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**BYLAWS
OF
LITTLE WHALE COVE CONDOMINIUM OWNERS ASSOCIATION**

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AMENDED AND RESTATED BYLAWS OF LITTLE WHALE COVE CONDOMINIUM OWNERS ASSOCIATION

These Amended and Restated Bylaws of the Little Whale Cove Condominium Owners Association (the “Association”) are made by the Association pursuant to Oregon Revised Statutes Sections 100.410-413. The purpose of instrument is to amend and restate the original Condominium Bylaw referenced in the Declaration pursuant to a resolution approved by the Association board of directors on October 14, 2023 and thereafter approved by the Unit Owners all according to the requirements and process set forth in Section 100.410-413 of the Oregon Condominium Act.

ARTICLE 1 DEFINITIONS

When used in these Bylaws the following terms, whether or not capitalized, have the following meanings:

- 1.1 **“Declaration”** means the Amended and Restated Declaration Submitting Little Whale Cove Condominium, Phases I-V, to the Oregon Condominium Act, executed and recorded concurrently with these Bylaws. References to the Declaration include any future amendment or restatement thereof.
- 1.2 **Incorporation by Reference.** Except as otherwise provided in these Bylaws, unless the context clearly requires otherwise, whether or not capitalized:
 - (a) The terms defined in the Declaration have the same meanings in these Bylaws.
 - (b) Each term used in these Bylaws that is defined in ORS 100.005 has the meaning set forth in ORS 100.005, unless the term is defined otherwise in the Declaration.
- 1.3 **Other Definitions.** Terms that are not defined in this article but are defined elsewhere in these Bylaws, whether or not capitalized, have the respective meanings given them in the provisions of these Bylaws.

ARTICLE 2 ASSOCIATION IDENTITY, PURPOSES, POWERS AND OFFICES; MEMBERSHIP

- 2.1 **Name and Location.** These are the Bylaws of the Association. The Condominium is located in the Little Whale Cove Planned Community, City of Depoe Bay, Lincoln County, Oregon. The location of the Condominium is more particularly described in the Declaration. The Association shall be known as

“Little Whale Cove Condominium Owners Association.” The Association is subordinate and subject to the Master Association of the Planned Community, which currently is the manager of the Association.

2.2 Purposes; Power and Governance.

- (a) **Purposes.** The Association has been formed for the purpose of providing a means through which Unit Owners may act with regard to the administration, management and operation of the Condominium.
- (b) **Powers.** The Association has such powers and duties as may be granted to it by the Act, including each of the powers set forth in ORS 100.405 as the statute may be amended to expand the scope of association powers and duties, together with such additional powers and duties afforded by the Declaration, the Articles of Incorporation, these Bylaws, and the Oregon Nonprofit Corporation Act.
- (c) **Governance.** In accordance with ORS 100.405, the affairs of the Association shall be governed by the Board of Directors as provided in these Bylaws. Owners have no authority to act on behalf of the Association and may only act with respect to affairs of the Association as specifically provided under these Bylaws, including Article 15 below, the Act or the Oregon Nonprofit Corporation Act.

2.3 Principal Office. The principal office of the Association is currently located at the offices of the Master Association adjacent to the Planned Community entry gate but may be changed hereafter to another location within the State of Oregon, as determined by the Board from time to time.

2.4 Composition and Membership.

- (a) **Composition.** The Association is composed exclusively of Owners of Units in the Condominium as provided under Subsection (c) of this section.
- (b) **Automatic Membership.** The Owner of each Unit is automatically a member of the Association. The membership commences, exists, and continues by virtue of ownership, and expires automatically upon termination of the ownership. Membership need not be confirmed or evidenced by any certificate or acceptance of membership.
- (c) **Determination of Ownership.** Ownership shall be determined for all purposes of the Declaration, these Bylaws, and the administration of the Association and the Condominium from the record of ownership

maintained by the Association in accordance with Section 10.1 below. The record shall be established and updated by the Owners filing with the Association a copy of the deed or land sale contract for the Unit evidencing the certificate of the recording officer of Lincoln County, Oregon, a copy of a title insurance policy or other evidence reasonably acceptable to the Board of Directors.

(d) **Ownership by Entities and Fiduciaries.**

- (1) **Ownership by Fiduciaries.** When a Unit is owned or held in a fiduciary capacity by an executor, administrator, guardian, conservator, or trustee, or by an attorney-in-fact, the Owner or representative of Owner shall provide the secretary in writing the name of the attorney-in-fact, executor, administrator, guardian, conservator, or trustee with respect to the Unit owned or held in the fiduciary capacity and written evidence, satisfactory to the secretary, that the individual is the attorney-in-fact, executor, administrator, guardian, conservator, or trustee holding the Unit in the fiduciary capacity. Evidence may be determined satisfactory even if ownership of the Unit has not been transferred to the named individual.
- (2) **Ownership by Entities.** When a Unit is owned by a corporation, partnership or other entity, the Owner shall provide the name of an individual authorized to represent the entity and written evidence, satisfactory to the Board, that the individual is authorized to represent the entity.

2.5 **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.

2.6 **Incorporation.**

- (a) **Organization.** The Association is incorporated under the Oregon Nonprofit Corporation Act. The Articles of Incorporation shall be consistent with the Declaration and these Bylaws. These Bylaws constitute the bylaws of the incorporated association.
- (b) **Duration.** Except as otherwise provided under the Act, if the Association is at any time dissolved, the Association automatically

continues as an unincorporated association under the same name as provided under ORS 100.405.

ARTICLE 3

ASSOCIATION OWNER MEETINGS AND VOTING

3.1 **Place of Meetings.** If available, meetings shall be held in the Planned Community Recreation Center that is adjacent to the Condominium. If unavailable, the Association shall hold meetings at such other suitable places convenient for the Owners as may be designated by the Board of Directors from time to time. The Board of Directors may hold any such meeting partially or entirely by virtual means, including video or voice-only meetings.

3.2 **Annual and Special Owner Meetings.**

(a) **Annual Meetings.**

(1) The Association shall hold at least one (1) meeting of the Owners each calendar year. Annual meetings of the Association shall be held in the month of October of each year. The Owners shall agree on the date, time and place of the meeting, but it shall be held within Lincoln County, Oregon.

(2) The annual meeting is for the purpose of electing directors and officers as provided under Section 4.3 below and for the transaction of such other business as may properly come before the meeting.

(b) **Special Owner Meetings.** Special meetings of Owners may be called as follows:

(1) Special meetings of Owners may be called by the chairperson or by a majority of the Board of Directors and must be called by the chairperson or secretary upon receipt of a written request from Owners of at least 25% of the Units stating the purpose of the meeting. Only matters of business within the purpose or purposes described in the notice given under Section 3.3 below may be conducted at a special meeting, without the consent of one hundred percent (100%) of the Owners.

(2) If a notice for a special meeting requested by Owners under this subsection is not given within thirty (30) days after the date the written request is delivered to the chairperson or secretary, a

person signing the request may set the date, time and place of the meeting and give notice as specified in Section 3.3 below.

- (c) **Effect of Failure to Hold Meetings as Scheduled.** As provided under ORS 65.201, the failure to hold an annual or regular meeting of the Association stated in or fixed in accordance with these Bylaws does not affect the validity of any Association action.

3.3 **Meeting Procedure; Order of Business.**

- (a) **Meeting Procedure.** Unless other rules of order are adopted by a resolution of the Board of Directors or the Owners, except when inconsistent with these Bylaws, Association meetings of Owners shall be conducted according to the latest edition of Robert's Rules of Order published by the Robert's Rules Association. The validity and right to challenge a decision of the Association are governed by the Act.
- (b) **Order of Business.** The Board of Directors shall determine the order of business at meetings of the Association.

3.4 **Quorum.** The presence in person, virtually by electronic means, or by proxy of 50% of the Owners is necessary to constitute a quorum for the purpose of acting shall be as required by the Act. If any meeting of the Owners cannot be organized because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting as provided in Section 3.6 below. When a quorum is once present to organize a meeting, the quorum cannot be broken by the subsequent withdrawal of an Owner or Owners.

- (a) **Lack of Quorum.**
 - (1) Subject to Paragraph (2) of this subsection, if any meeting of Owners, except meetings conducted under Section 3.11 below, cannot be organized because of a lack of quorum, the Owners who are present, either in person or by proxy, may adjourn the meeting until a quorum as specified in this Section 3.4 is present. However, the meeting may not be adjourned to a date that is thirty (30) days or more from the date the original meeting was called.
 - (2) The quorum requirement may be reduced in number and manner as is provided in the Act should a Quorum not be achieved at any Owners meeting.

- (b) **Continuation of Business.** In accordance with Robert's Rules of Order or other rules of order adopted under Section 3.5 above, a meeting may be recessed until later the same day or adjourned until some other day and time.
 - (c) **Extension of Date for Action by Written Ballot.** If a due date for return of ballots has been specified in a solicitation of a meeting by written ballot conducted under Section 3.13 below, the Board of Directors may extend the due date as provided under ORS 100.425.
- 3.5 **Voting Rights.** Each Unit is allocated one vote in the affairs of the Association in accordance with Section 8.3 of the Declaration. The Board of Directors shall be entitled to vote on behalf of any Unit which has been acquired by or on behalf of the Association' provided, however, that the Board of Directors shall not be entitled to vote such Units in any election of directors.
- 3.6 **Proxies.** A vote may be cast or consent given by proxy in accordance with this section.
 - (a) **Requirements.**
 - (1) Subject to any additional requirements under the Act, a proxy given by an Owner must:
 - (i) Be in writing, dated and signed by the Owner.
 - (ii) Name an individual as the proxy holder.
 - (2) A proxy must be delivered to the Secretary.
 - (b) **Validity and Revocation.** The validity and revocation of proxies are governed by the Act.
- 3.7 **Fiduciaries; Corporate Entities and Joint Owners.**
 - (a) **Fiduciaries.** An attorney-in-fact, executor, administrator, guardian, conservator, or trustee may vote or grant approval or consent with respect to any Unit owned or held in such capacity, provided the secretary is satisfied that the individual is the attorney-in-fact, executor, administrator, guardian, conservator, or trustee holding the Unit in the fiduciary capacity in accordance with Section 2.4 above.
 - (b) **Corporate and Other Entities.** An individual may vote or grant consent on behalf of a Unit owned by a corporation, partnership, or other

entity provided the secretary is satisfied that the individual is the authorized representative of the entity in accordance with Section 2.4 above.

