

DECLARATION
of
CONDOMINIUM OWNERSHIP
for
INNISFREE PATIO HOME CONDOMINIUM
MADE PURSUANT TO THE OREGON CONDOMINIUM ACT



Little Whale Cove, Depoe Bay, Oregon

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THIS DECLARATION, to be effective upon its recording in Lincoln County, Oregon, pursuant to the provisions of the Oregon Condominium Act, is made and executed this 1st day of October, 2003, by Halvorson-Mason Corporation, an Oregon corporation (hereinafter "Declarant").

RECITALS:

Declarant has created a subdivision known as Little Whale Cove that consists of single family homes in Phases 1 through 6, and the condominium units in Phase 7, located in the City of Depoe Bay, Lincoln County, Oregon. Declarant subjected Little Whale Cove to the LWC Declaration and created the LWC Association to operate the Little Whale Cove subdivision. Declarant owns and intends to improve the Property defined below, by constructing Buildings consisting of single family detached houses in which the Units will be located. Declarant proposes to create a fee title Condominium to be known as INNISFREE PATIO HOME CONDOMINIUM on a portion of the Property as the means to permit separate ownership of the Units. If the entire Property is developed and the portion thereof annexed to the Innisfree Patio Home Condominium as intended, it will consist of forty eight (48) Units. The purpose of this Declaration is to submit the first stage land and improvements of Innisfree Patio Home Condominium to the Condominium form of ownership and use in the manner provided by the Oregon Condominium Act and to provide for the annexation of a future stage by supplemental declaration. Innisfree Patio Home Condominium is subject to the LWC Declaration and all supplemental declarations and amendments thereto.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions.

The following definitions shall prevail in all Condominium Documents unless the context shall require otherwise:

1.1.1 "Act" means the Oregon Condominium Act, currently contained in ORS Chapter 100, as amended from time to time.

1.1.2 "Association" means the nonprofit mutual benefit corporation responsible for the operation of the Condominium created concurrently with the recording of this Declaration and known as Innisfree Patio Home Condominium Association.

1.1.3 "Board" means the Board of Directors of the Association.

- 1.1.4 "Bylaws" means the Bylaws of the Association, as amended from time to time.
- 1.1.5 "Common Elements" means all those portions of the Condominium exclusive of the Units.
- 1.1.6 "Condemnation" means any taking of any interest in the Condominium by right of eminent domain or any purchase of any such interest in lieu of such taking.
- 1.1.7 "Condominium" means the portion of the Property that is subjected to Condominium ownership by this Declaration and all improvements on that portion of the Property and all easements and rights appurtenant to the portion of the Property constituting a part of the Condominium.
- 1.1.8 "Condominium Documents" means this Declaration, the Articles of Incorporation of the Innisfree Patio Home Condominium Association, its Bylaws, its Rules and Regulations, and any Exhibits to any of them.
- 1.1.9 "Declarant" means the original Declarant specified above and any successors and assigns specified as a successor Declarant in a written agreement between such parties.
- 1.1.10 "Declaration" means this Condominium Declaration and any amendments to it and any supplemental declarations annexing additional stages to the Condominium.
- 1.1.11 "General Common Elements" means all Common Elements other than the Limited Common elements.
- 1.1.12 "Legal Requirements" means all applicable statutes, rules, regulations, codes and other such requirements.
- 1.1.13 "Limited Common Elements" means the yards surrounding each of the Units as shown on the Plat.
- 1.1.14 "LWC Association" means the Little Whale Cove Homeowners Association, Inc., an Oregon corporation
- 1.1.15 "LWC Declaration" means the Declaration of Conditions, Restrictions, Covenants, Easements, Reservations, and Regulations of Little Whale Cove (the "LWC Declaration") dated September 20, 1976, and recorded November 10, 1976, in the official records of Lincoln County, Oregon, at Book 70, Page 74, and thereafter amended to apply to each phase of the Little Whale Cove subdivision as it was created.
- 1.1.16 "Mortgage" includes a mortgage, trust deed and recorded contract for the sale of real estate.
- 1.1.17 "Mortgagee" includes a mortgagee, trust deed beneficiary and a vendor under contract for the sale of real estate.
- 1.1.18 "Owner" means the record owner of fee simple interest in a Unit, unless there is a holder of a vendee's interest in a Unit under a recorded contract of sale or a holder of a

life estate or a leasehold estate in a Unit for a term exceeding twenty (20) years, in which event the vendee or lessee, as the case may be, shall be considered the Owner. If there is more than one such vendee's or lessee's interest at any given time, then the holder of the most recent interest shall be considered the current Owner.

