insuring the Association, the board of directors, the unit owners and the professional manager (if any), against liability to the public or to the owners of units and of common elements, and their invitees or tenants, incident to the operation, maintenance, ownership or use of the property. Such policy must include (i) coverage for bodily injury and death, property damage and personal injury, and (ii) contractual liability coverage. Such policy or policies may exclude coverage of a unit owner

(other than as a member of the Association or board) for liability arising out of acts or omission of such unit owner and liability incident to the ownership and/or use of the part of the property as to which such unit owner has the exclusive use or occupancy. The Association will have no employees; therefore, legal liability for employment related lawsuits will not be necessary.

(2) Limits of liability under such insurance will not be less than \$1,000,000.

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

(b) **Workers' compensation insurance.** The Association will maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

(c) **Fidelity insurance.**

(1) The Board of Directors will cause the Association to maintain blanket fidelity insurance for (i) all persons with access to Association funds, including officers, directors, trustees, and employees of the Association, managing agents and employees of a management company or other entity with which the Association contracts, and all other Persons handling or responsible for funds of, or administered by, the Association, and (ii) computer fraud and funds transfer fraud. If the Association retains a manager, such manager must maintain fidelity insurance for its members, officers, employees, and agents handling or responsible for Association funds.

(2) The total amount of fidelity insurance coverage required must be in an amount equal to the combined amount of: (i) funds maintained in the name of the Association in accounts under ORS 100.480; and (ii) any obligations issued by the United States government purchased by the Association pursuant to ORS 100.480. In no event, however, may the aggregate amount of such insurance be less than the sum equal to three months' aggregate assessments on all units plus reserve funds.

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

(d) **Directors' and officers' liability insurance.** The Association will maintain a policy of directors' and officers' liability insurance with coverage in the amount of not less than \$1,000,000 subject to a reasonable deductible. Directors and officers will be accepting such positions in reliance upon such insurance protection being maintained by the Association. Therefore, in the event the Association fails to carry such insurance or amends these Bylaws to delete or reduce these insurance requirements, the Association and unit owners will be deemed to have released such claims and deemed to have covenanted not to sue or prosecute any claims against its current or former directors or officers that would have been insured under such a policy.

(e) **Insurance by unit owners.** Each unit owner or tenant, respectively, is responsible for obtaining and maintaining property loss insurance as follows, and 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 or limited common elements pertaining to the unit; or (ii) for any damage or loss to the owner's unit, or the owner's or any tenant's personal property.

(1) Each unit owner will maintain a property insurance policy or policies covering all causes of loss insurable under a "Causes of Loss – Special Form" policy for not less than 100 percent of the current replacement cost of the owner's unit and limited common elements (exclusive of land, foundation, excavation, and other items normally excluded from coverage), subject to a deductible of no more than five percent of the policy amount (and for policies that have multiple deductibles, such as a deductible that applies to windstorms, or a specific property element like the roof, the total amount for such deductibles for a single occurrence must be no greater in the aggregate than five percent of the property insurance coverage amount).

(2) Such policy or policies will include coverage for all improvements, alterations, fixtures, and the owner's personal property in the insured unit.

(3) Such policy or policies will contain the standard mortgage clause, or equivalent endorsement (without contribution) that is commonly accepted by institutional mortgage investors in Oregon.

(4) Such policy will include an endorsement naming the Association as an additional insured/loss payee. Owners must also carry insurance for the deductible amount under the Association's policies and for insuring their own personal property for any loss or damage.

If the Association does not demand insurance certificates or other evidence of full compliance of these insurance requirements or fails to identify a deficiency from the evidence that is provided, such omissions may not be construed as a waiver of a unit owner's obligation to maintain such insurance. If a unit owner fails to purchase insurance required by these Bylaws, the Association may obtain such coverage at the unit owner's expense but is not obligated to do so. Tenants are responsible for insuring their own personal property for any loss or damage. The Association will notify all owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Association must give at least 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 general and limited common elements and the other unit and the personal property of others located therein.