- (c) **Joint Owners.** Whenever a Unit is owned by two (2) or more persons jointly, according to the records of the Association, the vote (or consent) of the Unit may be exercised by any one of the Owners, in the absence of protest by a co-Owner. If a co-Owner protests, no one co-Owner is entitled to vote without the approval of all co-Owners. If there is a disagreement among the co-Owners, the vote (or consent) of the Unit must be disregarded completely in determining the proportion of votes given with respect to the matter.

3.8 **Binding Vote.** At an Association meeting of Owners at which a quorum is constituted, the vote of Owners representing a majority of the Units present, in person, virtually, or by proxy, is binding upon the Association for all purposes.

3.9 **Action without a Meeting.**

- (a) Any action that may be taken at any Association annual, regular or special meetings of Owners may be taken without a meeting if the action is taken by Owners representing all Units.
- (b) The action must be evidenced by one or more written consents describing the action taken, signed by Owners representing all Units who are entitled to vote on the action and delivered to the Association for inclusion in the minutes or filing with the Association records.
- (c) Action taken under this section is effective when the last Owner signs the consent unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

3.10 **Notice of Meetings.** Attendance by an Owner at a meeting constitutes a waiver of notice required to be delivered under the Act.

3.11 **Action by Written Ballot in Lieu of a Meeting.** At the discretion of the Board of Directors, unless prohibited under ORS 100.425, any action that may be taken at any annual, regular or special meetings of Owners may be taken without a meeting upon compliance with ORS 100.425.

ARTICLE 4 BOARD OF DIRECTORS

4.1 **Number; Designation; Term.**

- (a) **Number; Designation of Position.** The affairs of the Association shall be governed by a Board of Directors of three (3) or five (5). All directors shall be Owners or co-Owners of Units of the Condominium.
- (b) **Term.** Each director shall serve for a term of two (2) years or until a successor is elected. The Board terms shall be staggered by electing one each year if there are three Directors, or two Directors on each even year and three Directors of each odd year if there are five Directors.

4.2 **Qualifications.**

- (a) **Ownership.** Each member of the Board of Directors must be an individual and, except as provided in Subsection (b) this section, an Owner or co-Owner of a Unit.
- (b) **Entities, Trustees and Fiduciaries.**
 - (1) A trustee may serve on the Board of Directors if the trustee holds legal title to a Unit in trust for the benefit of the Owner of the beneficial interest in the Unit.
 - (2) 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 the person appointed is an entity, may serve on the Board of Directors.
- (c) **Documentation of Qualifications.** If requested by the Board, prior to election to the Board of Directors, an individual described in this subsection shall provide the Board with documentary evidence that the individual is qualified to serve on the Board of Directors.

4.3 **Election.**

- (a) **Election at Annual Meeting.**
 - (1) If at the annual meeting or any adjournment under Section 3.6 above, the Owners fail to elect any director whose term expires, the chairperson shall call a special meeting in accordance with Section 3.2 above for the purpose of electing a director to fill the

vacancy. The special meeting may be conducted by written ballot under Section 3.13 above.

- (2) If the Owners fail to elect a director at a special meeting called under Paragraph (2) of this subsection, any unfilled director position shall be filled by the Board of Directors in the same manner as a vacancy under Section 4.5(a) below.
- (b) **Nomination.** The Board of Directors shall determine the method of nominating directors. The method shall comply with current Master Association Election Policies.
 - (c) **Manner of Election.**
 - (1) The Board of Directors shall determine the manner of election of directors. The method may include the election of directors by a single ballot, with each Owner permitted to vote for the number of vacant director positions. If election is by single ballot, the nominees receiving the highest number of votes equal to the number of vacant director positions are the directors elected to fill the positions.
 - (2) The election of directors is by plurality.
 - (3) Cumulative voting is not permitted. As used in this paragraph, cumulative voting is when an Owner may vote by multiplying the number of votes (or allocation of voting rights) of the Owner by the number of directors for whom the Owner is entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.
 - (d) **Electioneering.**

Campaign materials in any form either favorable or unfavorable to a specific candidate or candidates are prohibited.

4.4 **Resignation; Removal of Directors.**

- (a) **Resignation.** Any director may resign at any time by giving written notice to the Board of Directors, chairperson or secretary. A resignation is effective upon receipt of the notice or at any later time specified in the notice. Unless otherwise specified in the notice, acceptance of the resignation is not necessary.

(b) **Removal of Directors by Owners.**

- (1) Subject to Paragraph (2) of this subsection, at any annual or special meeting, other than a meeting by written ballot conducted under Section 3.13 above, any one or more of the directors may be removed, with or without cause, by a vote of Owners of more than 50% of the Units present at a meeting at which a quorum has been established.
 - (2) In order for the Owners to propose the consideration of removal of a director at an annual meeting, at least seven (7) days before the earliest date that notices may be given under Section 3.3 above, the Owners must submit to the chairperson or secretary a written petition signed by at least twenty-five percent (25%) of the Owners. The petition must specify the names of the directors whose removal is to be considered at the annual meeting.
 - (3) The notice of the meeting subject to this subsection must state:
 - (i) The removal of one or more named directors will be considered; and
 - (ii) The agenda of the meeting will include the election of a successor to fill any vacancy created by the removal of a director.
 - (4) In addition to any other requirements, the following requirements apply to a special or annual meeting subject to this subsection:
 - (i) The agenda must include the election of a successor to fill the vacancy created as provided under Section 4.5 below.
 - (ii) Before a vote to remove a director, any director whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting.
 - (iii) A vote to remove a director must be conducted by written ballot and must provide an opportunity for Owners to vote separately for or against each director whose removal is proposed. The Board may require that the vote be conducted by secrecy procedure.
- (c) **Removal by Board for Failure to Attend Board Meetings.** A director who is not present at three (3) successive meetings of the Board of Directors

that have been properly called, or who is not present at more than one-third (1/3) of the Board of Directors meetings during a twelve (12) month period that have been properly called, may be removed by a majority of the remaining directors. The vacancy created by the removal shall be filled as provided in Section 4.5(a) below.

(d) **Automatic Removal for Failure to Qualify.**

- (1) An individual serving on the Board of Directors who ceases to be an Owner is automatically removed from the Board and the position is automatically vacant.
- (2) An individual serving on the Board of Directors under Section 4.2(b) above is automatically removed from the Board (and the position automatically vacant) if the individual no longer meets the requirements of Section 4.2(b) above.

4.5 Filling of Vacancies on Board; Term.

- (a) **Filling of Vacancies by Board of Directors.** Except as provided in Subsection (b) of this section, vacancies on the Board of Directors shall be filled by a majority vote of the remaining directors even though they may constitute less than a quorum.

(b) **Filling of Vacancies Created by Removal of Director by Owners.**

- (1) A vacancy created by the removal of a director by the Owners at a meeting held under Section 4.4(b) above, shall be filled by the Owners at the meeting in accordance with the meeting notice. However, if the Owners fail to fill a vacancy created by the removal of a director, the chairperson shall call a special meeting in accordance with Section 3.2 above for the purpose of electing a director to fill the vacancy. The special meeting may be conducted by written ballot under Section 3.12 above.
- (2) If the Owners fail to elect a director at a special meeting called under Paragraph (1) of this subsection, any unfilled director position shall be filled by the Board of Directors in the same manner as a vacancy under Subsection of this section.

- (c) **Term of Director Elected to Fill Vacancy.** Each individual elected to fill a vacancy under this section serves for the remainder of the term of the vacated director position.

- 4.6 **General 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 as by law or by the Declaration or these Bylaws may not be delegated to the Board of Directors by the Owners.
- 4.7 **Specific Powers and Duties.** The powers and duties to be exercised by the Board of Directors include, without limitation, the following:
- (a) **Maintenance of Common Elements.** Operation, care, upkeep, maintenance, repair and replacement of Common Elements in accordance with the Declaration and these Bylaws.
 - (b) **Maintenance Plans.** Preparation and update, as necessary, of the maintenance plan described in ORS 100.175.
 - (c) **Bank Accounts.** Opening and maintenance of accounts on behalf of the Association in accordance with Section 10.3 below and designating the signatories required for the accounts in accordance with these Bylaws.
 - (d) **Budgets.** Preparation and adoption of Association budgets in accordance with the Declaration and these Bylaws.
 - (e) **Reserves and Reserve Studies.**
 - (1) Establishment and maintenance of a reserve account if and when instituted as described under Section 10.4 below and any other reserve accounts the Board of Directors determines appropriate in accordance with these Bylaws and the Act; and
 - (2) The preparation, review and update of reserve studies conducted under Section 10.4 below.
 - (f) **Personnel.**
 - (1) Designation, employment and dismissal of such personnel as necessary for the efficient maintenance, upkeep and repair of the Common Elements and any other property for which the Association has maintenance, repair or replacement responsibility in accordance with the Declaration and these Bylaws.
 - (2) Employment (and dismissal) of legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the

Association. The Board of Directors has a management agreement with the Master Association and may continue such management or employ or enter into a contract with a new manager or management agent as provided under Section 4.9 below. Pursuant to the Master Association Management Agreement all management staff are employed by the Master Association.

(g) **Insurance and Fidelity Bonds.**

- (1) Obtaining and maintaining the insurance and fidelity bonds required or permitted under Article 16 below.
- (2) At least annually, the review of the insurance and bond coverage of the Association as provided in Article 16 below.

(h) **Annual Financial Statement.** The preparation and distribution of an annual financial statement of the Condominium to each Owner in accordance with Section 10.6 below.

(i) **Annual Report with Secretary of State.** The filing of the Annual Report with the Oregon Secretary of State in accordance with the Oregon Nonprofit Corporation Act.

(j) **Real Estate Agency Annual Report.** The filing of the Annual Report and any amendments to the Condominium Information Report with the Real Estate Agency in accordance with ORS 100.250.