1.1.19 "Person" means any individual, corporation, partnership, trust or other entity.

1.1.20 "Plat" means the Plat for the Condominium which is being recorded in the records of Lincoln County, Oregon, concurrently with this Declaration and any revisions of such Plat subsequently recorded.

1.1.21 "Property" means the land described as Revised Tracts B and C, of Replat of Lot 10 and Tracts (B & C) of LITTLE WHALE COVE NO. 1, in the City of Depoe Bay, Lincoln County, State of Oregon.

1.1.22 "Tract" means a separate parcel of the variable property in either the first or second stage of the Condominium that Declarant may reclassify as Units and Common Elements, unless such term is used to describe a tract designated as such in the Little Whale Cove subdivision plats.

1.1.23 "Stage" means either the portion of the Property subjected to this Declaration as the first stage or the portion of the Property Declarant annexes to the Condominium as the second stage.

1.1.24 "Unit" means each Innisfree patio home (which in some cases may include more than one building such as a primary house and a guest house) and the space therein as shown on the Plat and, as the context requires, the accompanying fractional interest in the Common Elements.

1.2 Liberal Construction.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of this Condominium Association under the provisions of Oregon law. The terms used herein are intended to have the same meaning given in the Act unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

1.3 Captions and Exhibits.

The captions and headings of sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

1.4 Severability.

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

1.5 Duration.

These covenants, conditions and restrictions shall run with and bind, benefit and burden in perpetuity the Property, all Owners and Occupants, and the lessees, invitees and guests of all Owners and Occupants unless amended in the manner provided by this Declaration or terminated in the manner permitted in the Condominium Act.

1.6 Notices.

All notices under this Declaration shall be in writing. Any such notice shall be deemed effective on the earlier of the date of delivery or, if mailed, three (3) business days following the date of mailing, if addressed to the addressee at the address, if any, designated in the Association's records. It shall be the responsibility of the Owners to notify the Association of any change in address or change in ownership of the Units. The Association shall not be responsible to independently verify the accuracy of its record of Owners and their addresses.

1.7 Costs and Attorneys Fees.

In any proceeding arising because of alleged default by an Owner to comply with the terms and provisions of this Declaration or the rules and regulations of the Association, including without limitation failure to pay assessments, the prevailing party shall be entitled to recover its costs, including such reasonable attorneys fees as may be determined by the trial court in any trial or by the appellate court in any appeal or review thereof. In addition, the Association shall be entitled to reasonable attorneys' fees associated with collection costs, regardless of whether a legal action is filed.

1.8 Nonwaiver.

Any failure of the Association to enforce a covenant, condition or restriction contained in this Declaration shall not be deemed to constitute a waiver of the Association's right to enforce that or any other covenant, condition or restriction contained in this Declaration.

1.9 Miscellaneous.

All terms and words used in this Declaration, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. "And/or" when applied to two or more matters or things shall be construed to apply to any one or more or all thereof as the circumstances warrant at the time in question. "Herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Declaration as a whole, and not to any particular Section, unless expressly so stated. The word "days" refers to calendar days unless specific reference is made to "business" days.

2. NAME

The name by which the Property hereby submitted is to be identified is INNISFREE PATIO HOME CONDOMINIUM.

3. PROPERTY SUBMITTED AND DEVELOPMENT PLAN

The Property hereby submitted to the Act as the first stage of the condominium is Declarant's fee simple interest in that portion of the Property described on the attached Exhibit A to this

Declaration. Pursuant to ORS 100.125, Declarant proposes to develop the Condominium with the maximum number of Units, the additional Common Elements, minimum allocation of undivided interest in the Common Elements and election dates as follows:

3.1 Maximum Number of Units.

Declarant is reserving the right to include a maximum of forty eight (48) residential Units in the Condominium.

3.2 Stages.

The maximum number of stages in the Condominium including the initial stage shall be two.

3.3 Common Elements in Second Stage.

The additional Common Elements to be annexed in the second stage of development shall be the portion of the annexed land and improvements which are not designated as Units on the supplemental Plat. Part of the Property in the Second Stage will be variable tract to be converted to Units in the same manner as the initial Stage. The yard surrounding each Unit in the Second Stage shall be designated as Limited Common Elements for the exclusive use of the Owner of the contiguous Unit in the same manner as for the initial stage of the Condominium.

