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I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobernicht, Director of Assessment and Taxation, Ex-Officio County Clerk



UPON RECORDING, PLEASE RETURN TO:

Jennifer Elson
GLC-South Hillsboro, LLC
1915 NW AmberGlen Parkway, Suite 160
Hillsboro, OR 97006

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

REED'S CROSSING RESIDENTIAL COMMUNITY

Declarant:

GLC-South Hillsboro, LLC
1915 NW AmberGlen Parkway, Suite 160
Hillsboro, OR 97006

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
REED'S CROSSING RESIDENTIAL COMMUNITY**

This Declaration of Covenants, Conditions and Restrictions for Reed's Crossing Residential Community (as it may be amended, the "**Declaration**") is established by GLC - South Hillsboro, LLC, a Delaware limited liability company, on behalf of itself, its successors, successors-in-title and assigns ("**Declarant**").

BACKGROUND STATEMENT

Reed's Crossing is a mixed-use planned community located in the City of Hillsboro, Washington County, Oregon, which consists or may consist of a variety of residential and commercial uses ("**Reed's Crossing**"). This Declaration sets forth a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance, and preservation of various residential properties within Reed's Crossing and the common areas that serve such residential properties. A key component of the governance structure is Reed's Crossing Residential Association, Inc. ("**Association**"), an Oregon nonprofit corporation, which the Declarant has established to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration and to own, operate, and/or maintain such common areas and community improvements as the Declarant may designate in accordance with this Declaration.

This document provides for automatic and mandatory membership in a homeowners association subject to the Oregon Planned Community Act, O.R.S. §§94.550 to 94.785 (the "**OPC Act**"). The property now and hereafter made subject to this Declaration constitutes a "Class I Community" as defined in and subject to the OPC Act.

DECLARATION OF BINDING EFFECT

The Declarant, as the owner of the property described in Exhibit "A" to this Declaration, hereby declares that this Declaration shall run with the title to the real property described in Exhibit "A" and any additional property made subject to this Declaration in the future by amendment or supplement (referred to collectively in this Declaration as the "**Community**"). This Declaration shall govern the development and use of the Community and shall be binding upon and inure to the benefit of the Declarant, the Association, the future owners of any portion of the Community, their respective heirs, successors, successors-in-title and assigns, and every other person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of the Community.

PART ONE: INTRODUCTION TO THE COMMUNITY

Chapter 1 - Governing Documents

The governing documents for the Community set forth the rights and obligations of the owners and occupants of property in the Community as well as the rights and responsibilities of the Declarant and the Association. The governing documents also contain certain limitations on the owners' property rights for the benefit of the Community as a whole.

1.1. Scope and Applicability

The Community has been established and is administered pursuant to various documents that are legally binding on all owners and occupants of property in the Community and on each person

or entity that may now or in the future hold an interest in any portion of the property comprising the Community. Such documents, referred to in this Declaration as the "**Governing Documents**," include this Declaration and the other documents described in Table 1.1, as they may be

GOVERNING DOCUMENTS	
Declaration: (recorded)	this Declaration of Covenants, Conditions and Restrictions for Reed's Crossing Residential Community, which creates obligations that are binding upon the Association and all present and future owners of property in the Community
Supplement: (recorded)	a recorded Supplement to this Declaration, which may submit additional property to this Declaration, designate special areas as described in Chapter 3, impose additional covenants, restrictions and easements over the property described in the Supplement, create exceptions to this Declaration to reflect the different character or use of such property, or any of the foregoing
Articles of Incorporation: (filed with Secretary of State and copy attached as Exhibit "E")	the Articles of Incorporation of Reed's Crossing Residential Association, Inc., as they may be amended, which establish the Association as a nonprofit corporation under Oregon law
Bylaws: (copy attached as Exhibit "F")	the Bylaws of Reed's Crossing Residential Association, Inc. adopted by its board of directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc. The Bylaws and any amendments thereto must be recorded
Design Guidelines: (Declarant adopts)	the design standards and architectural and aesthetic guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to property in the Community, including structures, landscaping, and other items constructed or installed by anyone other than the Declarant
Rules: (initial Rules attached as Exhibit "D")	the rules of the Association, which regulate use of property, activities, and conduct within the Community and other matters as authorized in this Declaration, as they may be amended, expanded and repealed pursuant to Chapter 7
Board Resolutions: (corporate record book)	the resolutions which the Association's board of directors adopts to establish rules, policies, and procedures for internal governance and Association activities and to regulate the operation and use of property that the Association owns or controls

Table 1.1 - Governing Documents

Governing Documents

amended and supplemented. All owners and occupants, as well as their tenants, guests, and invitees, are obligated to comply with the Governing Documents.

1.2. Additional Covenants

The Owner of any property within the Community may impose additional covenants and restrictions on its property with such approval as may be required pursuant to Section 18.5 ("**Additional Covenants**"). The Association shall have standing and the power, but not the obligation, to enforce any Additional Covenants.

1.3. Conflicts and Ambiguities

If there are conflicts between any of the Governing Documents and Oregon law, Oregon law shall control. If there are conflicts between or among any of the Governing Documents, then the Articles, this Declaration, the Bylaws, the Design Guidelines, and the Rules shall control, in that order, to the extent not inconsistent with Oregon law. If there is a conflict between the Declaration and any additional provisions set forth in a Supplement and applicable only to the property described in such Supplement, the Supplement shall control as to such property. If there is a conflict between the Governing Documents and any Additional Covenants (or the rules or policies adopted pursuant to any such Additional Covenants), the Governing Documents shall control.

For purposes of this Section, a "conflict" shall exist when (a) provisions in two or more documents establish different rights and/or obligations, and (b) they are either mutually exclusive, or honoring or complying with a right, power, privilege, exemption, prohibition, or obligation established by one document would be inconsistent with the intent of a right, power, privilege, exemption, prohibition, or obligation established by another document. Where provisions in two documents address the same subject in a different manner, but both could be honored

without interfering with any exemption, right, or privilege otherwise granted by the documents, they shall not be considered in conflict and both shall be given effect.

The Governing Documents use diagrams, tables, and keynotes (text set apart in boxes with "key" icons) to emphasize or explain concepts and highlight certain key points. If there is a conflict between any diagram, table or keynote and the text of the Governing Documents, the text shall control.

If any court determines that any provision of this Declaration or other Governing Documents is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

The Association's board of directors ("**Board**") may, by resolution, resolve any ambiguities in the Governing Documents, and the Board's reasonable interpretation of an ambiguous provision shall be determinative.

1.4. Definitions

Capitalized terms used in the Governing Documents have the meaning described in the paragraph where they first appear in bold print. An index to defined terms follows the Table of Contents and Table of Exhibits at the beginning of this Declaration. All other terms used in the Governing Documents have their usual, commonly accepted definitions.

1.5. Interpretation of Certain References

Community-Wide Standard. Where the Governing Documents require compliance with the "**Community-Wide Standard**," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing among similar land uses in the Community, or (b) the minimum standards described in this Dec-

Governing Documents

laration, the Design Guidelines, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the discretion of the Board or the Reviewer (as defined in Chapter 5). All elements of the Community-Wide Standard may or may not be set out in writing. The Declarant initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as the Community matures.

Consent or Approval. All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the person or entity whose consent or approval is required.

Discretion and Determination. All references in the Governing Documents to "**discretion**" or to the right to "**determine**" any matter shall mean the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, anyone authorized in the Governing Documents to exercise discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

Maintenance. Unless otherwise expressly limited, any reference in this Declaration to "**maintenance**" shall refer to maintenance, repair, and replacement.