(k) **Income Tax Returns.** Preparing or causing to be prepared and filed any required income tax returns or forms.

(l) **Association Records.** Compliance by the Association with ORS 100.480 relating to maintenance of Association records and maintenance of copies suitable for duplication of the documents specified in ORS 100.480 and Section 10.7 below.

(m) **Association Mailing Address.** Maintenance of a current mailing address for the Association.

4.8 **Standards of Conduct.** Unless otherwise provided in the Act, in the performance of their duties, members of the Board of Directors are governed by ORS 100.417, 65.357, 65.361 and 65.369.

- 4.9 **Managing Agent or Manager.** On behalf of the Association, the Board of Directors may employ or enter into a contract with a management agent to perform such duties and services as the Board of Directors authorizes, including, without limitation, the duties listed in Section 4.7 above. The Board shall establish the compensation of any employee or management agent to be paid under a contract. Currently the Master Association manages the Condominium pursuant to a management agreement with the Association.
- 4.10 **Compensation of Directors.** A director may not be compensated in any manner, except for out-of-pocket expenses.

ARTICLE 5 BOARD OF DIRECTORS MEETINGS

5.1 Annual Organization Meeting.

- (a) **Location, Date and Time.** Unless otherwise agreed by the Board, within ten (10) days following the annual meeting of the Association or, if necessary, following any meeting at which an election of directors has been held, the Board of Directors shall hold an organization meeting on such date and at the Master Association recreation center or if not available then such place and time as is determined by the directors at the meeting at which the election was held. No further notice of the organization meeting to the directors is necessary. If the date, time and place of the organization meeting are announced at the annual meeting or other meetings at which an election of directors is held, no further notice to Owners is necessary.
- (b) **Procedure and Business.** Until the election of new officers, the organization meeting required under Subsection (a) of this section shall be chaired by the outgoing chairperson, or, in the absence of the outgoing chairperson, the outgoing secretary, regardless of whether the outgoing chairperson or secretary is a member of the newly constituted Board. At the organization meeting, the Board of Directors shall elect officers in accordance with Section 6.2 below and may conduct any other Association business.

5.2 Regular and Special Meetings.

- (a) **Call of Meetings.**
- (1) **Regular Meetings.** The Board of Directors may determine to hold regularly scheduled meetings to be held on such date and at

such time and place as is fixed, from time to time, by a majority of the directors. Currently Board meetings are held at the Master Association recreation center.

- (2) **Special Meetings.** Special meetings (including emergency meetings) of the Board of Directors may be called by the chairperson or the secretary and must be called by the secretary within ten (10) days of receipt of a written request of at least two (2) directors. The secretary or other person designated by resolution adopted by the Board of Directors shall cause notice to be given in accordance with Subsection (b) of this section.

(b) **Notice to Board of Directors.**

- (1) **Regular Meetings.** Any requirements for notice to directors of regular meetings of the Board of Directors shall be determined, from time to time, by a majority of the directors.
- (2) **Special Meetings.** Subject to Paragraph (3) of this subsection, unless otherwise determined by a majority of the directors, notice of any special meeting shall be given to each director at least seven (7) days prior to the day named for the meeting. The notice shall be given personally or by mail, telephone or other means, including, without limitation, electronic communication, approved by the director. The notice must state the date, time, place and purpose of the meeting.
- (3) **Emergency Meetings.** Notice requirements to directors for emergency meetings of the Board of Directors shall be as determined, from time to time, by a majority of the directors.

5.3 Quorum and Acts.

- (a) At all meetings of the Board of Directors, a majority of the existing directors constitutes a quorum for the transaction of business and the acts of the majority of the directors present are the acts of the Board of Directors, unless a greater number is required by law or these Bylaws.
- (b) If at any scheduled meeting of the Board of Directors there is less than a quorum present, the majority of those present may reconvene at a different time not to exceed thirty (30) days from the originally scheduled meeting. The Board may reconvene with a quorum of directors under this Section without further notice to other directors or to Owners.

5.4 Meeting Definition; Mode of Board Meetings.

- (a) **Definition.** As used in this article, “meeting” means a convening of a quorum of members of the Board of Directors at which Association business is discussed, except a convening of a quorum of members of the Board of Directors for the purpose of participating in litigation, mediation or arbitration proceedings.
- (b) **Mode of Board Meetings.**
 - (1) Subject to Paragraph (2) of this subsection, meetings of the Board of Directors shall be by a gathering of directors in person or by virtual electronic means at the Master Association recreation center. Meetings can be held at another location, preferably within Lincoln County, Oregon, if conditions warrant, or a majority of the board members agree; all meeting notice policies and rules must be followed.
 - (2) Emergency meetings and other meetings of the Board of Directors may be conducted in any other manner permitted under the Act as it may be amended from time to time such as telephonic conference call or virtual electronic meetings using information technology.
- (c) **Circumvention Prohibited.** As provided under ORS4 100.420, the meeting and notice requirements of OR 100.420 may not be circumvented by chance or social meetings or by any other means.

5.5 Board Meeting Procedure.

- (a) **Director Assent Presumed.** Unless otherwise provided under the Act, 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.
- (b) **Recording of Votes; Proxies and Secret Ballots Prohibited.** A vote or abstention for each director present must be recorded in the minutes. Directors may not vote by proxy or by secret ballot at Board meetings, except officers may be elected by secret ballot.
- (c) **Rules of Procedure.**

- (1) Unless other rules of order are adopted by resolution of the Board of Directors, meetings of the Board of Directors must be conducted according to the latest edition of Robert's Rules of Order published by the Robert's Rules Association.
- (2) A decision of the Board of Directors may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting at which the right to be heard was denied.
- (3) A decision of the Board of Directors is deemed valid without regard to procedural errors related to the rules of order one (1) year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

5.6 Open Meetings; Executive Sessions. Unless otherwise provided under the Act:

- (a) **Open Meetings.** Except as provided in Subsection (b) of this section, all meetings of the Board of Directors are open to Unit Owners. The Board may allow Owners to participate. Only members of the Board of Directors may cast votes for any business conducted at a Board meeting. The chairperson or presiding officer has the authority to exclude an Owner who disrupts the proceedings at a Board meeting.
- (b) **Executive Sessions.** In the discretion of the Board of Directors, the Board may close the meeting to Unit Owners and meet in executive session for any of the purposes permitted under ORS 100.420, including but not limited to:
 - (1) Consult with legal counsel; or
 - (2) Consider the following:
 - (i) Personnel matters, including salary negotiations and employee discipline;
 - (ii) Negotiation of contracts with third parties; or
 - (iii) Collection of unpaid assessments.
- (c) **Executive Session Procedure.**

- (1) Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the chairperson or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.
- (2) A contract or an 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. The contract or action must be reasonably identified in the open meeting and included in the minutes of the meeting.

5.7 **Notice to Owners of Meetings of Board.** Unless otherwise provided under the Act, for other than emergency meetings, notice of each meeting of the Board of Directors may be posted at a place or places in the Condominium or sent via regular mail or electronic communication at least three (3) days prior to the meeting or notice must be provided by a method otherwise reasonably calculated to inform the Owners of the meeting.

5.8 **Waiver of Notice by Directors.** Unless otherwise provided under the Act, waiver by a director of any notice required to be given a director under the Declaration, Articles of Incorporation, these Bylaws, the Act or Oregon Nonprofit Corporation Act is governed by ORS 65.347.

ARTICLE 6 OFFICERS

6.1 Designation and Qualifications.

- (a) **Designation.** The principal officers of the Association are the chairperson, the secretary, and the treasurer. Pursuant to a resolution adopted by the Board of Directors, the Board may from time to time designate and elect other officers to exercise such powers and duties as the Board finds to be necessary or appropriate to manage the affairs of the Association.
- (b) **Qualification.** The Chairperson and Secretary must be members of the Board of Directors. Other officers need not be directors.

6.2 **Election of Officers.** The Board shall agree on the designation of officers. Officers shall serve for a term of one (1) year or until their respective successors are elected by the Board of Directors.

6.3 **Removal; Resignation.**

(a) **Removal.** Officers hold office at the pleasure of the Board of Directors. When in the judgment of the Board of Directors the best interest of the Association will be served, any officer may be removed by the Board.

(b) **Resignation.** An officer may resign at any time by giving written notice to the Board of Directors, the chairperson or secretary. A resignation is effective upon receipt of the notice or at any later time specified in the notice. Unless otherwise specified in the notice, acceptance of the resignation is not necessary.

6.4 **Chairperson.** The chairperson:

(a) Is the chief executive officer of the Association.

(b) Has all of the general powers and duties that are usually vested in the executive officer of an association and has such other powers and duties as may be prescribed by these Bylaws or resolution adopted by the Board of Directors.

6.5 **Secretary.** The secretary shall:

(a) Keep, or cause to be kept, the minutes of all proceedings of the Board and the minutes of all meetings of the Association.

(b) Attend to the giving and serving of all notices to the Owners and directors and other notices required by law or these Bylaws.

(c) Have custody of all books, records and papers of the Association, except those that are in the care of the treasurer or other person designated in a resolution adopted by the Board of Directors.

(d) In general, perform all the duties incident to the office of secretary of an association and have such other powers and perform such other duties as may be prescribed by these Bylaws or resolution adopted by the Board of Directors.

6.6 **Treasurer.** The treasurer shall:

- (a) Be responsible for the Association's funds and securities not otherwise held by a managing agent.
- (b) Keep and maintain, or cause to be kept and maintained, adequate and correct financial records and accounts of the Association, including Association assets, liabilities, receipts and disbursements.
- (c) Be responsible for the preparation of required financial statements.
- (d) Be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board of Directors in accordance with these Bylaws.
- (e) Disburse the funds of the Association in accordance with these Bylaws and as may be directed by the Board.
- (f) Perform all other duties incident to the office of treasurer of an association and have such other powers and perform such other duties as may be prescribed by these Bylaws or resolution adopted by the Board of Directors.