**8.2 Other Insurance Requirements.** Insurance obtained by the Association will be governed by the following requirements:

(a) All Association policies must be written with the State of Oregon or a with company that is licensed to do business in the State of Oregon that is that has a "B" or better Financial Strength Rating by AM Best's Company, an "A" or better rating in Demotech's Insurance Financial Stability Ratings, a "BBB" or better Insurance Strength Rating (IFSR) by the Kroll Bond Rating

Agency, or a “BBB” or better Insurer Financial Strength Rating by S&P Global, or is otherwise acceptable under Fannie Mae’s then-current standards for insurance ratings.

(b) Notwithstanding the provisions of Section 8.1 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 will have exclusive authority to negotiate losses under any property or liability insurance policy. Each unit 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 will receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for unit owners and their first Mortgage holders, as their interests may appear.

(c) All Association property insurance policies will contain a “Condominium Association Endorsement” or its equivalent providing for the following: recognition of any Insurance Trust Agreement, a waiver of the right of subrogation against other unit owners and against the Association, a provision that the insurance is not prejudiced by any act or neglect of individual unit owners that is not in the control of such owners collectively, and a provision that the policy is primary in the event that the unit owner has other insurance covering the same loss. Unless the following coverage is not obtainable in the insurance market available to the Association, the Association’s property insurance policy must include Building Ordinance or Law Coverage with coverage for loss to the undamaged portion of a building, demolition costs, and increased costs of construction. Such Building Ordinance or Law Coverage may be included in the property coverage form or obtained as an endorsement to the property insurance policy.

(d) For purposes of this article, insurance policies are unacceptable if (i) under the terms of the insurance carrier’s charter, bylaws or policy, contributions or assessments may be made against FannieMae, the designee of FannieMae, or the Association or unit 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) that could prevent FannieMae or the owners from collecting insurance proceeds.

(e) All policies required by this article will 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 that is listed as a scheduled holder of a first Mortgage in the insurance policy. Evidence of insurance will be issued to each unit owner and Mortgagee upon request.

(f) All policies required by this article will contain a waiver of subrogation as to claims against Declarant and its members and managers, and their respective employees, representatives, offices, directors, managers, and members and against the board of directors.

**8.3 FannieMae, GNMA, HUD and VA Requirements.** Notwithstanding any other provisions of this article, the Association will continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity requirements for condominium projects established by FannieMae, the Federal Home Loan Mortgage Corporation, the

Government National Mortgage Association, the Department of Housing and Urban Development and the Veterans Administration as long as they are a Mortgagee or owner of a unit within the Condominium, except to the extent that such coverage is not available or has been waived in writing by FannieMae, the Federal Home Loan Mortgage Corporation, Government National Mortgage Association, the Department of Housing and Urban Development or the Veterans Administration. FannieMae, the Federal Home Loan Mortgage Corporation, or their servicers, their successors and assigns, will be named as a Mortgagee in the Association's policies.

## Article 9

### AMENDMENTS TO BYLAWS

9.1 **How Proposed.** Amendments to the Bylaws may be proposed by either a majority of the board of directors or by any unit owner. The proposed amendment must be reduced to writing and 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.

9.2 **Adoption.** A resolution adopting a proposed amendment may be proposed by either the board of directors or by a unit owner and may be approved by the unit owners at a meeting called for this purpose or by ballot vote. Unit owners absent from the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by unit owners holding a majority of the voting rights in the Association and by Mortgagees to the extent required by the Declaration, except that (a) 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, and (b) any amendment relating to age restrictions, pet restrictions, limitations on the number of persons who may occupy units, or limitations on the rental or leasing of units must be approved by unit owners holding 75 percent of the voting rights. Declarant's consent is also required for a period of 10 years from the date of closing of the sale of the last unit by Declarant to a person other than a successor declarant. If this Condominium has been approved by the Department of Housing and Urban Development or the Veterans Administration, then notwithstanding any other provision of this Section 9.2 to the contrary, Declarant will relinquish any right to veto amendments to the Bylaws not later than the date by which the turnover meeting occurs.