3.4 Annexation of Second Stage.

The second stage shall be annexed to the Condominium by means of recording a supplemental Declaration and Plat containing the information required by the Act. The Declarant shall construct and annex the Units in the second stages on or before December 31, 2009, provided, however, pursuant to ORS 100.105(3) (a), the Declarant may seek an amendment to the Declaration providing an extension of up to two (2) years to construct and annex additional stages until December 31, 2011.

3.5 Allocation of Undivided Interest in Common Elements.

Unit Owners will be entitled to an equal undivided interest in the Common Elements such that if the maximum number of Units are created then each Owner will have a 1/48th undivided interest in the Common Elements. Each Unit's interest in the common elements shall be inseparable from the Unit and any conveyance, encumbrance, judicial sale, or other transfer, voluntary or involuntary of an undivided interest in the Common Elements, shall be void unless the Unit to which that interest is allocated is also transferred. Declarant reserves the right to construct Units of different floor plans of either larger or smaller floor areas than the Unit created by this Declaration, but all Units shall be consistent with the quality of construction of the initial Unit.

3.6 Flexible Condominium Provisions.

There are three variable tracts in the first stage as shown on the Plat. The Declarant reserves the right to reclassify the variable tracts in the first stage into a maximum of 25 Units with associated Limited and General Common Elements for a total of 31 Units in the first stage of the Condominium. The allocation of undivided interest in the Common Elements, liability for common expenses, right to common profits and allocation of voting rights for any such Units created by reclassification of a variable tract shall be the same as for all other Units in the

Condominium. The variable tracts are nonwithdrawable, and such right of conversion and division shall expire seven years from the date of the conveyance of the first unit in the condominium to a person other than the Declarant. There are no limitations upon the right of the Declarant to convert the variable tracts. Declarant shall record a supplemental declaration and supplemental plat as the means of such conversion containing the information required by the Act. The plat shows the location and dimensions of the variable tracts which are labeled "NONWITHDRAWABLE VARIABLE PROPERTY." If by the termination date, all or a portion of the variable property designated as "nonwithdrawable variable property" has not been reclassified, such property shall automatically be reclassified as of such date as a general common element of the Condominium and any interest in such variable tracts held for security purposes shall be automatically extinguished by such classification. Notwithstanding the termination date, the association may, with respect to any variable tracts automatically reclassified, exercise any rights previously held by the Declarant. The exercise of any right shall first be approved by at least a majority of all voting rights. All other actions relating to such variable tract reclassified as general common elements shall be regulated and governed in like manner as other general common elements of the condominium. If a supplemental declaration and plat is required for any action, the plat shall be executed by the chairperson and secretary of the association and shall comply with the requirements of this chapter as to a supplemental declaration and the recording of plats.

4. UNITS

The initial stage of the Condominium consists of six Units. Each Unit is or will be a house of one or two stories containing from 1000 – 2748 square feet of floor area. In some cases a Unit may consist of two buildings such as a primary house and guest house. The square footage on the plat is the first floor only. There are no basements. Buildings are of stick construction with cedar siding. The roof is composition shingle. The foundation is concrete. Each Unit shall be bounded by the exterior surfaces of the home constituting the Unit as shown on the Plat. In the event of any conflict between the Plat and this Declaration, the latter shall be controlling. The six Units created by this Declaration are hereby designated as: Unit 1 at 250 Shining Mist containing a floor area of 1636 square feet; Unit 2 at 230 Shining Mist containing a floor area of 2331 square feet; Unit 6 at 170 Shining Mist containing a floor area of 1636 square feet; Unit 8 at 205 Shining Mist containing a floor area of 2172 square feet; Unit 9 at 225 Shining Mist containing a floor area of 2336 square feet; and Unit 12 at 265 Shining Mist containing a floor area of 2290 square feet. The Declarant reserves the right to change its standard plans for Units from time to time subject to the foregoing general limitations.

5. GENERAL COMMON ELEMENTS

The general common elements consist of the land and improvements consisting of the streets and the landscaped open space areas (excluding yards designated as limited common elements). The Declarant is excluding from the Condominium the garbage areas and tennis courts which will be for the use of the LWC members in accordance with the provisions of Section 4.3 of the LWC Declaration. The members of the LWC Association shall also have an easement for pedestrian use of the pedestrian ways over the General Common Elements to get to and from the Little Whale Cove Common Areas. Each Owner shall be entitled to an equal undivided interest in the Common Elements with all other Owners based upon the number of Units owned regardless of variations in the size or design of the Units.