6.7 Execution of Documents; Checks; Verification of Work and Materials.

- (a) Documents. All agreements, contracts, deeds, leases and other formal documents of the Association, except checks and other evidence of indebtedness described in Subsection (b) of this section, shall be executed by two members of the Board.
- (b) Checks, Drafts and Other Evidence of Indebtedness. All checks, drafts, account withdrawal slips and other orders for payment of money, notes, or other evidence of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed or otherwise authorized by the Chairperson and Secretary.
- (c) Verification of Work Performed and Material Furnished. No funds of the Association may be expended by any officer, director, employee, manager or other person without verification, in the manner prescribed in a resolution adopted by the Board of Directors, that the work has been performed or materials or supplies furnished.

- 6.8 **Standards of Conduct.** Unless otherwise provided under the Act, in the performance of their duties, officers are governed by ORS 100.417 and 65.377.
- 6.9 **Compensation of Officers.** An officer who is a member of the Board of Directors may not receive any compensation from the Association for acting as an officer. The Board of Directors may fix any compensation to be paid to any officers who are not also directors.

ARTICLE 7

LIABILITY: INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS

- 7.1 **Liability.** A member of the Board of Directors, officer of the Association or member of a committee is not liable to the Association or any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts.
- 7.2 **Indemnification.** If any member of the Board of Directors, managing agent, officer of the Association or its manager or member of a committee is made a party of any proceeding because the individual is or was a director, officer of the Association, managing agent of the Association or member of a committee, the Association shall indemnify the individual against liability and expenses incurred to the maximum extent permitted by law except for any bad faith or willful misbehavior.

ARTICLE 8

RULES AND REGULATIONS

The Board may adopt any reasonable rules or regulations governing use of Units or administration of the Association that is not addressed in the Declaration or these Bylaws. Rules agreed on by the Board are binding on all Owners. Any modifications to such rules require the written consent of Owners of all Units. Such rules must be consistent with the Declaration and Bylaws and shall not purport to modify or amend any provision of the Declaration or these Bylaws. Rules must be reduced to writing and adopted by resolution of the Board.

ARTICLE 9

BUDGET, EXPENSES AND ASSESSMENTS

- 9.1 **Types and Purpose of Assessments.**

- (a) **Types of Assessments.** All Owners are obligated to pay assessments agreed on by the Owners on pursuant to the Declaration and these Bylaws.
- (b) **General Purpose of Assessments.** Assessments levied on behalf of the Association by the Board of Directors under the Declaration, these Bylaws or the Act shall be used to promote the recreation, health, safety, and welfare of the Owners and occupants of the Condominium and for the operation and maintenance of the Condominium as provided the Declaration and these Bylaws and for any other purpose required or permitted under the Declaration, these Bylaws or the Act.
- (c) **Assessments Property of Association.** All sums received on account of assessments, including any assessments paid into a reserve account established under Section 10.4 below, belong to and are the property of the Association for the purposes provided under these Bylaws.

9.2 **Obligation for Assessments.**

- (a) **Personal Obligation.** A Unit Owner is personally liable for all assessments, together with interest, late payment charges and collection costs as provided in Section 15.3 below, imposed on the Unit Owner or assessed against the Unit as provided under the Act.
- (b) **Joint and Several Obligation.** In addition to constituting a lien on the Unit as provided under Section 15.3 below and the Act, each assessment is the joint and several obligations of each Owner of the Unit to which the same is assessed.
- (c) **Offsets Prohibited.**
 - (1) An Owner may not claim an offset against an assessment for failure of the Association to perform its obligations. An Owner may not offset amounts owing or claimed to be owed by the Association to the Owner.
 - (2) An Owner by the Owner's action may not claim exemption from liability for assessments by waiver of Owner's use or enjoyment of any common element or by abandonment by the Owner of the Owner's Unit.
- (d) **Voluntary Conveyances.** In accordance with the Act, 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 to the

time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee.

- (e) **Liability When Unit Foreclosed; Deeds in Lieu of Foreclosure.** The Act governs the liability for assessments when a purchaser obtains title to a Unit as a result of foreclosure of a first mortgage or when a deed in lieu of foreclosure is accepted by the holder of a first mortgage.

9.3 **Budgets.**

- (a) **Adoption of Budget.** At least annually, the Board shall prepare and adopt a budget for the Association (the "annual budget") based on an estimate of the common expenses, determined under Section 9.5 below, expected to be incurred, any expected revenue and any surplus available from the prior year's budget.
- (b) **Continuation of Prior Adopted Budget.** If the Board fails to agree on the annual budget, the last adopted budget continues in effect.
- (c) **Amended Budget.** If all or any part of a budget adopted under Subsection (a) of this section is or will become inadequate to meet common expenses incurred for any reason, as soon as practicable, the Board of Directors shall determine the approximate amount of the inadequacy and may adopt by resolution an amended budget. The resolution shall identify the reason for the inadequacy.
- (d) **Annexation of Additional Units.** In the event additional Units are annexed during the fiscal year, the common expenses for remainder of the fiscal year shall be apportioned between all the Units according to the total number of days that the Unit existed out of the total number of days in that fiscal year.

9.4 **Method of Allocation of Common Expenses and Profits.**

- (a) **Association Common Expenses.** Association Common Expenses specified in Section 9.5 below shall be allocated among all Units in accordance with Article 8 of the Declaration.
- (b) **Allocation of Profits.** Any common profits shall be allocated among all Units in accordance with the Declaration and the Act.

9.5 **Determination of Common Expenses.** Common expenses include, without limitation:

- (a) Expenses of administration of the Association, including any management fees.
- (b) Expenses of maintenance, repair, or replacement of those general Common Elements and limited Common Elements or any other portions of the Condominium required to be maintained by the Association pursuant to the Declaration or these Bylaws.
- (c) Cost of insurance or bonds obtained in accordance with these Bylaws.
- (d) Funding of the Reserve Account if established under Section 10.4 below.
- (e) The cost of any utilities for the Common Elements and other utilities that have a common meter or that are commonly billed.
- (f) Any deficit in common expenses for any prior period.
- (g) Any other items properly chargeable as an expense of the Association under applicable laws and regulations. No Association funds shall insure to the benefit of less than all the Owners of the Association including but not limited to any use of funds to pay for work on private driveways, garages, walkways, paved parking areas, or other improvements that are the Owners responsibility under the Association's governing documents.

9.6 **Assessment of Common Expenses.**

- (a) **Annual Assessments.** At least annually, the Board of Director shall levy an annual assessment ("Annual Assessment") based on the budget adopted under Section 9.3 above. The Annual Assessment shall be allocated in accordance with Section 9.4 above and is payable as a regular periodic payment as provided in Section 9.6(c) below.
- (b) **Notice of Annual Assessments.** The Board of Directors shall cause notice of Annual Assessments to be given at least thirty (30) days before the assessments are payable under Section 9.6 below.
- (c) **Regular Monthly Payments.** Annual Assessments levied under Section 9.6 (a) above are due in monthly installments by the due date described under Section 15.3(b) below. The Board may agree on a different assessment schedule.
- (d) **Commencement of Annual Assessments.** Regular monthly assessments for common operating expenses for Units in each stage of

the Condominium shall commence upon closing of the first sale of a Unit in such stage of the Condominium.

- (e) **Commencement of Assessment for Replacement Reserves.** Regular monthly assessments for replacement reserves as described in Section 10.4 below for Units in the Condominium shall commence upon the closing of the sale of the first Unit in such stage of the Condominium, except that Declarant may elect to defer payment of such assessments to the Association for each Unit owned by Declarant until the closing of the sale of such Unit, not to exceed three (3) years from the date the Declaration was recorded. The books and records of the Association shall reflect the amount owing from Declarant for all reserve assessments.

9.7 **Special Assessments.** The Board of Directors may levy special assessments for the following purposes:

- (a) **Deficits.** To correct a deficit in the operating budget by vote of a majority of the Board.
- (b) **Repairs and Replacements.** To make repairs, replacements, or renovations to the Common Elements if sufficient funds are not available from the operating budget or replacement reserve accounts by vote of a majority of the Board. Also to make repairs, replacements, or renovations to the Common Elements that benefit less than all the Owners such as work on driveways, parking area, garages, walkways, and landscaping that are by the terms of the Declaration the responsibility of the benefited Owners.
- (c) **Default of Owner.** to recover the cost of curing any default by an Owner with the requirements of the governing documents of the Condominium or any other cost due to the fault of an Owner or Owners but less than all of the Owners.
- (d) **Capital Improvements.** To make capital improvements to, or alterations of, the common elements; provided, however, that no such project may be undertaken by the Board if the total cost will exceed fifteen percent (15%) of the previous year's total expenses unless a majority of Owners have approved a resolution authorizing the project. This limitation shall not be applicable to required maintenance, repairs, or replacement undertaken pursuant to the Declaration and these Bylaws.
 - (1) For purposes of the Declaration and these Bylaws, the term "Capital Improvement" means the use of Association funds to

construct or build an addition to the Condominium, where such use of funds is optional under the Governing Documents, rather than mandatory, and is not otherwise required by Law.

- (2) The maintenance, repair or replacement of Improvements within the Condominium shall not be considered a “Capital Improvement,” (notwithstanding that such expenditure or improvement may be considered a capital expenditure or capital improvement for tax purposes) if:
 - (i) The Association is obligated to maintain the Improvement; and
 - (ii) The Association uses materials of similar kind; that are required, either due to changes in building or fire codes or due to discontinued fabrication or unavailability; or that have substantially similar cost over the useful life of the material.

9.8 **Statement for Prospective Purchasers.** In accordance with ORS 100.475, upon request of any Owner or Owner’s agent, for the benefit of a prospective purchaser, the Secretary shall make and deliver a written 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 is not liable for any unpaid assessments against the grantor not included in the written statement.

ARTICLE 10 ASSOCIATION RECORDS AND ACCOUNTS

10.1 General Records.

- (a) The Board of Directors and managing agent or manager, if any, shall keep records of the actions of the Board of Directors and managing agent or manager, minutes of the meetings of the Board of Directors and minutes of meetings of the Association.
- (b) Unless otherwise provided in ORS 100.480, the Association shall retain within this state the documents, information and all other records of the Association for not less than the period specified in ORS 65.771 or any other applicable law, except that:
 - (1) The documents described in ORS 100.210(5)(j), if received, must be maintained as permanent records of the Association.