Notice. All references in this Declaration to "notice" shall refer to notice delivered in accordance with the provisions for notice set forth in the Bylaws, unless the context authorizes or requires notice to be delivered in a different manner.

Person. References in the Governing Documents to a "**Person**" or "**Persons**" shall refer to an individual, a corporation, a partnership, a lim-

ited liability company, a trust, or any other legal entity.

Recording. All references in the Governing Documents to a "**recorded**" legal instrument, or to "**recordation**" or the "**recording**" of a legal instrument, shall refer to a legal instrument filed or the filing of a legal instrument in the Recording Division of the Assessment and Taxation Department for Washington County, Oregon, or such other place designated as the official location for filing documents affecting title to real estate in Washington County, Oregon in order to make them a matter of public record.

Chapter 2 - Community Administration

Vibrant communities depend upon all of their stakeholders working together to uphold community standards and achieve the vision and goals for the community. The Declarant, the Association, the Owners, the Builders, and others have a role in the functioning of the community and in helping to fulfill that vision. This Chapter identifies these stakeholders and describes their roles in administering the Community.

2.1. The Declarant

The Declarant has established the vision for the Community and, through the Governing Documents and separate legal documents applicable to certain commercial properties within Reed's Crossing, has set forth the founding principles that will guide the development and administration of Reed's Crossing during the initial period of development and sale and thereafter. The Declarant's proposed plan for development of the Community is described in the Planned Unit Development (PUD) concept plan for Reed's Crossing approved by the City of Hillsboro, Oregon, as it may be supplemented and amended from time to time, which plan encompasses all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" of this Declaration ("**Development Plan**"). However, the Declarant reserves the right to make changes in the Development Plan, subject to obtaining any necessary governmental approvals, and does not represent that the Community will be developed as currently described in the Development Plan. The Declarant is not obligated to submit all property described in the Development Plan to this Declaration, and the Declarant may submit property to this Declaration that is not described in the Development Plan.

The Declarant has reserved throughout the Governing Documents various rights that may be exercised by the Declarant and "Declarant Affiliates" (collectively, "**Declarant Rights**"), including, without limitation, rights with respect to expansion, development and administration of the Community and the Association as set forth in this Section and in Chapters 17 and 18 of this

Declaration. A "**Declarant Affiliate**" is any owner, member, partner, or shareholder of the Declarant, and any entity controlled or managed by any of the foregoing, if such entity now or hereafter takes title to property described on Exhibits "A" or "B" of this Declaration.

Certain of the Declarant Rights may be exercised throughout the "**Development and Sale Period**," which is the period of time between the recording of this Declaration and the date as of which all of the following have occurred: (i) the Declarant and Declarant Affiliates no longer own any real property in the Community for development and/or sale in the ordinary course of business; (ii) the Declarant's right to unilaterally expand the Community pursuant to Section 17.1 has expired; and (iii) every Unit has been improved with a dwelling for which a certificate of occupancy has been issued by the applicable governmental authority and is owned by a Person other than a Builder holding title for resale in the ordinary course of its business.

Other Declarant Rights may be exercised during the "**Declarant Control Period**," a period of time during which the Declarant is entitled to appoint a majority of the members of the Association's Board, which begins on the date of the Association's incorporation and terminates no later than 90 days after the first of the following to occur:

(a) 90% of the maximum number of dwelling units permitted by applicable zoning for the property described in the Development Plan have been conveyed to Persons other than the Declarant;

Community Administration

(b) December 31, 2050; or

(c) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

During the Declarant Control Period, the Declarant has the right to elect at least a majority of the members of the Board as provided in Article 3 of the Bylaws, subject to the limitations set forth in the OPC Act. After the termination of the Declarant Control Period, the Declarant has certain approval rights over Association actions for a limited period as provided in the Bylaws.

The Declarant may assign its rights and status as the Declarant to others in accordance with Section 18.10 of this Declaration, as may any Person who succeeds to the status of Declarant hereunder.

2.2. The Association and its Board

The Association is the primary entity responsible for administering the Community in accordance with the Governing Documents. On most matters, the Association acts through the Board, which is selected as provided in Section 2.1 and the Bylaws. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Oregon law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.

The Association may exercise all rights and powers that the Governing Documents and Oregon law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents and Oregon law. It may also take any action reasonably necessary to effectuate any such right or privilege.

Although the Association has the power to institute, defend, and settle lawsuits pertaining to the Area of Common Responsibility (as defined

in Section 3.1) and enforcement of the Governing Documents, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances), and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards for directors and officers set forth in the Articles and Bylaws and Oregon law.

2.3. The Owners

Each Person that holds record title to a Unit, (as defined in Section 3.1) is referred to in the Governing Documents as an "Owner." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Unit is sold under a recorded contract for deed (sometimes referred to as an "installment land sale contract"), and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner so long as such contract remains in effect, notwithstanding that the deed has not yet been delivered. If a Unit has more than one Owner, all co-Owners shall share the benefits to which Owners are entitled and are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

Every Owner has a duty to comply with the Governing Documents and uphold the community standards described in Part Two of this Declaration. Each Owner also has an opportunity to participate in the administration of the Community through membership in the Association and through service to the Community in other

Community Administration

committee and leadership roles, as described in the Bylaws.

2.4. Builders

The Declarant intends to sell property in the Community to Persons engaged in the business of constructing dwellings for resale in the ordinary course of their business ("**Builders**"). Builders are considered Owners during the time that they own property in the Community and, except as otherwise specifically provided in this Declaration or the OPC Act, have the same privileges and responsibilities as other Owners for each Unit that they own, including the privileges and obligations of membership in the Association and the obligation to comply with the Design Guidelines and other Governing Documents. In addition, the Declarant may extend any of the rights it has reserved under the Governing Documents with respect to development, marketing, and sale of property in the Community to such Builders as it may designate, without relinquishing its rights or status as the Declarant or the power to exercise such rights on its own behalf, as described in Section 18.10. Each Builder shall be fully responsible for its own activities and those of its contractors, subcontractors, agents, vendors, and invitees within the Community, as well as any improvements which they construct or install within the Community.

2.5. Additional Associations

Portions of the Community may be developed under a condominium form of ownership or may have special requirements that warrant a separate owners association to administer Additional Covenants applicable to that particular area ("**Additional Association**"). For example, a group of Units which are subject to Additional Covenants regulating occupancy of such Units in order to qualify as housing for persons 55 years of age or older as described in Section 807(b)(2)(C) of the Fair Housing Act (42 U.S.C. § 3607(b)(2)(C)), as amended (an "**Age-Qualified Area**"), may have an Additional Association to administer such

Additional Covenants. Nothing in this Declaration requires the creation of an Additional Association; however, if established, the jurisdiction of any Additional Association shall be in addition to and subordinate to that of the Association. The Owners of Units within the jurisdiction of any Additional Association shall be members of both the Additional Association and the Association.

Any Additional Association shall be responsible for administering the Additional Covenants applicable to the property within its jurisdiction and for maintaining, in accordance with the Community-Wide Standard, any property that it owns or that such Additional Covenants designate as being for the common benefit of its members. However, an Additional Association may contract with others, including the Association, to perform various services on its behalf.

2.6. Mortgagees

If a Unit (as defined in Section 3.1) is made subject to a mortgage or other form of security instrument affecting title to a Unit ("**Mortgage**"), then the holder or beneficiary of that Mortgage ("**Mortgagee**") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 16.