6. LIMITED COMMON ELEMENTS

The yard surrounding each Unit shall constitute a non-transferable Limited Common Element as shown on the Plat, the use of which shall be reserved to the Owner of the contiguous Unit to the exclusion of the Owners of all other Units. Natural vegetation and plants are encouraged and lawns are prohibited on both general and limited common areas.

7. OCCUPATION, USE AND TRANSFER

Each Unit is intended solely for residential use as either a primary or secondary residence. Units may be used for accessory home businesses subject to Association approval of the business as compatible with the residential character of the Condominium, such approval to not be unreasonably withheld, conditioned or delayed. There shall be no restrictions on the transfer or ownership of Units other than those described in the LWC Declaration.

8. MAINTENANCE

The necessary work to maintain, repair or replace the Common Elements shall be carried out by the Association through its contractors as provided in the Bylaws. No Owner shall be allowed to alter the Common Elements without first obtaining the consent of the Association. The landscaping maintenance of the Limited Common Element in the front yard of each Unit shall be done by the Association. The Association may use water from each unit to irrigate the landscaped areas until the plant materials are established. The Association shall monitor the need for staining the exterior siding of the Units in order to maintain a consistent exterior appearance of the Unit and its front yard. The cost of such staining for each Unit shall be paid for by its owner by means of Association special assessments. Any changes to the exterior stain color or roofing material color shall be made only upon the recommendation of the Architectural Committee and the approval of 60% of the Owners in the Association.

9. EASEMENTS

9.1 In General.

Each Owner shall have an easement for reasonable access and use of, in and through the Common Elements, for all utility lines, as required to effectuate and continue proper operation of the Condominium. All the Common Elements are specifically subject to the foregoing easement for access and use as required for the utility lines serving each Unit. The specific mention or reservation of any easement for access and use in this Declaration does not limit or negate the general easement for Common Elements created by the Act.

9.2 Rights Created by Association.

The Association of Unit Owners may create, on behalf of the Unit Owners, leases, easements, rights of way, licenses and other similar interests affecting the Common Elements; provided, however, no such interest may be granted with regard to a Limited Common Element unless the Owner and Mortgagees of the Units having the right to use such Limited Common Elements consent to the creation of such an interest. The granting of a lease in excess of two years duration, or any other interest or consent pursuant to this section, shall be done only after the prior approval of the Owners of at least seventy five percent (75%) of the Units. Nothing in this Section shall be deemed to empower the Association to revoke, alter, modify or terminate any

leases, easements, rights of way, license and similar interest of record on the date this Declaration is recorded.

9.3 Special Easement and Rights for Declarant.

Declarant and its agents, successors and assigns shall have an easement for access and use of, over and upon the Common Elements for the purpose of completing or making repairs to the Condominium and carrying out sales activities necessary or convenient for the sale of Units, including, without limitation, the right to post signs on the Common Elements, use the Units owned by the Declarant as model Units and the right to use a Unit(s) as a sales office. The Declarant and its agents, contractors or employees may maintain daily hours of exterior Unit construction work from 7:30 A.M. until 5 P.M., Monday through Saturday. The Declarant and its agents, contractors or employees may do interior Unit construction work from 7:30 A.M. until 8:00 P.M., on any day. The Association shall have no approval right or other power by amendment, rules or otherwise to control, limit, regulate or affect Declarant's design, construction or marketing of Units, which shall be in Declarant's sole discretion. Declarant in its sole discretion may remove trees and other vegetation for the construction of the Units and any improvements to the Common Elements and burn or chip such vegetation within the Property. Declarant shall have all of the rights and privileges of the Developer under the LWC Declaration in addition to the foregoing rights and privileges.

10. COMMON INCOME AND EXPENSES; VOTING

10.1 Allocation of Income and Expenses.

The common income, if any, derived from and the common expenses of the Common Elements and any other common expenses shall be allocated between all Condominium Units and charged to the Owner of each Unit according to each Owner's percentage interest in the Common Elements as provided in Section 3.

10.2 Votes.

Each Owner shall be entitled to one (1) vote for each Unit owned. In the event of co-owners there will be only one vote for the Unit.