- (2) Proxies and ballots must be retained for one (1) year from the date of determination of the vote, except proxies and ballots relating to an amendment to the Declaration, Bylaws or Plat must be retained for one year from the date the amendment is recorded.

10.2 **Financial Records.** The Board of Directors or its designee shall keep within the State of Oregon financial records sufficient for proper accounting purposes.

10.3 **Association Funds and Accounts.**

- (a) **Deposit of Funds.** All assessments and other funds of the Association shall be deposited in accounts described in Subsection (c) of this section in accordance with ORS 100.480.
- (b) **Distribution of Funds.** All expenses of the Association shall be paid from the accounts of the Association in accordance with the Declaration and these Bylaws. The Association shall maintain a voucher or payment system that requires a sufficient number of signatories as is reasonably necessary to prevent any misuse of Association funds.
- (c) **Association Accounts.** The Association shall establish and maintain, in accordance with ORS 100.480, a general operating account and such other accounts, including a reserve account described under Section 10.4(a) below and a general contingency account described under Subsection (b) of this section, as the Board of Directors deems necessary to manage the funds of the Association. The accounts must be in the name of the Association with a financial institution in accordance with ORS 100.480.

10.4 **Reserve Accounts; Reserve Study.**

- (a) **Establishment and Maintenance of Reserve Account.** At present there are no separate Condominium reserves pursuant to ORS 100.175(2)(b)(A) because the Master Association reserve fund will pay for the work on Common Elements that benefit all the Owners. This is because the Master Association reserve fund for all of its common areas, including without limitation streets and open spaces, includes in part Unit Owner assessments and will be used in part for Condominium Common Elements (streets and open spaces) that are also treated as Master Association common areas. The Condominium Common Elements are also Master Association common areas such that its reserves will reasonably fund the repair, replacement and renovation of the applicable Condominium Common Elements under the reserve

requirements of the Act. If any special reserve funds are established for the Common Elements that benefit less than all of the Unit Owners then the reserve funds will be assessed only to the benefited Owners and segregated for use exclusively for the benefit of the assessed Unit Owners. For example a separate special reserve fund would be created for each shared Meadows House garage and walkway because different Meadows House Owners benefit from each Meadows House garage and walkway. Because the streets and drainage systems of the Condominium and the Planned Community are interconnected, all streets and drainage systems will be treated as common areas for use by all members of both associations. The Master Association will be solely responsible for the maintenance, repair and replacement of these streets and drainage system regardless of the extent to which these common areas are also Condominium Common Elements.

(b) Determination of Reserve Accounts; Reserve Study.

- (1) The Board of Directors shall determine annually any reserve account requirements. In determining the requirements, the Board annually shall conduct a reserve study or review and update an existing study in accordance with ORS 100.175 and, subject to the Act, may:
 - (i) Adjust the number and size of payments to the reserve accounts established under this section in accordance with the study or review; and
 - (ii) Provide for other reserve items that the Board of Directors, in its discretion, may deem appropriate.
- (2) If conducted, the reserve study must include the information required under ORS 100.175 in effect when the reserve study or reserve study update is conducted.

(c) Use of Reserve Fund.

- (1) A reserve account established under this section must comply with ORS 100.175 and 100.480 and may be used only for the purposes for which the reserves have been established. The reserve accounts must be kept separate from each other and from other Association funds.
- (2) If the Board has adopted a written resolution authorizing the borrowing of funds, the Board of Directors may borrow funds from

the reserve accounts established under this section to meet high seasonal demands on the regular operating funds, to meet unexpected increases in expenses or for any other purpose permitted under the Act. The resolution may be an annual continuing resolution.

- (3) Not later than the adoption of the budget for the following year, the Board of Directors shall adopt by resolution a written payment plan providing for repayment within a reasonable time of any unpaid funds borrowed under Paragraph (2) of this subsection.
- (4) The Board of Directors may use reserve account funds allocated to one reserve item to meet unexpected expenses of another reserve item in the same reserve account. The allocation of funds must be reflected in the next year's reserve study or reserve study update conducted under Subsection (b) of this section.
- (5) Funds in the reserve accounts are subject to the requirements and restrictions of ORS 100.480.

10.5 Fiscal Year. Unless otherwise provided by resolution adopted by the Board of Directors, the fiscal year of the Association begins on the first day of July and ends on June 30 of each calendar year.

10.6 Financial Reports and Audits.

- (b) **Annual Financial Statement.** In accordance with ORS 100.480, within ninety (90) days after the end of the fiscal year, the Board of Directors shall:
 - (1) Prepare or cause to be prepared an annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year; and
 - (2) Distribute to all Owners a copy of the annual financial statement and to all mortgagees of Units who have requested in writing a copy.
- (c) **Review of Annual Financial Statement.** If required by ORS 100.480, the Board of Directors shall cause the financial statement required under Subsection (a) of this section to be reviewed by an independent certified accountant licensed in this state as provided in ORS 100.480.

(d) **Audits of Books and Records.**

- (1) From time to time, the Board of Directors, at the expense of the Association, may cause an audit, review, compilation or other financial examination of the books and records pertaining to the Association to be conducted and may provide copies to the Owners and mortgagees of Units.
- (2) Upon written request and notification, an Owner or mortgagee may, at the Owner's or mortgagee's own expense, cause an audit, review, compilation or other financial examination of the books and records of the Association to be made.

10.7 Copies of Documents Required to be Maintained by Association.

- (b) The Board of Directors shall maintain a copy, suitable for the purposes of duplication, of the documents specified in ORS 100.480.
- (c) Within ten (10) business days after receipt of a written request of an Owner, the Association shall furnish the requested information required to be maintained under Subsection (a) of this section.

10.8 Unit Occupancy Information. Each Owner shall provide to the Board the contact information for any tenants if the Unit is being rented or leased.

10.9 Inspection of Records by Owners; Restricted Owner Information. Except as otherwise provided in ORS 100.480 or other section of the Act, all records of the Association must be reasonably available for examination and, upon written request, available for duplication by all Owners and any mortgagee of a Unit that makes a request in good faith for a proper purpose.

10.10 Notice of Sale; Records Update Fee. Immediately after a change in Ownership of any Unit, the new Owner shall promptly inform the Secretary or manager of the Owner's name and address.

**ARTICLE 11
MAINTENANCE, REPAIR AND REPLACEMENT
OF CONDOMINIUM PROPERTY**

The responsibility of the Association and the responsibility of Unit Owners under this article are subject to Section 12.1 below governing additions, alterations and improvements, Sections 12.4 below governing damage or destruction caused by casualty and Section 12.5 below governing condemnation and eminent domain.

11.1 Association Responsibility.

- (a) **Common Elements.** Unless otherwise provided in Section 11.2 below, the Association is responsible for performing or making all maintenance, repairs and replacements to any General Common Elements, except for utility lines and other items as provided in Section 11.2 below.
- (b) **Costs.** Subject to Section 11.3 below, all maintenance, repairs and replacements to the general Common Elements and limited Common Elements performed or made by the Association under this section are a common expense under Section 9.5 above.

11.2 Unit Owner Responsibility. The requirements of this section are subject to any approvals required under Section 12.1 below or any other provision of these Bylaws or the Declaration.

- (a) **Units and Associated Components and Installations.** Each Unit Owner is responsible for performing or making all maintenance, repairs, and replacement to the Owner's Unit, including maintenance, repair, and replacement of the house within each Unit. The Owners of the Pines Units will be solely responsible for the maintenance, repair, and replacement of their driveways across the General Common Elements to their Pines Units. Each Condominium Unit Owner will be solely responsible for the maintenance, repair, and replacement of that portion of the General Common Elements historically used as their landscaped yards surrounding their Units. The Owners of the benefited Meadow House Units are solely responsible for the maintenance, repair, and replacement of the General Common Elements consisting of their driveways, parking areas, carports, garages, and the walkway structures to and from their Meadows Units to their parking spaces subject to regulation by the Association and Master Association. The expenses for the Unit Owner work described in this paragraph shall be paid directly by the benefited Unit Owners after applying any special reserve funds available for the expense of maintaining, repairing and replacing these General Common Elements that benefit less than all the Unit Owners.
- (b) **General Condition of Unit and Adjacent Area.** Each Unit Owner shall:
 - (1) Keep the Owner's Unit and limited common element decks and yards pertaining to the Unit in good order and in a neat, clean and sanitary condition. The Unit Owner shall do all redecorating,

painting and staining that at any time may be necessary to maintain the good appearance and condition of the Unit.

(2) Keep any walkways providing access to the Unit in a neat, clean and sanitary condition.

(c) **Utilities.** Each Unit Owner is responsible for maintaining, repairing and replacing any utility lines that service his or her Unit, regardless of whether the utility line is within the boundary of the Unit. To the extent a utility line services more than one Unit, then the Units to which the utility line serve shall be jointly and severally responsible for maintenance, repair and replacement of that shared utility line up to the point of the main line under any public right of way.

11.3 **Failure to Maintain.** If any Owner fails to perform any maintenance, repair or replacement required under this article or other provisions of these Bylaws or the Declaration, the Board may perform the repairs upon reasonable notice to the Owner. The Owner who failed to perform the repairs shall be liable for all expenses incurred by the Association.

11.4 **Right of Entry.** In Accordance with Section 13.2 of the Declaration, the Board may enter any Unit, upon notice as required under Section 13.2 of the Declaration, and any limited common element appertaining to a Unit as may be necessary for the maintenance, repair or replacement of the Common Elements or any Unit for which the Association has maintenance, repair or replacement responsibility under the Declaration, Bylaws or the Act. Each Owner shall cooperate in good faith to allow access for necessary work on the Common Elements.