9.3 **Regulatory Amendments.** Notwithstanding the provisions of Section 9.2 above, until the turnover meeting as described in Section 2.2 has occurred, Declarant has 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 Rural Development or the Farm Service Agency of the United States Department of Agriculture; 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 condominium or units in a condominium. If these Bylaws or any rule or regulation adopted by the Association contains any restriction for use of the Condominium based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry, as defined in House Bill 3395 (2023), Sections 24-28, also codified as Oregon Law Chapter 223, or other Oregon Revised Statutes as to the definition of such terms, that restriction is

void and may be removed pursuant to House Bill 3395 (2023), Sections 24-28, whether or not such bill or its amendment is effective at the time of the removal of the offending restriction.

9.4 **Execution and Recording.** An amendment will not be effective until certified by the chairperson and secretary of the Association as being adopted in accordance with these Bylaws and the provisions of the Oregon Condominium Act and recorded as required by law. Any amendment adopted within five years after the recording of the initial Bylaws must be approved by the Oregon Real Estate Commissioner to the extent required by the Oregon Condominium Act.

## Article 10

### DISPUTE RESOLUTION

10.1 **Claims Other Than for Defective or Negligent Construction or Condition or Claims Involving Declarant.** The following provisions of this Section 10.1 apply to any claim, controversy, or dispute by or among the Association, the manager (if any) or one or more unit owners, or any of them, arising out of or related to the Declaration, these Bylaws, or the Condominium, other than claims relating to defective or negligent construction or condition or involving Declarant (including the Declarant's members, managers, officers, directors or affiliates of Declarant) as provided in Section 10.2 below:

(a) **Mediation.**

(1) Except as otherwise provided in this Section 10.1(a), 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 must offer to use any dispute resolution program available within Multnomah 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.

(2) If the party receiving the offer does not accept the offer within 10 days after receipt 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 the 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.

(3) If a qualified dispute resolution program exists within Multnomah County, Oregon, and an offer to use the program is not made as required under paragraph (1) of this Section 10.1(a), litigation, arbitration, or an administrative proceeding may be stayed for 30 days upon a motion of the non-initiating party. If the litigation, arbitration, or administrative action is stayed under this paragraph, both parties must participate in the dispute resolution process.

(4) Unless a stay has been granted under paragraph (3) of this Section 10.1(a), if the dispute resolution process is not completed within 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.

(5) 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.

(6) The requirements of this Section 10.1(a) 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.

(b) **Arbitration.** Any such claim, controversy, or dispute under this Section 10.110.1 must be first subject to mediation as provided in Section 10.1(a) above, and if not timely settled by mediation, resolved by arbitration in accordance with the terms of Section 10.4 below.

(c) **Excluded matters.** Notwithstanding the foregoing, the following matters are not subject to mediation or arbitration under this Section 10.1 (but are subject to the applicable provisions of Section 10.1(d) below): (i) 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 are subject to mediation and arbitration as provided above), (ii) actions to enforce any order, decision or award rendered by arbitration pursuant to Section 10.4, and (iii) matters subject to Section 10.2 below. 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 will not constitute a waiver of the right or duty to utilize the procedures specified in this Section 10.1.