11. SERVICE OF PROCESS

The name of the person designated to receive service of process in cases provided in ORS 100.550(1) is named in the Condominium Information Report which has been filed with the Real Estate Agency in accordance with ORS 100.250(1)(a).

12. MORTGAGEE PROTECTION

12.1 Controlling Over Other Sections.

In the event of a conflict between this Section and other sections of this Declaration, the provisions of this Section shall control.

12.2 Notice of Action.

Upon written request to the Association identifying the name and address of the Mortgagee and the Unit address, any Mortgagee shall be entitled to receive written notice of: (a) all meetings of the Association and shall be permitted to designate a representative to attend all such meetings; (b) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a Mortgage; (c) any delinquency in the payment of assessments or charges owed by an Owner of a Unit on which there is a mortgage which remains uncured for a period of sixty (60) days; (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association at least ten (10) days before such occurs; and (e) any proposed action which would require the consent of the specified percentage of Mortgagees under the Declaration or Bylaws.

12.3 Mortgagee Approval.

For purposes of determining the percentage of Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds first Mortgages on more than one Unit, such Mortgagee shall be deemed a separate Mortgagee as to each such Unit.

12.4 Amendment of Condominium Declaration or Bylaws.

Subject to any contrary provisions of the Act, except upon the approval of Mortgagees holding Mortgages on Units which have at least fifty-one percent (51%) of the votes of Units in the Condominium which are subject to Mortgages, no amendments may be made to the Declaration or Bylaws which add to or amend any material provision of the Declaration or Bylaws which establish, provide for, govern, or regulate any of the following: (a) voting; (b) assessment, assessment liens, or subordination of liens; (c) percentage ownership in Common Elements; (d) reserves for maintenance, repair, and replacement of the Common Elements; (e) insurance or fidelity bonds; (f) easements of access and use of the Common Elements; (g) responsibility for maintenance and repair of the several portions of the Condominium; (h) expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of Property to or from the Condominium; (i) boundaries of any Unit; (j) conversion of Units into Common Elements or of Elements into Units; (k) leasing of Units; (l) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey such Owners' Unit; (m) any provisions which are for the express benefit of Mortgagees.

12.5 Limitation.

The provisions of Section 12.4 are intended only to be a limitation on the right of the Owners to amend the Declaration and Bylaws. Any such amendments to the Declaration or Bylaws shall be made only upon full compliance with the provisions of such relating to the procedure and percentage of votes required for such amendment in addition to Section 12.4.

12.6 Deemed Approval by Mortgagees.

Any Mortgagee who receives a written request to approve an amendment to the Declaration or Bylaws or any other action to be taken by the Board, Association, or Owners shall be deemed to have given such approval unless such Mortgagee's written objection to such action is delivered to the Association within thirty (30) days after the date of the written request.

12.7 Mortgagee's Proxy.

If the Mortgagee of any Unit determines that the Association is not providing an adequate maintenance, repair and replacement program for the Common Elements, then such Mortgagee, at its option, may deliver a notice to the registered agent of the Association, as required pursuant to ORS 100.550, setting forth the particular defect which it believes exists in the maintenance, repair and replacement program. If the specified defects are not corrected within ninety (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 hereunder, shall have the right to attend succeeding annual or special meetings of the Association and to cast the vote(s) for each Unit on which it holds a mortgage on all business coming before such meeting, which proxy rights shall continue until the defects listed on the notice are corrected.

13. OPERATING ENTITY

13.1 Formation and Authority.

The Innisfree Patio Home Condominium Association, a nonprofit mutual benefit corporation, has been organized to administer the operation and management of the Condominium and to undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, this Declaration and Bylaws. A copy of the Bylaws are attached hereto as Exhibit B. Each Owner shall be entitled to vote in the manner prescribed in the Articles of Incorporation and Bylaws of the Association.