ARTICLE 12

ADDITIONS, ALTERATIONS OR IMPROVEMENTS DAMAGE; DESTRUCTION AND CONDEMNATION OF CONDOMINIUM PROPERTY

12.1 **Additions, Alterations or Improvements to Units.** No improvement may be commenced, erected, placed, maintained on the Unit exterior if it would materially change the exterior appearance of the Unit unless an application has been submitted to and approved in writing by the Board of Directors as provided in Section 12.6 below. An Owner performing any additions, alterations or improvements to Owner's Unit is liable for any damages caused by or resulting from the work. Neither the Association, Board of Directors, directors or officers nor any manager has any liability for any damage caused by or resulting from the work. The Owner performing the work shall indemnify the persons and entities from and against any claims by Unit Owners or other persons or entities for loss or damage resulting from the work.

- 12.2 **Appearance of Common Elements.** A Unit Owner may not change the appearance of the Common Elements (including the exterior appearance of a Unit or limited common element) without permission of the Board.
- 12.3 **Damage Due to Unit Owner.** If due to the act or neglect of a Unit Owner, a member of the Unit Owner's family or household pet or of a guest or other authorized occupant or visitor of the Unit Owner, damage is caused to the Common Elements or to a Unit owned by others, or any maintenance, repair or replacement is required that would otherwise be a common expense under Section 9.5 above, then the Owner shall pay for the damage and such maintenance, repairs and replacements as may be determined by the Board of Directors, to the extent not paid by the Association's insurance, and the cost of the deductible under any Association insurance policy.
- 12.4 **Damage and Destruction by Casualty of Condominium.** In the case of damage or destruction that affects a material portion of the Condominium, timely written notice shall be given to the Unit Owners and their mortgagees and the following provisions apply:
- (a) **Agreement Required not to Repair, Reconstruct or Rebuild Damage or Destruction.**
 - (1) In the event of damage or destruction by casualty of a part of the Condominium, the damage or destruction shall be repaired, reconstructed or rebuilt unless Owners of all Units agree not to reconstruct the Condominium.
 - (2) If the damage or destruction is not repaired, reconstructed or rebuilt, the property shall be removed from condominium ownership in the manner provided under the Act.
 - (b) **Responsibility for Repair, Reconstruction or Rebuilding of Damage or Destruction.**
 - (1) The Association is responsible for repairing, reconstructing or rebuilding all damage or destruction to the Common Elements and, to the extent of the Association's insurance coverage, all damage or destruction to the Units.
 - (2) Each Unit Owner is responsible for the repair, reconstruction or rebuilding of Owner's Unit that is not covered by the Association's insurance, including any deductible under the Association's insurance required under Section 16.4 below.

(c) **Insurance Proceeds.**

- (1) Unless the Unit Owners agree not to repair, reconstruct or rebuild the damage or destruction under Subsection (a) of this section, if the insurance proceeds are insufficient to repair, reconstruct or rebuild the damage or destruction, all the Unit Owners are liable in the allocation specified under Section 8.1 of the Declaration for any deficiency for the reconstruction. The deficiency shall take into consideration as the Owner's contribution any individual policy insurance proceeds provided by the Owner.
- (2) 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 shall distribute the proceeds among the Unit Owners and their mortgagees (as their interests may appear) in the allocation specified in Section 8.1 of the Declaration, unless the property is removed from condominium ownership. If the property is removed from condominium ownership, the insurance proceeds, together with the proceeds from the sale of the property, shall be distributed to the Unit Owners and their mortgagees (as their interest may appear) in the manner prescribed by the Act.

12.5 Condemnation; Eminent Domain. Subject to any requirements of the Act:

- (a) **Notice.** 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 shall promptly be given to each Unit Owner and to each mortgagee and eligible mortgage insurer or guarantor in accordance with Article 14 of the Declaration.
- (b) **Representation by Association.** The Association shall 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 the Owner's attorney-in-fact for such purposes.
- (c) **Allocation and Distribution of Proceeds.** All compensation, damages or other proceeds of the taking, other than any award for moving expenses of specific Unit Owners, shall be payable to the Association and allocated and distributed as provided in this section.

- (d) **Complete Taking.** If the entire Condominium property is taken, or all Unit Owners agree that such substantial portion of the Condominium has been taken as to make the project obsolete, then the property shall 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, shall be distributed among the Unit Owners and their mortgagees, as their interests may appear, in accordance with the provisions of the Act.
- (e) **Partial Taking.**
 - (1) **Allocation of Award.** If less than the entire Condominium property is taken and the property is not determined to be obsolete as provided in Subsection of this section, then as soon as practicable the Board of Directors shall, 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 shall 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.
 - (2) **Objection to Allocation.** If any Unit Owner or mortgagee objects to the allocation determined by the Board of Directors under Paragraph (1) of this subsection, the matter shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. The cost of the determination shall be paid out of the proceeds of the condemnation.
 - (3) **Repair or Reconstruction.** If any repair or reconstruction is undertaken as a result of the condemnation, the Board of Directors 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 assessment arising from the repair or reconstruction.

12.6 **Architectural Review.** Currently the Board has delegated architectural review and approval to the Master Association pursuant to its management of the Condominium. All applications for approval of exterior improvements, repairs, replacements, renovations or alterations to Units shall comply with the following:

- (a) **Application.** The application shall be on a form adopted by the Board and shall include construction plans and specifications showing the nature, kind, shapes, heights, materials, exterior colors and proposed location of Improvements or changes on the Unit.
- (b) **Architectural Guidelines.** The Board may adopt architectural standards and guidelines in addition to the restrictions of the Declaration and these Bylaws relating to exterior color schemes, styles, finishing materials and similar features in order to maintain harmony of appearance between all the Units. The Board may set reasonable fees for review of architectural applications, including fees for consulting with architects, attorneys, engineers or other consultants to evaluate an architectural application.
- (c) **Decision.** The Board shall render its approval or denial decision with respect to the proposal within thirty (30) days after it has received all material required in the application. Pursuant to the current management agreement, decisions by the Master Association architectural review committee shall be deemed the decision of the Board with respect to any Owner application for approval.
- (d) **Non-waiver.** Approval or disapproval by the Board shall not constitute a waiver or estoppel impairing its right to withhold approval for similar matters submitted to the Board for approval.
- (e) **Liability.** The Association and the Board are not responsible to any Owner, occupant, builder, tenant, guest or any other person for any damage, loss or claim suffered on account of any action or inaction by the Board with respect to approval of an architectural application.
- (f) **Ordinances.** Approval by the Board does not constitute approval through any local agency. Owners are responsible for obtaining permits and other approvals through the Master Association, the City of Depoe Bay and Lincoln County as may be necessary for any improvements, repairs, replacements, renovations or alterations to Units.

ARTICLE 13

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:

13.1 General Use of Common Elements.

(a) **General Common Elements.**

- (1) The general Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment or benefit of Units. In addition to the provisions of the Declaration and these Bylaws, the use of the general Common Elements is subject to Subsection (b) of this section and rules adopted by resolution of the Board of Directors under Article 8 above.
- (2) The general Common Elements may not be obstructed, damaged or unreasonably interfered with by any Unit Owner, occupant of a Unit, guest or other person using the Condominium.
- (3) A Unit Owner, occupant of a Unit, guest or other person using the Condominium may not:
 - (i) Obstruct, damage or unreasonably interfere with the General Common Elements.
 - (ii) Make any material changes in the landscaping, remove or trim trees, lawns or shrubs or make any other alterations or do any construction in the General Common Elements without the prior written approval of the Association.

- (b) **Limited Common Elements.** Limited Common Elements are for the exclusive use of the Meadows House Units to which the use is reserved under Article 6 of the Declaration for parking purposes. However, use of the parking spaces is subject to the parking restrictions in Section 13.4 below. Upon advance notice, Owners shall allow reasonable access to other Owners' assigned limited Common Elements for the purpose of performing maintenance upon the improvements adjacent, above or below the parking spaces.

13.2 Residential Use; Commercial Activities Prohibited.

- (a) Subject to Subsection (b) of this section, Units shall be used for residential purposes as a single-family residence in accordance with, and subject to, the other provisions of the Declaration, these Bylaws and rules and regulations.
- (b) Except as provided in this section, no commercial activities of any kind may be conducted in any Unit or in any other portion of the Condominium without the consent of the Board of Directors in

accordance with Subsection (c) of this section. However, nothing in this section may be construed so as to prevent or prohibit a Unit Owner from:

- (1) Maintaining Owner's professional personal library;
 - (2) Keeping Owner's personal business or professional records or accounts;
 - (3) Handling Owner's personal business or professional communications;
 - (4) Occasionally conferring with business or professional associates, clients, or customers in Owner's Unit.
 - (5) Subject to compliance with applicable local ordinances, using the Unit as a "home office" provided clients, customers and employees do not regularly visit the "home office."
- (c) An Owner may submit a written request to the Board of Directors for approval to conduct commercial activities not otherwise permitted under this section. The Board, in its sole discretion, may permit an activity only if:
- (1) Clients, customers, vendors and employees will not regularly visit the Condominium.
 - (2) The type of activity will not unreasonably disturb other Owners or occupants of Units.
 - (3) The activity is not in violation of any law or regulation or ordinance of the local governing body.
- (d) Pursuant to Article 8 above, the Board may adopt by resolution an application and approval procedure and rules necessary to implement this subsection.

13.3 Minimum Lease or Rental Term. Rental or lease agreements shall be for a term of not less than 30 days, nor shall more than 12 rental or lease agreements be allowed for any Unit in any calendar year.

13.4 Animals. No animals, livestock or poultry shall be raised, bred or kept in any Unit or in the common areas, except that dogs, cats and other household pets may be kept in Units, subject to rules and regulations adopted by the Board of Directors.

13.5 **Parking of Automobiles and Other Vehicles.**

(a) **Prohibition.**

- (1) Except as provided in this section, no vehicles or equipment, passenger vehicles, trucks, boats, trailers, commercial vehicles, mobile homes, motor homes, campers, or other recreational vehicles or equipment may be parked or stored on any part of the Condominium, without the written consent of the Board.
- (2) No boats, trailers, commercial vehicles, mobile homes, motor homes, campers, or other recreational vehicles or equipment may be parked in any part of the Condominium except within the confines of a garage.
- (3) No portion of any vehicle or equipment may extend beyond or outside the enclosed garage or limited common element driveway.