2.7. Reed's Crossing Commercial Association

The Declarant has established or intends to establish a separate nonprofit corporation to serve as a mandatory membership owners association with jurisdiction over properties in Reed's Crossing intended for commercial, institutional, and multi-family rental apartment use (the "**Commercial Association**"), to administer recorded covenants applicable to those properties (the "**Commercial Declaration**") and various governing documents referenced in such Commercial Declaration (collectively referred to as the

Community Administration

"**Commercial Documents**"). The Declarant intends for the Association and the Commercial Association to cooperate in the administration of the property within their respective jurisdictions and in the enforcement of their respective governing documents in order to maintain and preserve high standards of architecture, maintenance, and use throughout Reed's Crossing. This may include, without limitation, entering into agreements for common management or maintenance.

2.8. Reed's Crossing Maintenance Association

The Declarant has established or intends to establish a separate nonprofit corporation, to be known as Reed's Crossing Maintenance Association, Inc. ("**Maintenance Association**") to maintain certain landscaping, open space, and community infrastructure, signage, facilities, and improvements within Reed's Crossing which the Declarant identifies as benefiting the Community as well as properties subject to the Commercial Declaration. Each Unit subject to this Declaration and the properties subject to the Commercial Declaration shall also be subject to the Declaration of Covenants for Reed's Crossing Maintenance Association ("**Maintenance Declaration**"). Each Owner of a Unit subject to this Declaration and each member of the Commercial Association shall also be members of the Maintenance Association, as provided in the Maintenance Declaration.

Chapter 3 - Community Structure and Organization

The Community consists of Units intended for the use of the Owner and other occupants of the Unit, as well as property that is intended for common use. Units are grouped into Neighborhoods to facilitate voting on Association matters. Units also may be assigned to Service Areas to permit the Association to provide special services and benefits to particular areas of the Community.

3.1. Designations of Properties Comprising the Community

Units. The Governing Documents refer to the homes and home sites in the Community as "Units." A Unit is a portion of the Community, whether improved or unimproved, which (i) is described and depicted as a separately identified lot or parcel on a recorded subdivision plat or identified as a separate unit in the recorded documents for a condominium regime, (ii) may be independently owned and conveyed, and (iii) is zoned or otherwise intended for development, use, and occupancy as a residence for a single household (together with any garage apartment, guest house, or similar accessory dwelling approved pursuant to Chapter 5). The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit.

In addition, a parcel of land under single ownership is considered a single Unit until a plat, survey, or condominium instrument is recorded dividing it into more than one Unit in accordance with this Declaration and applicable law. The term "Unit" does not include Common Area, as defined below, common property of the Commercial Association, the Maintenance Association, or any Additional Association, or property dedicated to the public.

A platted lot shall be treated as a single Unit notwithstanding that it contains a primary and an accessory dwelling, if such accessory dwelling is permitted by applicable zoning and approved pursuant to Chapter 5 of this Declaration. Nothing herein shall be construed to grant any Owner the right to construct an accessory dwelling on any Unit and, if such right is granted, rights of the

occupants of the accessory dwelling to use and enjoy recreational facilities within the Common Area shall be subject to the provisions of Section 13.1.

The subdivision and combination of Units is subject to Section 7.1(d).

Common Area. Any property and facilities which the Association owns, or in which it holds an easement or other possessory or use rights for the common use or benefit of more than one Unit, are referred to in this Declaration as "Common Area." The Common Area also includes any easements in favor of the Association and any property that the Association holds under a lease. The Declarant, Declarant Affiliates and others may establish and convey Common Area to the Association as provided in Section 9.1. A legal description of any real property which is or must become Common Area is attached to this Declaration as Exhibit "C." The Declarant may supplement Exhibit "C" to this Declaration without the consent of any Owner to expand the description of such property. In addition, the Association may amend this Declaration in accordance with the procedures set forth in Section 21.2, or as may otherwise be authorized in the OPC Act, to expand the description of the Common Area to include any property which it then owns.

Limited Common Area. Certain portions of the Common Area may be designated as "Limited Common Area" and assigned for the exclusive use or primary benefit of one or more Units in specified portions of the Community. Limited Common Areas might include, for example, private driveways providing access to more than one Unit, easements for retaining walls supporting more than one Unit, and such

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things as private streets and entry features or recreational facilities that serve only a portion of the Community.

The Declarant may designate property it owns as Limited Common Area and assign it for the benefit of a particular Unit or Units on Exhibit "A" to this Declaration, on the recorded plat depicting such property, in the Supplement by which the property is submitted to the terms of this Declaration, or in the deed or other recorded instrument conveying or granting an interest in such property to the Association. At any time during the Development and Sale Period, the Declarant may assign use of the same Limited Common Area to additional Units.

Area of Common Responsibility. All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "Area of Common Responsibility," regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units, property owned by any Additional Association, and property dedicated to the public, such as public rights-of-way adjacent to the Community and public parks serving the Community. The initial Area of Common Responsibility is described in Chapter 9.

Other Properties. In addition to the above, the Community may include property dedicated to the public and property owned or controlled by an Additional Association for the common use and enjoyment of its members.

3.2. Service Areas

Units also may be part of one or more "Service Areas" in which the Units share Limited Common Areas or receive special benefits or services from the Association that the Association does not provide to all Units, such as exterior or

landscape maintenance. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

All Units which share the use and benefit of a Limited Common Area (by way of illustration, not limitation, a Private Street, as defined in Section 13.9) shall constitute a Service Area for the purposes of maintaining such Limited Common Area. All Units, except those Units which are part of an Age-Qualified Area excluded by an applicable Supplement recorded pursuant Chapter 17 from using some or all of the recreational facilities within the Common Area, shall constitute a "Recreational Facilities Service Area" for purposes of sharing the costs of maintaining, operating, and insuring those recreational facilities which are not available for use by all Units. The Declarant may designate other Service Areas (by name or other identifying designation) and assign Units to a particular Service Area either in Exhibit "A" to this Declaration or in a Supplement applicable to Units comprising the Service Area, which Supplement shall be executed and recorded in accordance with Chapter 17. During the Development and Sale Period, the Declarant may unilaterally amend this Declaration or any Supplement to designate or change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners of at least 67% of the Units affected by the proposed designation pursuant to Section 10.2; provided, the consent of the Declarant shall also be required during the Development and Sale Period.

The costs of providing special benefits or services to a Service Area shall be allocated among the Units within each Service Area as provided in Chapter 12 or in the Supplement or Board resolution establishing such Service Area.

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The Owners of Units within each Service Area may elect a "Service Area Committee" in accordance with the Bylaws to represent, and act on behalf of, the Owners with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

3.3. Shared Properties and Services

The Declarant may execute and record a declaration of easements and covenant to share costs or similar instruments affecting all or any portion of the Community ("**Covenant to Share Costs**") which provides for:

(a) the maintenance and operation of any landscaping, open space, community signage, infrastructure, facilities and improvements ("**Shared Properties**") and/or the provision of various services ("**Shared Services**") which benefit all or any portion of the Community and all or any portion of the property subject to the Commercial Declaration or other property outside of the Community;

(b) the sharing of costs of maintaining, operating, and insuring such Shared Properties and providing any Shared Services, and

(c) easements over any portion of the Common Area, or over any other portion of the Community with the consent of the Owner thereof, for the benefit of any real property subject to the Commercial Declaration or any property within or adjacent to the Community; and/or

(d) easements over any other property for the benefit of all or portions of the Community.