13.2 Duties and Powers of the Association.

The Association shall have all requisite power, duty and authority to perform its obligations under this Declaration, including without limitation the power, duty and authority to enforce the provisions of this Declaration and to acquire and pay for, from funds provided by assessments of the Units, all goods and services necessary or appropriate for the proper functioning of the Association in accordance with this Declaration. Without limiting the generality of the foregoing or the other provisions of this Declaration, the Association shall have the power, duty and authority, subject to other provisions of this Declaration and the Bylaws, to undertake the following actions: (a) determine the amounts necessary or appropriate for the performance by the Association of its powers and duties under this Declaration; (b) impose and collect annual and special assessments from the Owners; (c) maintain bank accounts on behalf of the Association and designate the signatories for those accounts; (d) file all required income tax returns; (e) enforce by legal means the provisions of this Declaration; (f) maintain and repair the Common Elements and the improvements thereon and establish a reserve fund for such purposes; (g) promulgate, modify, and rescind rules and regulations governing use of the Common Elements and all improvements on the foregoing, as well as the Property generally; (h) obtain such policies of insurance as the Board may from time to time deem appropriate for the protection of the Association, the Common Elements and the improvements thereon; (i) contract for such services (including without limitation legal and accounting services) as may be necessary or appropriate to manage the affairs of the Association properly and in accordance with this Declaration, whether the personnel performing such services are employed directly by the Association or by a manager or management firm or agent retained by the Association; (j) appoint such committees as the Board may determine from time to time to be appropriate to assist in the conduct of the affairs of the Association and delegate to any such committee such authority as the Board may deem appropriate, subject in all cases to the provisions of the Declaration.

13.3 Rules and Regulations.

The Association shall, by a majority vote of the Board, from time to time, adopt, amend, enforce and repeal rules and regulations as the Board shall determine to be necessary or proper for the operation of the Association (the "Association Rules"). The Association Rules shall govern use of the Units and Common Elements by any Owner, Occupant, family member or invitee of an Owner or Occupant. Provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Association Articles or Bylaws and with the LWC rules and regulations under the LWC Declaration. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if set forth in and a part of this Declaration. The Association rules shall not materially change the rights, preferences or privileges of any person, or the restrictions on any Unit as herein set forth.

13.4 Control of Association.

The Condominium will be governed by the Innisfree Patio Home Condominium Association, an Oregon nonprofit corporation. As provided in ORS 100.200(1), the Declarant may retain administrative control of the Association for a period not exceeding the earlier of: (a) seven (7) years from the date of conveyance of the first Unit; (b) the date of conveyance to persons other than Declarant of 75% of the Units in the Condominium which may be created or annexed under ORS 100.125 or 100.150, whichever is applicable; or (c) the date on which Declarant elects to relinquish permanently its control, whichever date first occurs. Administrative control of the Association by the Declarant is more particularly set forth in the Bylaws.

13.5 Membership.

Each Owner, by virtue of being an Owner and as long as such Owner continues in that capacity, shall be a member of the Association. The membership of an Owner shall terminate automatically upon an Owner being divested of its ownership interest in the Property. Each membership in the Association shall be appurtenant to the Unit owned by an Owner and shall not be transferred in any manner whatsoever except upon a transfer of title to such Unit and then only to the transferee of such title. Any attempt to make a prohibited transfer of a membership shall be void.

13.6 Voting.

Each Owner shall be entitled to one (1) vote per Condominium Unit, in the manner prescribed in the Articles of Incorporation and Bylaws of the Association. In the event of co-owners there remains only one vote per Condominium Unit. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in the Association, or to any of the rights or privileges of such membership.

13.7 Enforcement Powers.

In addition to any other enforcement rights described in this Declaration and the Bylaws or authorized by law, and subject to any restrictions on the Association's enforcement rights, including any due process requirements imposed by this Declaration, the Bylaws or by law, the Association may take any of the following actions against any person or entity whose act or

failure to act violates or threatens to violate any provision of this Declaration, the Bylaws, or Association Rules: (a) impose monetary fines of no more than \$100 for the first violation, \$500 for the second violation and \$1,000 for the third violation of the same type; (b) suspend or revoke the qualification of any Occupant for use of the Unit and/or Common Elements; and (c) commence a legal action for damages, injunctive relief, or both. Any remedies specifically provided herein are nonexclusive and cumulative and are in addition to all other legal or equitable remedies available to the Association.

13.8 Enforcement Actions.

The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Association. The Association may take more than one of the foregoing enforcement actions against any violation or threatened violation. The Association, in its sole discretion, may resolve or settle any dispute, including any legal action, under such terms and conditions as it considers appropriate.

13.9 Mediation and Arbitration.

Except with respect to any action by the Association to foreclose an existing lien or execute on an existing judgment, every Owner and the Association shall have the right to submit any dispute regarding enforcement of this Declaration, the Bylaws or the Rules and Regulations of the Condominium to nonbinding mediation, and if the mediation is unsuccessful, to binding and final arbitration according to the rules of the American Arbitration Association.