(b) **Permitted Parking.**

- (1) An Owner may not permit any passenger vehicle, otherwise permitted under Subsection (a) of this subsection, that is in an extreme state of disrepair, inoperable or with an expired license or without any license to be abandoned or to remain parked upon a limited common element parking space or any part of the General Common Elements. A vehicle is deemed in an “extreme state of disrepair” when the Board of Directors reasonably determines that its presence offends the occupants of other Units.
- (2) Owners shall park passenger vehicles in garages or in driveways.

(c) **Loading and Unloading.** Vehicles and equipment otherwise prohibited under this section may be temporarily parked in an area intended for the parking of vehicles for the purpose of loading and unloading.

13.6 **Signs.** Unless permitted by the Board of Directors, no sign of any kind, including without limitation, advertisements or posters, may be displayed to the public view on or from any Unit or the Common Elements without the prior approval of the Board. This prohibition shall not apply to signs used by Declarant to advertise Units for sale or lease.

- 13.7 **Noise Disturbance.** To help foster the peace, serenity and quiet enjoyment of Units, occupants shall exercise extreme care about creating disturbances, making noises or the use of musical instruments, radios, televisions, amplifiers or other electronic equipment that may disturb occupants of other Units.
- 13.8 **Windows, Decks, Outside Walls. Subject to the Act.** In addition to the items prohibited under Subsections (a) of this section, no items of any nature, including, without limitation, garments, rugs, rags, laundry or other clothing or materials, may be hung, displayed or placed on the exterior walls and doors, windows, walkways, roof or any other part of the Condominium that is visible from any Unit, the Common Elements or outside the Condominium.
- 13.9 **Rubbish and Trash.**
- (a) No part of the Condominium may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste.
 - (b) No garbage, trash, or other waste may be kept or maintained on any part of the Common Elements except in designated trash containers. All waste and garbage must be promptly and periodically removed.
- 13.10 **Offensive Activities; Nuisances.** No noxious, offensive or unsightly conditions or activities may be permitted on any portion of the Condominium. All parts of the Condominium must be kept in a clean and sanitary condition.
- 13.11 **Unlawful Activities.** No unlawful use may be made of the Condominium or any part of the Condominium. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the Condominium must be observed.
- 13.12 **Antennas and Other Installations.** Without the written approval of the Board of Directors:
- (a) **Antennas.** Subject to any rules and regulations of the Federal Communications Commission, no antenna, satellite dishes or transmitting towers maybe affixed to a Unit. The Board may adopt rules governing preferred locations of satellite dishes to be placed out of public view to the extent possible.
 - (b) **Installations.** No Owner, resident, lessee, or person may install wiring for electrical or telephone installation, or install heat pumps, heating, ventilating or air conditioning equipment or similar devices or equipment on the exterior of buildings or other parts of the Condominium or that protrude through the walls or the roof of any Unit

or building of the Condominium, except as approved by the Board in accordance with section 12.6 of these Bylaws.

13.13 **Garages.** Under no conditions may Owners convert garages into living spaces.

13.14 **Increase in Insurance.** Nothing may be done or kept in any Unit or in the Common Elements that will increase the cost of insurance to the Association required under Article 16 below. An Owner may not permit anything to be done or kept in Owner's Unit or in the Common Elements that will result in cancellation of insurance on any Unit or any part of the Common Elements.

13.15 **Additional Rules.** Pursuant to Article 8 above, the Board may agree on additional rules and regulations governing the use of Units and Common Elements.

ARTICLE 14 COMPLIANCE AND ENFORCEMENT

14.1 Compliance.

- (a) **Owners, Occupants and Tenants.** Each Owner and occupant (including tenants) of a Unit shall comply with the provisions of the Declaration, these Bylaws, and the Act. The Owner is responsible for obtaining compliance by an occupant of the Unit and is liable for any failure of compliance by the persons in the same manner and to the same extent as the Owner.
- (b) **Guests and Other Invitees.** Guests, invitees, family members, contractors and other persons entering the Unit or other areas of the Condominium under rights derived from the Owner shall comply with all the provisions of the Declaration, these Bylaws and rules and regulations restricting or regulating the Owner's use, improvement or enjoyment of Owner's Unit or other part of the Condominium. The Owner is responsible for obtaining compliance and is liable for any failure of compliance by the person in the same manner and to the same extent as the Owner.
- (c) **Joint Owners.** When two or more persons share the ownership of any Unit, regardless of the form of ownership, the responsibility of the persons to comply with the Declaration and these Bylaws and any rules and regulations is a joint and several responsibility of each and the act or consent of any one or more of the persons constitutes the act or consent of the entire ownership interest. A disagreement among joint Owners as to the manner in which any vote or right of consent held by

them is to be exercised with respect to a pending matter is governed by Section 3.7 above.

14.2 Violations of Declaration or Bylaws. The violation of any provision of these Bylaws or the Declaration or any rule or regulation or the Act gives each Owner the right in addition to any other rights set forth in the Declaration, these Bylaws or the Act to do any or all of the following after giving the Owner reasonable notice and an opportunity to be heard:

- (a) To enter the Unit or appurtenant limited common element in which or as to which the violation exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist in the Unit or limited common element contrary to the intent and meaning of stated violated provisions, and the person entering may not thereby be deemed guilty of any manner of trespass.
- (b) To refer the matter to dispute resolution services as provided in Section 14.1 above.
- (c) To enjoin, abate or remedy such thing or condition by appropriate legal proceedings.

14.3 Default in Payment of Assessments; Enforcement of Lien.

(a) **Association Lien.**

- (1) **Automatic Lien.** Whenever the Association levies any assessment against a Unit, the Association has a lien upon the Unit and the undivided interest in the Common Elements appertaining to the Unit for any unpaid assessments as provided in the Act. The recording of the Declaration constitutes record notice and perfection of the lien for assessments. Recording of a claim of lien for assessments or notice of a claim of lien is not required to perfect the Association's lien.
- (2) **Priority of Lien.** The priority of the lien of the Association against a Unit for assessments is governed by ORS 100.450 or other applicable provisions of the Act.
- (3) **Notice of Lien.** If the defaulting Owner refuses to pay unpaid assessments, the Association may record a notice of claim of lien as provided under the Act on behalf of the Association. The notice of lien shall be in the form and include the information specified in ORS 100.450. The Association must record a notice of lien

before any suit to foreclose may proceed as provided in Subsection (d)(2) of this section.

- (b) **Delinquent Assessment.** An assessment is delinquent if not paid within thirty (30) days after its due date.
- (c) **Interest; Late Payment Charge.** If any assessment is delinquent:
 - (1) The Owner is obligated to pay interest from the due date of the assessment or such other date as may be specified by resolution adopted by the Board of Directors. Interest accrues at the rate of twelve percent (12%) per annum or at such other rate, not to exceed the maximum lawful rate, if any, as may be established by a resolution adopted by the Board.
 - (2) Unless otherwise provided by a resolution adopted by the Board of Directors, within thirty (30) days after its due date, the Owner is obligated to pay a late charge if the unpaid assessment for each assessment is not paid when due. The amount of the late charge shall be determined by a resolution adopted by the Board of Directors.
- (d) **Remedies.** If an assessment is not paid as provided in Article 9 or this article, in addition to interest and late payment charges imposed under Subsection (c) of this section, the Association may exercise any or all of the following remedies:
 - (1) **Acceleration of Assessment.** If any assessment or any portion of any assessment is delinquent, the Board may, after written notice to the Owner as provided in a resolution adopted by the Board, declare all assessments of the Owner due immediately and interest thereafter accrues as provided under Subsection (c) of this section on the entire assessment until paid.
 - (2) **Foreclosure of Lien.** Pursuant to ORS 100.450, the Association, by and through the Board of Directors, may file a suit to foreclose the lien described under Subsection (a) of this section, provided the notice of lien was recorded in accordance with the Act as provided under Subsection (a)(3) of this section. The Association has all rights regarding the foreclosure provided under the Act.
 - (3) **Suit or Action.** The Association may bring an action to recover a money judgment for unpaid assessments under the Declaration or these Bylaws without foreclosing or waiving the lien described

in Subsection (a) of this section. Recovery on any such action operates to satisfy the lien, or the portion thereof, for which recovery is made.

- (4) **Other Remedies.** The Association has any other remedy available to it by law or in equity.
- (e) **Collection Costs.** An Owner is obligated to pay all expenses incurred by the Association in collecting unpaid assessments including without limitation:
 - (1) Attorney fees incurred by the Association (whether or not legal proceedings are instituted and including attorney fees at trial, in arbitration or on appeal, or petition for review).
 - (2) If notice of lien is recorded under Subsection (a)(3) of this section, the costs associated with the preparation and recording of the notice of lien and any release of lien.

14.4 **Costs and Fees.**

- (a) A Unit Owner determined liable under this article is liable to the Association for:
 - (1) All costs and attorney fees incurred by the Association, whether or not legal proceedings are instituted and including attorney fees at trial, in arbitration or on appeal, or petition for review;
 - (2) Any actual expense incurred by the Association in remedying the default, damage incurred by the Association or Unit Owners; and
 - (3) Any fines levied under Section 15.2 above.
- (b) The sums described under Subsection (a) of this section shall be levied against the offending Unit as an Individual assessment under Section 9.8 above and enforced as provided in this article.

14.5 **Disputes between Association and Owners.** Litigation and administrative proceedings in which the Association and an Owner have an adversarial relationship are subject to ORS 100.405(11).

ARTICLE 15 INSURANCE

15.1 Insurance by Association. The Board of Directors shall obtain and maintain at all times the insurance specified in this section to the extent available at a reasonable cost. The insurance coverage required by this section may be provided by being named as an additional insured on the policies of insurance covering the Master Association in order to minimize the premiums for required coverage by sharing policies with the Master Association.

(a) Property Damage Insurance.