Any such Covenant to Share Costs shall be executed by the Declarant and the owner(s) of the property being submitted to such Covenant to Share Costs, if other than the Declarant, and shall be binding upon the Association and the

Owners of any portion of the Community submitted to such Covenant to Share Costs; however, no such Covenant to Share Costs shall obligate the Association to share costs incurred by the Commercial Association or to maintain common property of the Commercial Association if the Association's share of such costs would be a Common Expense to be assessed against Owners pursuant to Chapter 12, unless such cost sharing or maintenance obligation is first approved by Owners entitled to cast a majority of the votes of Units owned by Persons other than the Declarant that would be subject to assessment for a share of such costs, if any.

Chapter 4 - Association Membership and Voting Rights

The Association is the entity primarily responsible for governance and administration of the Community. While many powers and responsibilities of the Association are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in the Owners allow the Owners to participate in administration of the Community and influence the outcome of major decisions.

4.1. Membership

The Association initially has two classes of membership: the "**Owner Membership**," which is comprised of all Owners (including the Declarant, Declarant Affiliates, and Builders, if they own Units) (each an "**Owner Member**"), and the "**Declarant Membership**," which consists solely of the Declarant (the "**Declarant Member**") and is not dependent on ownership of a Unit. The Declarant may, by Supplement, create additional classes of membership comprised of the Owners of Units within any portion of the additional property submitted to this Declaration. The Declarant shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement. All persons holding a membership in the Association are referred to in this Declaration and the Bylaws as "**Members**."

(a) Owner Members. Every Owner is automatically a member of the Association. However, there shall be only one Owner Membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such Owner Membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the Bylaws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any Common Area recreational facilities available for use by Owners.

(b) Declarant Member. The Declarant holds the sole Declarant Membership. The Declarant membership shall terminate two years after expiration of the Declarant Control Period or on such earlier date as the Declarant determines and declares in a recorded instrument.

Unless the Declarant specifically delegates such authority, the Declarant shall act as, and on behalf of, the Declarant Membership on all matters.

4.2. Voting

Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Declaration and the other Governing Documents. No vote shall be exercised for any property exempt from assessment under Section 12.8.

If there is more than one Owner of the Unit, any co-Owner or any proxy duly appointed by a co-Owner may cast the vote for such Unit or consent to any action requiring approval of the Owners on behalf of all co-Owners of the Unit; however, no single vote may be split and no more than one vote may be cast for any Unit. If two or more co-Owners or their proxies seek to exercise the Unit's vote independently, neither shall be recognized except that the Unit's vote may be counted as an abstention for purposes of establishing a quorum. The Unit's vote may not be split, and no more than one vote may be cast for any Unit.

PART TWO: COMMUNITY STANDARDS

Chapter 5 - Architecture, Landscaping, and Aesthetic Standards

The Community derives its unique character from a mix of compatible architectural styles and from the cooperation of all Builders and Owners in upholding minimum design, landscaping, and aesthetic standards. This Chapter explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on property within the Community initiated by anyone other than the Declarant or the Association during the Declarant Control Period.

5.1. General

Except as otherwise specifically provided by state or federal law with respect to certain flags and flagpoles, all site work, landscaping, structures, improvements, and other items (including sports, play, and maintenance equipment, outdoor furniture and storage, and decorative items) placed or stored on any property in the Community in a manner or location visible from outside of any existing structure ("**Improvements**") are subject to Design Guidelines for design, landscaping, and aesthetics adopted pursuant to this Chapter and the approval procedures set forth in this Chapter, except as this Chapter or the Design Guidelines may otherwise specify.

Nothing in this Chapter or the Design Guidelines shall authorize the Reviewer (as defined in Section 5.2(c)) to:

(a) preclude an Owner from displaying a portable, removal United States flag in a respectful manner, consistent with Title 36 U.S.C. Chapter 10, on such Owner's Unit; or

(b) prohibit installation of an electric vehicle charging station on such Owner's Unit in compliance with O.R.S. §94.762; or

(c) prohibit or have the effect of prohibiting solar energy systems, as defined in O.R.S. §105.880, from being installed or used as a source for heating, cooling, or electrical energy on such Unit;

(d) prohibit the display of signs in a manner protected under Section 7.3(b) of this Declaration;

however, the Owner shall first comply with the application and review procedures set forth in this Chapter and such application shall be subject to review and approval or disapproval as to number, location, size, manner of installation and other matters described in Section 5.3(b) and the Design Guidelines. The Design Guidelines and the Reviewer may impose restrictions and requirements as to the specific location, orientation, size, placement, and screening of solar energy systems visible from outside of the Unit and other aesthetic requirements, provided they do not materially impair the effective operation of the solar energy system.

No prior approval is necessary to repaint the exterior of existing structures using the color scheme most recently approved by the Reviewer (*i.e.*, the same exact color applied in the same places) or to rebuild or restore any damaged structures in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a structure visible from outside of the structure do require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications prepared, signed and

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sealed by a licensed architect or a professional residential designer, unless the Reviewer described in Section 5.2 otherwise approves in its sole discretion. In addition, during the Development and Sale Period, only builders that the Reviewer approves may construct dwellings on Units.

All construction on Units shall comply with all applicable building codes and requirements.

Approval under this Chapter shall be in addition to, not in lieu of, any approvals or reviews required by the City of Hillsboro or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters. Approval under this Chapter shall be obtained prior to applying for any building permit and prior to submitting any documentation to any governmental authority whose review or approval may be required for the proposed work. The Declarant and the Association shall have the right and standing to take action to suspend or enjoin processing of any request for review or approval by a governmental authority submitted prior to any necessary approval being granted hereunder.

This Chapter shall not apply to structures existing on any property prior to submission of such property to this Declaration, or to the Declarant's design and construction activities or to the Association's activities during the Declarant Control Period.

5.2. Design Review Authority

(a) *Declarant.* The Declarant shall have exclusive authority to review and act upon all applications for review of proposed Improvements until expiration of the Development and Sale Period. The Declarant may designate one or more persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, or otherwise exercising or declining to exercise its authority under this Chapter, the Declarant and its designee act solely

in the Declarant's interest and owe no duty and shall have no liability to the Association or any other Person.

From time to time, the Declarant may delegate any or all of its rights under this Chapter to other Persons or committees, including the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Declarant's right to revoke such delegation at any time by written notice to the Board and reassume its prior control, and (ii) the Declarant's right to veto any decision that it determines, in its discretion, to be inappropriate or inadvisable. Until expiration or termination of the Development and Sale Period, the authority and jurisdiction of others shall be limited to such matters as the Declarant specifically delegates.

(b) *Design Review Committee.* Upon the Declarant's delegation of authority pursuant to Section 5.2(a), or upon expiration or termination of the Development and Sale Period, the Board shall appoint a Design Review Committee ("**Design Review Committee**" or "**DRC**") to assume jurisdiction over matters within the scope of the delegated authority or this Chapter, respectively. The DRC shall consist of at least three persons who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. The Association may compensate DRC members in such manner and amount, if any, as the Board may determine appropriate. Decisions of the DRC shall be made by a majority vote of the total number of members of the DRC.

If the Declarant delegates responsibility to the DRC during the Development and Sale Period, then until expiration or termination of the Development and Sale Period, the DRC shall notify the Declarant in writing within three business


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days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this Chapter. A copy of the application and any additional information the Declarant may require shall accompany the notice. The Declarant shall have 10 business days after receipt of such notice to veto any such action, in its discretion, by written notice to the DRC.