If any action is brought by one or more but less than all Owners on behalf of the Association and recovery is had, the expenses of these Owners shall be a Common Expense. However, if such action is brought against the Owners or against the Board, Officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the plaintiff's expenses, including attorneys' fees, shall not be charged to or borne by the other Owners, as a Common Expense or otherwise.

Complaints brought against the Association, the Board or the Officers, employees, or agents thereof, in their respective capacities as such or the Condominium as a whole, shall be directed to the Board, which shall promptly give written notice thereof to the Owners and any Mortgagees. Such complaints shall be defended by the Board, and the Owners and Mortgagees shall have no right to participate in such defense other than through the Board. Complaints against one or more, but less than all Owners, shall be directed to such Owners, who shall promptly give written notice thereof to the Board and to the Mortgagees affecting such Units, and shall be defended by such Owners.

13.10 Suspension of Sanctions.

Except in the event of an emergency threatening the health or safety of the other Occupants of the Condominium, the sanctions described above in Section 13.7 shall not be imposed until the subject of the sanction has first been given ten (10) days prior notice and opportunity to cure the violation complained of and to be heard orally or in writing by the Board. The notice may be given in any manner reasonably intended to provide actual notice to the subject of the sanctions. The imposition of the sanctions described above in Section 13.7 shall be suspended during the term of any mediation and arbitration.

14. MANAGING AGENT

14.1 Professional Management.

The Association shall be self-managed unless a majority of the Owners agree to management by a licensed property manager. If the Association assumes self-management at any time by the agreement of the Owners, thereafter the Association shall resume professional management and appoint a managing agent upon the request of any two Owners. If the Board fails to appoint a managing agent within 30 days of such a request then the managing agent shall be a licensed property management firm appointed by and under the supervision of the presiding judge of the Lincoln County Circuit Court until the Board appoints another qualified managing agent. At least thirty (30) days' notice of any contemplated change in the managing agent shall be given to any Mortgagee which has requested notice.

14.2 Initial Managing Agent.

Subject to the rights of the Association or the Board to terminate the managing agent without penalty upon not less than thirty (30) days written notice to the other party given not later than sixty (60) days after the turnover meeting specified in the Bylaws of the Association, Declarant shall act as the initial agent to manage the Condominium for a term not to exceed seven (7) years.

14.3 Scope of Managing Agent Duties.

The Board shall delegate to the managing agent responsibility for the following items in addition to any others the Board chooses to delegate:

14.3.1 Operation, care, upkeep and maintenance of the portions of the Condominium that are the responsibility of the Association such as the staining of Units and landscape maintenance of General Common Elements and front yards;

14.3.2 Recommendation to the Board of the amounts required for operation, maintenance and other affairs of the Association, and the preparation of annual budgets for approval by the Board;

14.3.3 Collection of common expenses from the Owners;

14.3.4 Purchases for the maintenance, repair, replacement, administration, management and operation of the Condominium which are consistent with Board-approved budgets or specially approved by the Board;

14.3.5 Subject to Board approval, maintain bank accounts on behalf of the Association;

14.3.6 The acquisition of any and all goods and services necessary for the operation of the Condominium or for enforcement of the Declaration and these Bylaws consistent with Board-approved budgets or specially approved by the Board;

14.3.7 Subject to Board approval, obtain and review bonds and insurance the Board deems necessary such as liability for personal injury and property damage, fidelity of Association officers' and other employees, and Directors' and Officer's liability, for the

Association and the Condominium, including the Units, pursuant to the provisions of the Declaration or Bylaws;

14.3.8 Preparation of financial statements, all appropriate income tax returns and the Annual Report to be filed with the Oregon Real Estate Agency; and

14.3.9 Subject to Board review and approval, enforcement by legal means of the provisions of the Act, the Declaration, Bylaws and any Rules and Regulations adopted hereunder.

15. LWC ASSOCIATION

15.1 Membership.

Each member of the Association shall also be a member of the LWC Association as provided in the LWC Declaration and shall abide by the restrictions contained in the LWC Declaration and the LWC Association rules and regulations. The membership of an Owner in the LWC Association shall terminate automatically upon termination of membership in the Association. Each membership in the LWC Association is appurtenant to the Unit owned by an Owner and shall not be transferred in any manner whatsoever except upon a transfer of title to such Unit and then only to the transferee of such title. Any attempt to make a prohibited transfer of a membership shall be void.