(d) **Costs and attorneys' fees.** Subject to any right to fees for the Association, the fees of any mediator and the costs of mediation will be divided and paid equally by the parties. Each party will pay its own attorneys' fees and costs in connection with any mediation. The fees of any arbitrator and the costs of arbitration will be paid by the nonprevailing party or parties; if none, such fees and costs will be divided and paid equally by the parties. In any suit or action brought by the Association to foreclose its lien or to collect delinquent assessments or in any suit or action brought by Declarant, the Association or any owner or class of owners to enforce compliance with the terms and provisions of the Oregon Condominium Act, the Declaration or these Bylaws, including all amendments and supplements thereto or any rules or regulations adopted by the Association, the prevailing party will be entitled to recover reasonable attorney fees and costs and disbursements therein and in any appeal therefrom. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party will be decided by the arbitrator (with respect to attorneys' fees incurred prior to 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). This attorneys' fees provision does not apply for any claims brought under Section 10.2 below.

**10.2 Claims for Negligent or Defective Construction or Condition; Breach of Fiduciary Duty or other Claims Against Declarant.** The following alternative dispute resolution procedures apply to any claim by the Association or any unit owner against or any dispute with: (i) Declarant or its members, managers, officers, directors, or affiliates of Declarant for any claim under any theory of liability, injury, damages, default, breach, misrepresentation or fraud, including but not limited to any claim of negligence, breach of fiduciary duty or conflict of interest; or (ii) Declarant, or

any contractor, subcontractor, supplier, consultant, or design professional of every tier performing any work or services in connection with the Condominium, and their agents, brokers, successors, employees, representatives, officers, directors, managers and members, and any of their insurers and reinsurers, related to the design, construction, or condition of the Condominium, including, but not limited to, claims for defective or negligent construction or design or failure to repair, prevent, inspect or disclose a defective condition, and claims of misrepresentation or fraud.

(a) **Initial dispute resolution procedures.** In the event of a claim for a construction defect governed by ORS 701.560 to 701.595, the parties will first comply with the provisions contained therein. In the event the claim is not for a construction defect governed by such provisions, but relates to a claimed defect in the condition of the project, the parties will follow the same procedures as set forth in such provisions, except that the notice of defect will include a statement of the basis on which the recipient is claimed to be liable for the defect. Compliance with the procedures contained in this Section 10.2(a) is a condition precedent to mediation or litigation of any such claims.

(b) **Mediation.** If the initial dispute resolution proceedings under Section 10.2(a) do not resolve the claims, the parties will then engage in mediation to resolve the claims, or in the case of any other claim, dispute or conflict described or implied in Section 10.2 above, the parties will engage in mediation to resolve such claims or disputes. The fees of any mediator and the costs of mediation will be divided and paid equally by the parties. Each party will pay its own attorneys' fees and costs in connection with any mediation. Completion of the mediation process under this section is a condition precedent to the filing of any litigation proceedings or any claims relating to the matter with the Oregon Construction Contractors Board, and the Association and unit owners waive any right to file any such claims if the Association and unit owners have not fully complied with this subsection (b). The mediation will be conducted in accordance with the following procedures:

(1) Within 60 days after completion of the proceedings under Section 10.2(a) and delivery of a demand for mediation by one of the parties to the other parties, the parties will agree on a neutral mediator. If the parties are unable to agree on a mediator within that period, upon application of any party, the presiding judge of the Circuit Court of Multnomah County, Oregon, will designate the mediator.

(2) Within 60 days after delivery of the demand for mediation, the parties will exchange with each other all inspection and consultant's reports in their possession pertaining to the claims.

(3) The parties will have 90 days after exchanging reports in which to perform additional inspections. Any additional reports resulting from such inspections will be furnished to the other parties prior to mediation.

(4) The mediation will be conducted after completing parts (1) through (3) above, but within 180 days following delivery of the demand for mediation. The mediator may elect to adjourn the mediation to additional sessions if the mediator determines that further sessions would be beneficial in resolving the disputes.

(5) Each party must send to the mediation a representative with authority to settle the dispute and will attempt in good faith to resolve all disputes in the mediation.

(6) Any settlement agreed on in mediation must be documented and executed within 60 days following completion of the mediation.

(c) **No Arbitration.** Claims brought under this Section 10.2 may not be made subject to arbitration unless the parties, including any third parties to the dispute, agree to binding arbitration in writing.