Unless and until such time as the Declarant delegates all or a portion of its reserved rights to the DRC or expiration or termination of the Development and Sale Period, the Association shall have no jurisdiction over architectural matters.

(c) **Reviewer.** For purposes of this Chapter, the Declarant or the DRC, whichever has review authority in a particular case pursuant to subsections (a) or (b) of this Section, shall be referred to as the "Reviewer."

(d) **Fees; Assistance.** The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include reasonable costs incurred in having professionals review any application and costs of conducting a final inspection for compliance with approved plans. The Board may include the compensation of such persons in the Association's annual operating budget.

 *Initially, the Declarant reviews applications for proposed Improvements. Thereafter, the Board of Directors will appoint a Design Review Committee to review applications for proposed Improvements. The Declarant or the Design Review Committee, as applicable, is referred to as the "Reviewer." The Reviewer sets fees for reviewing applications.*

(e) **Construction Deposit.** As a condition of approval of any application hereunder, the Reviewer may require the Owner to post a construction deposit. The Association shall be entitled to draw upon the construction deposit to cover costs which it incurs:

(i) to clean up dirt or debris and/or repair damage to any subdivision improvements or Common Areas, or any portion of Reed's Crossing outside of the Community, which the Board determines, after notice to the Owner and an opportunity for a hearing in accordance with the Bylaws, is attributable to the construction activities of the Owner or its contractors, subcontractors, suppliers, or others providing goods or services in conjunction with the construction activities on the Owner's Unit;

(ii) to complete any improvements to the Owner's Unit, or correct or cure any conditions on the Owner's Unit, which the Reviewer determines necessary to conform the Unit to the plans approved pursuant to Section 5.3(b) or to correct drainage or other conditions on the Unit which fail to meet the Community-Wide Standard or which cause or are likely to cause damage to property outside the Unit, if the Owner fails to do so within a reasonable period of time as set forth in written notice from the Association specifying the action required.

The Owner shall provide funds to restore the construction deposit to its original amount within 10 days after written request from the Association notifying the Owner of the amount of any disbursement from the Owner's construction deposit. Upon final inspection and approval of the completed construction, the Association shall refund to the Owner or applicant who originally paid the construction deposit the amount of such construction deposit, less any funds expended by the Association pursuant to this subsection (e) and not restored by the applicant.

5.3. Guidelines and Procedures

(a) **Design Guidelines.** The Declarant may prepare the initial Design Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions that vary among uses, housing types, or locations within the Community. The Design Guidelines may also include rules governing construction

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activities within the Community. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval of any application hereunder.

The Declarant shall have sole and full authority to amend the Design Guidelines during the Development and Sale Period. The Declarant's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the DRC, unless the Declarant also delegates the power to amend to the DRC. Upon termination or delegation of the Declarant's right to amend, the DRC may amend the Design Guidelines with the Board's consent.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may impose new or more restrictive requirements, eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines, as they may be amended, available to Owners and their contractors upon request and may charge a reasonable fee to cover reproduction costs. In the Declarant's discretion, such Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Unless the Design Guidelines provide otherwise, no activities within the

scope of this Chapter (as described in Section 5.1) may begin on any portion of the Community until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require. While it is the Reviewer, the Declarant may dispense with the written application and approve plans and specifications for construction by any Builder pursuant to the terms of the agreement of sale between the Declarant and such Builder.

Meetings of the DRC shall be open to all members, subject to the same exceptions as Board meetings under the Bylaws. This provision shall not apply when the Declarant is the Reviewer.

In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information and fees. The Reviewer may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Reviewer may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application no later than 30 business days after its receipt of a completed application and all required submissions; however, with respect to any DRC

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determination subject to the Declarant's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 45 business days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Reviewer fails to respond within the time period required above, the applicant may notify the Reviewer in writing by certified mail, return receipt requested (with a copy to the Declarant by certified mail, return receipt requested, if the Declarant is not the Reviewer), requesting action on the application and if the Reviewer or the Declarant fails to respond within 30 days after receipt of such written notice, then approval shall be deemed given, but only to the extent that the application is in conformance with the Design Guidelines.

No approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.5.

As part of any approval, the Reviewer may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed in accordance with the approved plans and specifications within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer, in its discretion, grants an extension in writing.

The Reviewer may exempt certain activities from the application and approval requirements

of this Chapter, if such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.

(c) Appeals Process. Prior to termination of the Declarant's review authority and veto rights under Section 5.2(a), there shall be no right to appeal the Reviewer's determination, which shall be final. After termination of the Declarant's review authority and veto rights under Section 5.2(a), an applicant whose application has been denied by the DRC shall have 10 business days after the date of such notice to submit an appeal in writing to the Board. The Board shall review the DRC's decision and notify the applicant in writing of its determination within 45 days after its receipt of written notice of the appeal. The Board may (i) affirm the DRC's decision, (ii) affirm a portion and overturn a portion of the DRC's decision, or (iii) overturn the DRC's entire decision. If overturned in whole or in part, the Board's notice shall explain the reasons for overturning the DRC's decision. During the appeal process, the Owner shall not commence any work requiring approval hereunder.

The Reviewer, or the Board in those cases in which there is a right to appeal to the Board, shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Chapter 19 or judicial review so long as they are made in good faith and in accordance with required procedures.

(d) Inspections. The Reviewer or its representative may conduct inspections at any time during the course of construction to verify progress of the work and conformance with the approved plans, construction rules, and other Design Guidelines. If such an inspection reveals any matter of non-compliance, the Reviewer may notify the Owner, in which event the Owner shall immediately take action to correct such non-compliance and all other work shall cease until such non-compliance is corrected, unless otherwise agreed by the Reviewer. Nothing herein

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shall create any duty on the part of the Reviewer or the Association to conduct inspections and failure to detect or discover any matter of non-compliance shall not create any liability for the Reviewer or the Association or relieve the Owner of its duty to cure any matter of noncompliance and conform the work to the approved plans.

Upon completion of all work for which approval has been granted, the applicant shall notify the Reviewer in writing that construction is complete. The Reviewer may conduct an inspection within 30 days thereafter and notify the applicant in writing as to any deviations or deficiencies noted from the approved plans. If deviations or deficiencies are noted, the applicant shall promptly take such action as the Reviewer has specified in such notice to conform the work to the approved plans.

5.4. No Waiver of Future Approvals

The people reviewing applications under this Chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may elect not to require changes to objectionable features. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.5. Variances



When unusual circumstances exist that make it difficult or impossible to comply with a particular requirement of the Design Guidelines, the Owner may file a request with the Reviewer to be excused from complying with such requirement. The Reviewer has the discretion to determine when a variance is appropriate.

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures set forth in this Chapter or in the Design Guidelines when, in its judgment, circumstances such as topography, natural obstructions, or aesthetic or environmental considerations justify a variance. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Reviewer from denying a variance in the future under the same or other circumstances. Any variance requires the Declarant's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.

5.6. Limitation of Liability

This Chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Community; it does not create any duty to any Person. Review and approval of any application pursuant to this Chapter may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for material used, for compliance with zoning and subdivision ordinances, building codes, and other governmental requirements, for ensuring that structures are fit for their intended purpose, or for ensuring that all dwellings are of comparable quality, value, size, or design or are aesthetically pleasing or otherwise acceptable to other Owners.

Neither the Reviewer nor any member of the Reviewer shall have any liability for approving plans that are inconsistent with the Design Guidelines provided that such person acted in good faith in approving such plans.