15.2 Powers and Responsibilities.

The Association may contract with the LWC Association for maintaining all or part of the landscaped areas that constitute the General Common Elements. Any such services provided by the LWC Association will be paid for by the Owners as common expenses of the Condominium.

16. AMENDMENT

16.1 Approval Required.

Except as may otherwise be provided in this Declaration or by the Act, this Declaration may be amended if such amendment is approved by the Owners of at least seventy-five percent (75%) of the Units. Except as otherwise provided in the Act, no amendment may change the size, location, allocation of undivided interest in the Common Elements, method for determining liability for common expenses, right to common income or voting rights of any Unit unless such amendment has been approved by the Owners of the affected Units and the holders of any Mortgages on such Units.

For as long as Declarant has the right to convert the variable tracts shown on the Plat into Units or owns any unsold Units, the Bylaws, Rules and Regulations, and this Declaration may not be modified, added to, amended or repealed so as to eliminate, change, or impair any rights, privileges, easements, licenses or exemptions granted therein or herein to Declarant or its designee, or otherwise adversely affect Declarant or such designee, without Declarant's or such designee's consent.

16.2 Recordation.

The amendment shall be effective upon recording by the Lincoln County Clerk of the Declaration (as amended) or of the amendment thereto, certified by the President and Secretary of the Association and (if required by law) approved by the Lincoln County Assessor and the Oregon Real Estate Commissioner.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed this 1st day of October, 2003.

HALVORSON-MASON CORPORATION,
an Oregon corporation

By: _____
Name: Kristi Halvorson
Its: President

STATE OF OREGON)
 ss)
County of Multnomah)

The foregoing instrument was acknowledged before me this 1st day of October, 2003, by Kristi Halvorson as the President of Halvorson-Mason Corporation, an Oregon corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires:_____

The foregoing Declaration is approved pursuant to ORS 100.110 this ____ day of October 2003, and in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded with two (2) years from this date.

By: _____
Oregon Real Estate Commissioner

The foregoing Declaration is approved this _____ day of October, 2003.

ASSESSOR AND TAX COLLECTOR
FOR LINCOLN COUNTY

By: _____
Assessor

By: _____
Tax Collector

EXHIBIT A

INNISFREE PATIO HOME CONDOMINIUM STAGE1 ,BEING A PART OF REVISED TRACTS "B" AND "C"OF REPLAT OF LOT AND TRACTS "B AND "C" OF LITTLE WHALE COVE NO. 1 LOCATED IN THE SW 1/4 OF SECTION 8 AND THE NW 1/4 SECTION 17, T 9 S, R 11W, W.M.LINCOLN COUNTY, OREGON, beginning at the initial point, which is a 5/8" iron rod at the North East corner of Little Whale Cove Condominiums Phase 4, thence from said Initial Point: thence South 16° 25' 14" West for 91.00 feet; thence South 66° 25' 14" West for 78.53 feet; thence North 23° 34' 46" West for 101.31 feet; thence North 49° 58' 41" West for 63.45 feet; thence South 14° 25' 14" West for 95.93 feet; thence South 14° 25' 14" West for 114.55 feet; thence along a 65.00 radius curve to the Left (chord bears South 2° 1' 37" East 36.81) 37.32 feet; thence South 18° 28' 28" East for 205.47 feet; thence North 78° 28' 14" East for 147.99 feet; thence South 11° 33' 40" East for 135.99 feet; thence North 68° 7' 37" East for 36.71 feet; thence along a 255.00 radius curve to the Left (chord bears North 43° 29' 47" East 212.55 feet) 219.24 feet; thence North 18° 52' 12" East for 310.80 feet; thence along a 205.00 radius curve to the Right (chord bears North 35° 28' 56" East 117.25 feet) 118.91 feet; thence North 19° 0' 4" West for 112.40 feet; thence North 17° 3' 58" West for 175.50 feet; thence North 15° 22' 18" East for 7.16 feet; thence North 69° 20' 41" West for 135.03 feet; thence North 53° 14' 49" West for 170.39 feet; thence North 61° 44' 25" West for 113.47 feet; thence South 33° 31' 48" West for 209.22 feet; thence South 56° 28' 28" East for 116.60 feet; thence South 14° 25' 14" West for 201.02 feet; thence South 63° 34' 46" East for 188.78 feet, to the True Point of Beginning, the Area being 365764.70 Sq. Ft. or 8.40 Acres.