- (1) The Association shall maintain a policy or policies of property insurance covering loss or damage from occurrences including, but not limited to, fire, vandalism, and malicious mischief with extended coverage endorsement, and such other coverage such as flooding and earthquake, that the Association may deem desirable.
- (2) The amount of the coverage for property damage insurance shall be for not less than one hundred percent (100%) of current replacement cost of all Common Elements, exclusive of land, foundation, excavation and other items normally excluded from coverage.
- (3) The policy or policies obtained under this subsection must include all fixtures and building service equipment to the extent that they are part of the Common Elements and all personal property and supplies belonging to the Association.
- (4) The policy or policies obtained under this subsection must:
 - (i) Name the Association as insured and must provide for loss payable in favor of the Association, as trustee for each Unit Owner and each Unit Owner's mortgagee, as their interests may appear.
 - (ii) Contain the standard mortgage clause, or equivalent endorsement (without contribution) that is commonly accepted by institutional mortgage investors in Oregon.
 - (iii) Include a provision that any "no other insurance" clause in the Association policy exclude individual Owners' policies from consideration, and a waiver of the usual proration clause with respect to the policies.

- (5) The policy or policies obtained under this subsection must contain a “Special Condominium Endorsement” or its equivalent proving for the following:
 - (i) Recognition of any Insurance Trust Agreement.
 - (ii) A waiver of the right of subrogation by the insurer as to any claims against the Board of Directors, the manager and their respective agents.
 - (iii) That the insurance is not prejudiced, invalidated, cancelled or suspended by any act or neglect of individual Unit Owners that is not in the control of the Owners collectively.

(b) **Liability Insurance.**

- (1) The Association shall obtain and maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the Board of Directors, and Unit Owners individually against liability to the public or to the Owners of Units and their invitees or tenants incident to the operation, maintenance, ownership, or use of the property, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from the policy or policies coverage of a Unit Owner (other than as a member of the Association or the Board of Directors) for liability arising out of acts or omission of the Unit Owner and liability incident to the ownership or use of the part of the property as to which the Unit Owner has the exclusive use or occupancy.
- (2) Limits of liability under the insurance required under this subsection may not be less than One Million Dollars (\$1,000,000) on a combined single limit basis.

(c) **Fidelity Bond.**

- (1) The Association shall obtain and maintain a fidelity bond for all officers, directors, trustees, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. If the Association retains a management agent, the Board of Directors may require the agent to maintain fidelity insurance for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association.

- (2) The total amount of fidelity insurance coverage required shall be based upon the best business judgment of the Board of Directors. However, in no event may the aggregate amount of the insurance be less than the sum equal to three (3) months' aggregate assessments on all Units plus reserve funds.
- (d) **Directors' and Officers' Liability Insurance.** The Association shall obtain and maintain a policy of directors' and officers' liability insurance with coverage in the amount of not less than One Million Dollars (\$1,000,000), subject to a reasonable deductible. The policy must include coverage for any employee, including any independent contractor, who has duties relating to management of the Association.
- (e) **Additional Insurance.** The Board of Directors, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association, the Board of Directors or Unit Owners.

15.2 Insurance by Owners.

- (a) Each Unit Owner shall obtain and maintain, at Owner's own expense, the insurance specified in this subsection. Each Owner shall:
 - (1) Any property of Owner not insured under Section 15.1(a) above and against Owner's liability not covered under Section 15.1(b) above in accordance with this section, unless the Board of Directors agrees otherwise.
 - (2) Obtain and maintain personal effects fire and comprehensive personal liability and premises.
 - (3) Purchase insurance policies insuring their Units for the deductible amount under the Association's policies.
 - (4) Obtain and maintain comprehensive liability policies having combined limits of not less than Three Hundred Thousand Dollars (\$300,000), or such greater minimum amount that may be determined by the Board to be in the best interest of the Association and Owners, for each occurrence. The insurance shall include, but not be limited to, coverage for the negligent acts of the Owner and tenant and their guests or other occupants of the Unit for damage to the Common Elements and other Units and the personal property of others located therein.

- (b) If requested in writing by the Board of Directors, an Owner or tenant shall file a copy of each policy or proof of insurance required under this section with the Association within thirty (30) days of the request.

15.3 **Additional Requirements.** Insurance obtained by the Association shall be based upon the best business judgment of the Board of Directors and governed by the following provisions:

- (a) All losses under policies regarding the property must be settled exclusively with the Board of Directors or its authorized representative. Proceeds of the policies must be paid to the Association as trustee for the Unit Owners, or upon demand of any mortgage, to an insurance trustee acceptable to the Association and mortgagees of Units.
- (b) The proceeds from any casualty policy, whether held by the Association or a Unit Owner, payable with respect to any loss or damage to the Common Elements, shall be held in trust for the benefit of all insured as their interest may appear.
- (c) All Association policies required by this article must provide that the policy may not be cancelled (including cancellation for nonpayment of premium) or substantially modified without at least ten (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 and each servicer on behalf of the Federal National Mortgage Association.

15.4 **Evidence of Association Insurance.** Upon written request of an Owner or mortgagee of a Unit, the Board of Directors shall as soon as practicable provide evidence of insurance maintained by the Association.

ARTICLE 16 AMENDMENTS TO BYLAWS

16.1 **Proposal and Adoption.** Except as may be otherwise provided in these Bylaws or by the Act, these Bylaws may be amended if the amendment is approved by Owners of at least 75% of the Units. Declarant's consent shall be required for any amendment to the Bylaws as long as Declarant owns a Unit in the Condominium. Such consent shall not be required after five (5) years from the date of conveyance of the first Unit to a person other than the Declarant. Any amendment which would limit or diminish any special Declarant rights established in these Bylaws shall require the written consent of Declarant.

16.2 **Execution and Recording.** An amendment is not effective until the amendment is:

- (a) Executed and acknowledged by the chairperson and secretary of the Association;
- (b) Certified by the chairperson and secretary of the Association as being adopted in accordance with these Bylaws and ORS 100.410;
- (c) Approved by the Real Estate Commissioner if the amendment is recorded within five
 - (1) years of the date of recording of these initial Bylaws; and
- (d) Recorded in the office of the recording officer of Lincoln County, Oregon.

ARTICLE 17 GENERAL PROVISIONS

17.1 Notices and Information.

- (a) **Association.** Any notice, information or written material required to be provided to the Association or the Board of Directors shall be delivered care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may designate from time to time.
- (b) **Owners.**
 - (1) Any notice, information or written material required to be provided to a Unit Owner shall be delivered to such address as may have been designated in writing by the Owner in writing to the Board of Directors, or if no address has been designated, then notice shall be delivered to the Owner's Unit.
 - (2) If a Unit is jointly owned or the Unit has been sold under a contract of sale, notice shall be delivered to a single address of which the Board of Directors has been notified in writing by the parties. If no address has been given to the Board in writing, then delivery to the Unit is sufficient.
- (c) **Manner of Delivery.** Except as otherwise required by the Declaration, these Bylaws, rules and regulations or law, if within the required time, delivery of notice of meetings and any other notice, information or

written material required to be provided or allowed by the Declaration, these Bylaws, rules and regulations or law is sufficient if:

- (1) Addressed to the Unit Owner or the Association in accordance with this section; and
 - (2) Personally delivered or deposited in the United States mail, postage prepaid.
- (d) **Waiver.** A waiver of notice in writing signed by the person entitled to the notice is deemed equivalent to the giving of notice whenever any notice is required to be given under the Act or the Oregon Nonprofit Corporation Act, as they exist or may be amended in the future, or under the provisions of the Declaration, Articles of Incorporation or these Bylaws.

17.2 Electronic Communications.

- (a) Subject to Subsections (b) and (c) of this section, notwithstanding any requirement under the Declaration, these Bylaws, the Act or Oregon Nonprofit Corporation Act, in the discretion of the Board of Directors, any notice, information or written material required to be provided an Owner under the Declaration, these Bylaws, the Act or Oregon Nonprofit Corporation Act, may be given by electronic mail, facsimile or other form of electronic communication acceptable to the Board of Directors in accordance with rules prescribed by resolution adopted by the Board, except notices relating to the following matters:
 - (1) Failure to pay an assessment.
 - (2) Foreclosure of the Association lien under ORS 100.450.
 - (3) Action the Association may take against the Owner.
 - (4) Offer to use dispute resolution program required under ORS 100.405(11).
- (b) At the time a notice, information or written material is to be provided an Owner under Subsection (a) of this section, to the extent that this section conflicts with a provision of the Act or Oregon Nonprofit Corporation Act, the applicable act governs.
- (c) An Owner may not be required to receive any notice, information or material by any form of electronic communication. Any rules adopted

under Subsection (a) of this section must provide for Owners to receive the notice, information or written material in the manner required under the Declaration, these Bylaws, the Act or applicable law.

17.3 **Waiver, Precedent and Estoppel.** No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant to these Bylaws may be deemed to have been abrogated or waived by the Association or an Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof that may occur and any failure to enforce the same may not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

17.4 **Invalidity; Number; Construction; Captions.**

- (a) **Invalidity.** The invalidity of any part of these Bylaws by judgment or court order does not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.
- (b) **Number and Construction.** As used in these Bylaws:
 - (1) The singular includes the plural and the plural the singular as the context requires.
 - (2) “May not” and “shall not” are equivalent expressions of an absolute prohibition.
 - (3) “Violate” includes failure to comply.
 - (4) The masculine, feminine and neuter each include the masculine, feminine and neuter, as the context requires.
- (c) **Captions.** All captions used in these Bylaws are intended solely for convenience of reference and in no way limit any of the provisions of these Bylaws.
- (d) **Liberal Construction.** These Bylaws shall be construed liberally to give effect to the entire document.

17.5 **Conflicts.**

- (a) These Bylaws are intended to comply with applicable provisions of the Act, the Oregon Nonprofit Corporation Act and the Declaration. In case of any irreconcilable conflict, the acts, subject to ORS 65.959 and

100.100, and the Declaration control over these Bylaws or any rules and regulations as provided in ORS 100.122.

- (b) In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles control to the extent consistent with the Act and the Oregon Nonprofit Corporation Act.

[Signatures on following page]

IN WITNESS WHEREOF, Declarant has caused these Bylaws to be executed on:

_____, 2024.

DECLARANT

Little Whale Cove Condominium Owners
Association

By: _____
Scott Whitmire, Chair

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me this _____ day of
_____, 2024, by Scott Whitmire, Chair of Little Whale Cove
Condominium Owners Association, on its behalf.

NOTARY PUBLIC FOR OREGON
My Commission expires: _____

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