The Declarant, Declarant Affiliates, the Association, its officers, the Board, the Reviewer, any committee, and members of any of the foregoing, shall not be liable for: (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss

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or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor, or its subcontractors, employees, or agents, whether or not the Declarant has approved or featured such contractor as a Builder in the Community; (d) view preservation; (e) construction delays or schedule modifications resulting from any Person's failure to obtain, or delay in obtaining, approvals required hereunder; or (f) any injury, damages, or loss arising out of the manner or quality or other circumstances of construction or modifications to any Unit, whether or not approved hereunder. In all such matters, the Association shall defend and indemnify the Board, the Reviewer, and the members of each, as provided in the Bylaws.

5.7. Certificate of Compliance

Any Owner may request in writing that the Association issue a certificate of compliance certifying that there are no known violations of this Chapter or the Design Guidelines. The Association shall either grant or deny such written request within 30 days after receipt, and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

Chapter 6 - Maintenance, Repair, and Replacement

One of the benefits of owning property in a planned community is the commitment among neighbors to maintain their property in a neat and attractive condition to enhance the overall beauty and aesthetic appeal of the community. This Chapter describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed.

6.1. Maintenance by Owners

Each Owner shall maintain such Owner's Unit, including all structures, driveways, walkways, landscaping, and other improvements comprising the Unit, in a clean, neat and attractive condition and in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association, the Maintenance Association, the Commercial Association, or an Additional Association pursuant to this Declaration, any Supplement, other recorded covenants, written agreement, or by law. Notwithstanding anything to the contrary on any recorded plat, each Owner shall be responsible for installing and maintaining (i) landscaping within any portion of such Owner's Unit that is subject to a drainage easement and/or access easement in favor of any of the foregoing entities (except if paved, a pond, or protected wetlands); and (ii) landscaping and sidewalks within that area, if any, between the Unit boundary and the nearest curb within any right-of-way abutting such Owner's Unit; however, Owners may not remove trees, shrubs, or similar vegetation from such area without prior approval pursuant to Chapter 5.

In addition, Owners of Units adjacent to Common Area containing any pond shall be responsible for landscaping and maintaining the area between the Unit boundary and the shoreline of any such pond lying within 20 feet of the Unit boundary, unless the Board otherwise provides for such maintenance or such area is designated on the recorded plat as a wetland buffer or non-disturbed buffer area. However, Owners may

not remove or install trees or shrubs in such area without prior approval pursuant to Chapter 5.

If an Owner fails to perform maintenance as required hereunder, the Association may enter upon such Owner's Unit and perform such maintenance on behalf of the Owner and shall be entitled to assess the Owner and such Owner's Unit for, or otherwise recover from the Owner, all costs that it reasonably incurs in so doing.

Nothing in this Declaration or other Governing Documents shall apply to require an Owner to irrigate any landscaping during periods of severe drought or otherwise to the extent that such requirement would be unenforceable under O.R.S. Section 94.779.

6.2. Maintenance by Additional Associations

An Additional Association shall maintain its common property and any other property for which it has maintenance responsibility in a clean, neat and attractive condition and in a manner consistent with an Owner's obligations to maintain such Owner's Unit under Section 6.1. Notwithstanding anything to the contrary on any recorded plat, an Additional Association shall also be responsible for installing and maintaining landscaping and sidewalks within that area, if any, between (i) its common property or Units for which it has landscape maintenance responsibility, and (ii) the nearest curb within any right-of-way abutting such property; however, it may not remove trees, shrubs, or similar vegetation from such area without prior approval pursuant to Chapter 5. Maintenance under this paragraph shall include taking such action as may reasonably

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be necessary to remove obstructions and other unsafe conditions.

An Additional Association responsible for maintaining property adjacent to Common Area containing any pond shall be responsible for landscaping and maintaining the area between the property for which it otherwise has responsibility and the shoreline of any such pond lying within 20 feet of such property. However, it may not remove or install trees or shrubs in such area without prior approval pursuant to Chapter 5.

The Association may assume maintenance responsibility for any Additional Association property, by contract with the Additional Association, or upon designation of the Additional Association as a Service Area pursuant to Section 3.3, or upon the Board's determination, pursuant to Chapter 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The Association may assess the cost of such maintenance against all Units in the benefited Additional Association as a Service Area Assessment, as provided in Section 12.2(c). The Association need not treat all similarly situated Additional Associations the same.

6.3. Responsibility for Repair and Replacement; Insurance

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either an Additional Association (if any) or the Association carries such insurance, which they may but are not obligated to do unless otherwise specified in a recorded Supple-

ment or other recorded covenants applicable to the Unit. If the Association assumes responsibility for insuring a Unit pursuant to this Declaration or any Supplement, the premiums for such insurance shall be assessed against the benefited Unit and the Owner as a Service Area Assessment pursuant to Chapter 12. This requirement is for the benefit of all Owners and failure to maintain required insurance shall subject an Owner to disciplinary action by the Association pursuant to Chapter 8; however, nothing in this section shall obligate the Association to monitor compliance or ensure that Owners maintain the required insurance on Units.

Within 90 days after any damage to or destruction of a structure on a Unit, the Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Unit of debris and maintain it in a neat and attractive condition consistent with the Community-Wide Standard. The Owner shall pay any costs that insurance proceeds do not cover.

Additional Covenants applicable to any portion of the Community may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

This Section shall apply to an Additional Association with respect to common property of the Additional Association in the same manner as if the Additional Association was an Owner and the common property was a Unit.

6.4. Maintenance and Repair of Party Walls and Similar Structures

(a) Party Structures. Each wall, fence, driveway, or similar structure which: (i) is re-

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quired by the Design Guidelines or built as part of the original construction on any Unit; and (ii) serves and/or separates any two or more adjoining Units; and any replacement thereof, shall be considered a "**Party Structure.**" Except as may otherwise be provided by state law, a written agreement between Owners, or other recorded documents applicable to affected Units, if any necessary maintenance, repair or replacement of a Party Structure affects both sides of the Party Structure, it shall be the joint responsibility of the Owners of the Units served or separated by the Party Structure ("**Benefitted Units**").

Upon not less than 10 days prior written notice to the Owner(s) of each Benefitted Unit specifying the need for maintenance or repairs to such Party Structure and the estimated cost thereof, the Owner giving such notice may perform any necessary maintenance or repair. Maintenance or repair specified in such notice shall be presumed "necessary" unless an Owner of a Benefitted Unit gives written notice within such 10-day period to the Owners of each other Benefitted Unit and to the Board, challenging the necessity of such maintenance or repair, in which case the Board may determine whether the maintenance or repair is necessary and appropriate and the Board's determination shall be final and binding. Within 30 days after receipt of a written request for reimbursement for any necessary maintenance or repair, accompanied by evidence of the total cost incurred, the Owner(s) of the other Units served by such Party Structure shall reimburse the Owner who has incurred such cost for their pro rata share of the reasonable cost he or she has incurred in performing such maintenance or repair. If an Owner responsible for reimbursement fails to pay the amount due within 30 days after receipt of such request, the Owner who has incurred the cost shall have the right to file a lien against the Benefitted Unit of the Owner from whom the reimbursement is due to secure the amounts due plus interest at the lesser of 10% per annum or the highest rate allowed by Oregon law from the 30th day after the date of such request, which lien may be filed in

the same manner as a mechanics or materialman's lien under Oregon law and subject to the same notice requirements.