(d) **Confidentiality.** The parties will keep all discussions of disputes, settlements, judgments, awards and decisions confidential and may not disclose any such information, whether directly or indirectly, to any third parties other than their attorneys and consultants, unless compelled to do so by an order of a court of competent jurisdiction. In the event of a breach of this confidentiality obligation, the other party will be entitled to seek and obtain all equitable remedies, including injunctive relief and specific performance, and the breaching party waives any claim or defense that the other party has an adequate remedy at law for any such breach, and such party will not be required to post any bond or other security in connection with any such equitable relief.

### 10.3 **Time within which claims must be asserted.**

(a) **Statutory warranty claims.** A written claim reasonably specifying a breach of the statutory warranty granted by Declarant on the unit and the related limited common elements must be delivered to Declarant (or any designee of Declarant specified in any written notice to the Association) before the expiration of such warranty. A written claim reasonably specifying a breach of the statutory warranty on the general common elements must be delivered to Declarant within two years of expiration of such warranty, but the claim must be for a defect existing prior to the expiration of the warranty. An action to enforce the statutory warranty may not be commenced later than four years after expiration of the warranty.

(b) **Other Claims.** Any other claims under Section 10.2 or this Section 10.3, including without limitation allegations of property damage or personal injury claims arising out of fungus, spores, or mold, any water intrusion or dampness, or otherwise, regardless of the legal theory or basis of alleged causation, including but not limited to, negligence, professional errors or omissions, strict liability, non-statutory warranty, or breach of contract or breach of fiduciary duty, must be commenced under Section 10.2(a) above within 90 days after the date the Association or the unit owner knew or reasonably should have known of facts sufficient to put them on notice of the claim, or if earlier, with respect to the unit and related limited common elements, by no later than the first anniversary of the closing date of the sale of the unit to the first purchaser or, with respect to the general common elements, within 90 days after the date of the turnover meeting as described in Section 2.2 of these Bylaws. Any litigation based upon such claims must be instituted within 90 days after completion of the mediation proceedings under Section 10.2(b), or if shorter, the applicable statute of limitations. Any and all such claims not brought within these time periods will be deemed time-barred, regardless of when the Association or unit owners actually discovered the alleged basis for the claim.

10.4 **Arbitration.** All claims brought under Section 10.1 that have not been resolved by mediation will be resolved by arbitration in accordance with this Section. The decision and award of the arbitrator is final, binding, and non-appealable. Any arbitration for claims under Section 10.1 will be conducted in the Portland, Oregon metropolitan area, or 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 will 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”).

(a) **Selection of arbitrator.** The arbitration will be conducted by a single arbitrator selected by agreement of the parties. The arbitrator selected will be neutral and unbiased, except to the extent that 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 on the arbitrator within 30 days after a party’s demand for arbitration, upon application of any party, the presiding judge of the Circuit Court of Multnomah County, Oregon will designate the arbitrator.

(b) **Consolidated arbitration.** Upon demand by any party, claims between or among the parties and third parties will be submitted in a single, consolidated arbitration. If 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 will be determined by a judge sitting without a jury.

(c) **Discovery.** The parties to the arbitration are entitled to the same discovery that would be available to them in an action in Multnomah County Circuit Court. The arbitrator has 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.

(d) **Evidence.** The parties to the arbitration may offer such evidence as they desire and will produce such additional evidence as the arbitrator deems necessary for an understanding and determination of the dispute. The arbitrator will determine the admissibility of the evidence offered. All evidence will be taken in the presence of the arbitrator and all of the parties, unless any of the parties is absent, in default or has waived its right to be present.

(e) **Third parties.** Upon demand by any party regarding a claim or dispute that is subject to arbitration under this Article 10, claims between or among the parties and third parties will be submitted in a single, consolidated arbitration. Notwithstanding the provisions of Section 10.4 above, if any claim 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 claim, and the third-party claim determined by a court of law in a consolidated proceeding, rather than by arbitration. In such case, the parties waive trial by jury and agree that the matter will be determined by a judge sitting without a jury.