Notwithstanding the above or anything to the contrary in this Declaration, if maintenance or repairs to a Party Structure are necessitated by the conduct of the Owners, occupants or guests of only one of the Units that share such party structure, then the above procedures shall apply but the Owner of the Unit whose conduct (or occupant's or guest's conduct) necessitated the maintenance or repairs shall be liable for the full cost of any necessary maintenance or repairs.

An Owner's right to contribution from any other Owner under this Section and each Owner's obligation to make such contribution shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

To the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute concerning a Party Structure shall be subject to the provisions of Chapter 19.

(b) Fence Additions. In any situation where a dividing fence is not otherwise required by the Design Guidelines or as a condition of approval under Chapter 5, if an Owner installs, constructs, or erects a fence on the common boundary line between such Owner's Unit and an adjacent Unit, and the Owner of the adjacent Unit thereafter attaches another section of fence to it or otherwise makes use of such fence for the purpose of enclosing all or a portion of the adjacent Unit, then such fence shall become a Party Structure for the purpose of each Owner's responsibility for contributing to the maintenance, repair, and replacement of such fence. However, nothing herein shall confer any right to construct a fence on any Unit, nor confer any ownership interest in or right to remove any such fence on the Owner of the adjacent Unit.

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(c) *Failure to Maintain.* In the event that the Owners who share a Party Structure fail to provide necessary maintenance or repairs to the Party Structure within 10 days after the date of written notice from the Association advising of the need for such maintenance or repairs, the Association shall have the right, but not the obligation, to provide the necessary maintenance or repairs and assess the costs incurred against the responsible Owners and their Units.

Chapter 7 - Use and Conduct

This Chapter sets forth basic standards regarding use, occupancy, and transfer of interests in Units. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct, and activities within the Community to address particular needs and desires of the Community over time.

7.1. Use, Occupancy, and Transfer of Interests in Units

(a) **Residential and Related Uses.** Except as otherwise authorized in this Section, Units may be used only for residential and related purposes. A business activity within a Unit shall be considered "related" to a residential use and thus permitted under this Section only if conducted by a person or persons residing in the Unit and only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve regular visitation of the Unit by employees who do not reside in the Unit, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community; and

(iv) does not involve use of the Unit for overnight lodging of persons who do not reside in the Unit;

(v) is consistent with the Community's residential character and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves providing goods or services to Persons other than the family of the producer and for which the producer re-

ceives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Notwithstanding the above:

(i) other business activities shall be permitted in Units which the Declarant has identified in a recorded Supplement as "Live/Work Units," to the extent such business activities are expressly authorized in such Supplement; and

(ii) the Declarant may authorize other business uses of a Unit in connection with the construction, marketing, and sale activities of the Declarant and Builders it designates; and

(iii) the operation of a certified or registered family child care home pursuant to O.R.S. Section 329A.250 to 329A.450 or the provision of family child care services by a provider exempt from licensing who participates in the subsidy program under O.R.S. Section 329A.500 shall not be considered a "business" prohibited by this subsection so long as the child care provider: (i) resides in the home where the child care is provided or is employed by the resident of the home to care for children who reside in the home; (ii) complies with all licensing requirements and other laws and regulations applicable to the provision of such child care; and (iii) does not display signs related to the child care operations anywhere within or adjacent to the Community. The Board is specifically authorized to adopt reasonable rules regulating child care operations within the Community consistent with O.R.S. Section 94.779(4), including rules limiting parking of vehicles, traffic flow, and use of recreational facilities in connection with child care op-

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erations, in order to minimize the impact of such operations upon any portion of the Community; and

(iv) leasing a Unit for residential purposes in a manner consistent with Section 7.1(b) shall not be considered a "business" within the meaning of this subsection (a), provided that such leasing is conducted in full compliance with subsection (b) and the Owner and any other Owners with whom such Owner is affiliated, individually or collectively, do not collectively lease or offer for lease more than one Unit at any time. This provision shall not preclude an institutional lender from leasing a Unit upon taking title following foreclosure of its security interest in the Unit or upon acceptance of a deed in lieu of foreclosure.

(b) Leasing. For purposes of this Declaration, the terms "**Lease**" and "**Leasing**" shall refer to the regular, exclusive occupancy of a Unit by any Person other than the Owner and the members of the Owner's household. Leasing of Units is prohibited except in strict compliance with the following:

(i) A dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased or subleased, except that any detached "in-law suite," "guest house," garage apartment, or other accessory dwelling permitted by applicable zoning and approved pursuant to Chapter 5 which contains a kitchen, bathroom, and sleeping area may be leased separately from the main dwelling;

(ii) The Owner and any other Owners to whom such Owner is related or with whom such Owner is affiliated, shall not individually or collectively lease or offer for lease more than one Unit at the same time, except that this subsection (b)(ii) shall not apply to any preclude an institutional lender from leasing more than one Unit while owned by such lender following foreclosure of its security interest in such Units or acceptance of a deed in lieu of foreclosure;

(iii) No signs shall be posted on the Unit, elsewhere in the Community, or on right-of-way adjacent to the Community, advertising the availability of the Unit for rent or for lease, except as may be permitted by the Design Guidelines;

(iv) The lease shall provide for an initial term of at least 30 days or such longer term as may be required by any Supplement applicable to a Unit. In the event of termination of the lease after the tenant has taken occupancy and prior to the end of such minimum initial term, the Owner may not enter into a new lease with a term commencing prior to the date on which the previous lease would have expired without prior approval of the Board, which shall not be granted unless the Board determines, after consideration of the facts and circumstances, that the Owner acted in good faith, with no intent to circumvent the requirements of this subsection (b), and could not reasonably have anticipated the early termination of the previous lease at the time the lease was signed.

(v) All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

Prior to a tenant taking occupancy under a lease or rental agreement of any kind, the Owner of the leased Unit shall give the tenant copies of the Governing Documents and shall notify the Board or the Association's managing agent of the lease and provide an alternate mailing address for the Owner, a copy of the lease, and any additional information the Board may reasonably require. The Association or the Board may adopt Rules governing leasing and subleasing in accordance with Sections 7.2 and 7.3, consistent with this subsection (b).

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If a Unit is occupied by a tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association the rental payments due as of the date of such demand and thereafter continue to pay all rent due under the lease to the Association as it comes due until all the monetary obligations of the Owner related to the Unit have been paid in full to the Association and the Association releases the tenant or until the termination of the lease, whichever occurs first. Any such demand shall be in substantially the form, if any, required by the OPC Act and shall be delivered to the tenant by hand or by United States mail. The tenant shall be entitled to a credit against rents due to the Owner under the terms of the lease in the amount of all rent paid by the tenant to the Association pursuant to this paragraph.

This subsection and any Rules governing leasing and subleasing shall not apply to Units leased by or on behalf of the Declarant or any Declarant Affiliate.

(c) Transfer of Title; Administrative Fee. Any Owner other than the Declarant desiring to sell or otherwise transfer title to his or her Unit shall give the Association or its manager at least 10 days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including the obligation to pay assessments pursuant to Chapter 12, until the date upon which the Association receives such notice, notwithstanding the transfer of title.