10.5 **Survival.** The dispute resolution agreements set forth in this Article 10 will survive the transfer by any party of its interest or involvement in the Condominium and any unit therein and the termination of the Declaration or these Bylaws.

10.6 **Attorneys’ fees.** Except to the extent otherwise required by law or expressly provided for in these Bylaws, including but not limited to Section 10.1(d), in the event of any claim determined by arbitration or by a court of law under this Article 10, each party will bear its own costs, including,

without limitation, filing fees, attorneys' fees, paralegal fees, investigation expenses, consultant's fees, and experts' fees. The other costs of arbitration or court costs will be divided and paid equally by the parties. To the extent permitted by law, statutory attorney's fees under the Unlawful Trade Practices Act or any other applicable statute are hereby waived.

## Article 11

### MISCELLANEOUS

11.1 **Notices.** All notices to the Association or to the board of directors will be sent care of the manager, or if there is no manager, to the principal office of the Association or to such other address as the board may designate from time to time. All notices to any unit owner will be sent to such address as may have been designated by such owner from time to time, in writing, to the board, or, if no address has been designated, then to the owner's unit. In the discretion of the board, any notice, information or other written material required to be given to a unit owner or director under the Declaration or these Bylaws or pursuant to the Oregon Condominium Act, may be given by electronic mail, facsimile or other form of electronic communication acceptable to the board, except for the following notices: failure to pay an assessment; foreclosure of an association lien under ORS 100.405; an action the Association may take against a unit owner; or an offer to use the dispute resolution program under ORS 100.405. A unit owner or director may decline to receive notice or to continue to receive notice by electronic mail, facsimile, or other form of electronic communication, and may direct the board to provide notice in any other manner otherwise permitted under the Declaration or these Bylaws or the Oregon Condominium Act. Notice by electronic communication under these Bylaws is considered delivered and effective when it is: (i) initiated to an address, location, or system designated by the recipient for that purpose; or (ii) posted on an electronic network and a separate record of the posting has been delivered to the recipient together with instructions regarding how to obtain access to the posting on the electronic network.

11.2 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws may be deemed to have been abrogated or waived by any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.

11.3 **Action Without a Meeting.** Any action that the Oregon Condominium Act, the Declaration, or these Bylaws require or permit the owners or directors to take at a meeting or ballot 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 the owners or directors entitled to vote on the matter. The consent, which will have the same effect as a unanimous vote of the owners or directors, will be filed in the records of minutes of the Association.

11.4 **Invalidity; Number; Captions; Gender.** The invalidity of any part of these Bylaws will not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular includes the plural, and the plural the singular. All captions are intended solely for convenience of reference and in no way limit any of the provisions of these Bylaws. The masculine, feminine and neuter each include the masculine, feminine and neuter, as the context requires. All personal pronouns used in these Bylaws, whether used in the masculine, feminine or neuter gender, include all other genders and sexes, and the singular includes the plural and vice versa.

11.5 **Conflicts; Discriminatory Provisions.** These Bylaws are intended to comply with the Oregon Condominium Act and the Declaration. In case of any irreconcilable conflict, such statute and document will control over these Bylaws, or any rules and regulations adopted hereunder. The Declarant has reviewed these Bylaws and the Declaration and hereby declares that the provisions herein and in the Declaration do not contain any restriction, rule or regulation against the use of the Property by a person or persons based on race, color, religion, sex, or sexual orientation, national origin, ancestry, marital status, familial status, source of income, disability, or the number of individuals, including family members, persons of close affiliate or unrelated persons, who are simultaneously occupying a dwelling unit within occupancy limits pursuant to House Bill 3395 (2023), Sections 24-28, also codified as Oregon Law Chapter 223.