Within 10 business days after the Association's receipt of written request from an Owner or Owner's agent, or from a title insurance company acting on behalf of the Owner or purchaser of a Unit, the Association shall provide an Assessment Statement pursuant to Section 12.6(a);

and (ii) a statement of any known violations of the Governing Documents that have not either been cured or waived in writing by the Association. If such statements indicate that there are known conditions on the Unit which violate the Governing Documents, or that there are amounts due and unpaid to the Association on account of the Unit, upon curing any such violations and paying any such unpaid amounts, the Owner may request an updated statement to reflect such action. The Association shall make available to the party requesting such statements, in paper or electronic format (which may be by link to an internet or cloud-based location that permits viewing and downloading of electronic files), a copy of this Declaration and any Supplement applicable to such Unit, the Articles of Incorporation, Bylaws, and Rules of the Association, the Design Guidelines, and all amendments to the foregoing.

The Association may charge a reasonable fee to prepare and deliver any statements requested pursuant to this subsection (c). In addition, upon acceptance of title to a Unit, the new Owner of the Unit shall pay to the Association an administrative transfer fee to cover the administrative costs incurred by the Association to update its records to reflect the change in ownership. Such fee shall be in such amount as the Board may determine necessary to cover its costs, including, but not limited to, a reasonable fee charged by a management company retained by the Association for updating its records.

(d) Subdivision and Combination of Units. No Person other than the Declarant, a Declarant Affiliate, or a Builder authorized by the Declarant, shall divide, partition, or change the boundary lines of any Unit or combine Units without the Declarant's prior written approval during the Development and Sale Period and the Board's prior written approval thereafter. Any such action shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). In the absence of such recorded instru-

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ment, adjacent Units owned by the same Owner shall continue to be treated as separate Units for purposes of voting and assessment, even though such Units may be improved with a single dwelling.

(e) *Transient Lodging; Timesharing.* No Person shall advertise or operate any Unit as a hotel, inn, bed and breakfast, or other short-term lodging, nor shall any Unit be used for lodging of persons other than the Owner or a tenant who resides in the Unit pursuant to a lease complying with Section 7.1(b), members of their respective households, and their occasional, non-paying guests. No Unit shall be used for operation of a timesharing, fraction-sharing, residence club, vacation club, or similar program whereby the right to exclusive use of the Unit is shared among participants in the program on a fixed or floating time schedule or on a reservation basis over a period of years, unless such program is established by the Declarant or with the Declarant's prior written approval, except that a Unit within a multi-family building which is subject to a condominium regime may be used for such purposes if expressly authorized by the terms of the recorded declaration establishing such condominium regime.

7.2. Rulemaking Authority and Procedures

The Governing Documents establish a framework of covenants, conditions, and restrictions that govern the Community. The initial Rules attached as Exhibit "D" are a part of that framework. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Declarant, the Board, and the Members are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.3.

(a) *Declarant Authority.* So long as the Declarant has the right unilaterally to amend this Declaration pursuant to Chapter 21, the Declarant

may unilaterally amend Exhibit "D" to add new Rules or to modify or rescind existing Rules.

(b) *Board Authority.* Subject to the notice requirements in Section 7.2(d) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its Members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting. However, during the Development and Sale Period, any such action shall also be subject to the Declarant's approval.


(c) *Membership Authority.* Subject to the notice requirements in Section 7.2(d), the Members entitled to cast a majority of the votes in the Association may, at any meeting of the Association duly called for such purpose, adopt new Rules and modify or rescind existing Rules relating to use of and conduct on Units, regardless of the manner in which the original Rule was adopted. However, during the Development and Sale Period, any such action shall also be subject to the Declarant's approval. The Members shall have no authority to adopt, modify, or rescind Rules relating to the operation or use of and conduct on the Common Area.

(d) *Notice.* The Board shall send notice to all Owners, and to the Declarant during the Development and Sale Period, concerning any Rule change proposed under subsections (b) or (c) above at least five business days prior to the meeting of the Board or the Members at which such action is to be considered; provided, in lieu of sending notice to every Owner, the Board may publish such notice in a community newsletter or on a community intranet or website. At any such meeting, Members shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

(e) *Effective Date.* A Rules change adopted under this Section shall be reflected in an amendment to Exhibit "D" executed by the Declarant or the Association, or both, as applicable, and recorded. Any such amendment shall take

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effect upon the later of: (i) the date of recording; (ii) 15 days after the date on which written notice of the Rules change is given to the affected Owners, unless a later effective date is specified in the resolution adopting the Rules change.

 *Since it is impossible to foresee all potential situations and problems that may arise within the Community, the Declarant, the Board, and the Members have the authority to adopt and modify rules as needed to address new or changing circumstances.*

(f) Administrative and Operating Policies. The procedures set forth in this Section 7.2 do not apply to Rules that the Board may adopt establishing administrative policies or operating policies relating to the Common Areas, such as hours of operation of a recreational facility, safety regulations, use fees for use of Association property, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules. The posting of such operating policies and fees in a conspicuous manner and location within the Community or the publication in a community newsletter of general circulation within the Community shall be deemed sufficient notice to all users.

In addition, the Board shall have discretion, without the necessity of complying with such notice requirement, to enact such Rules as are necessary or appropriate to comply with the terms of any order, permit, or approval of any governmental or quasi-governmental body which is applicable to the Community (*e.g.*, a development order).

(g) Conflicts. No action taken under this Section 7.2 shall have the effect of modifying or repealing the Design Guidelines or any provision of this Declaration other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules

and any provision of this Declaration (exclusive of the Rules), the Declaration shall control.

7.3. Protection of Owners and Others

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Rules set forth in Exhibit "D," all Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Units shall be treated similarly; however, the Rules may vary by housing type, location within the Community or other distinct characteristics of areas within the Community. For example, the Supplement for any area consisting of attached dwellings may contain standards, restrictions, or requirements which are stricter than, or otherwise different from, the Rules applicable to areas containing single family detached dwellings.

(b) Flags and Flagpoles. No Rule shall abridge the right of the Owner or occupant of a Unit to display the official flag of the United States of America on the Unit owned or occupied by such Owner, except that Rules may restrict the display or use of the flag in a manner that is inconsistent with any provision of Chapter 1 of Title 4 of the United States Code or any other applicable provision of law, and the Association may adopt reasonable restrictions pertaining to the time, place, size, and manner of displaying the flag of the United States necessary to protect a substantial interest of the Association.

(c) Other Displays. No Rule shall abridge an Owner's right to display on his or her Unit religious or holiday symbols and decorations of the kinds normally displayed in single-family residential neighborhoods, nor shall any Rule regulate the content of political signs, except that rules may prohibit the display of signs containing profanity and derogatory terms referring to a candidate's race, ethnicity, or sexual orientation. Nothing in this subsection (b) shall restrict the adoption or enforcement of Design Guidelines

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regulating the size, materials, components, and location of such symbols and displays as are visible from outside structures on the Unit, or Rules imposing reasonable limitations on number and the time period within which they may be displayed, consistent with Oregon law.

(d) Household Composition. No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may enforce restrictions on transient occupancy and impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area, so long as in compliance with applicable fair housing laws.

(e) Activities Within Dwellings. No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property and may adopt rules to further define, clarify, and implement the restrictions in Section 7.1. It also may restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

(f) Allocation of Burdens and Benefits. No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area in a manner which discriminates against any Owner or group of Owners over such Owner(s)' objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Chapter 12 or amend this Declaration for any purpose.

(g) Leasing and Transfer of Units. Except as set forth in Section 7.1(b) and (c), no Rule shall prohibit leasing or transfer of any Unit or require approval prior to leasing or transferring a Unit. The Rules may require that Owners use Board-approved lease forms (or include specific lease terms) and may impose a reasonable review or administrative fee in connection with the Board's review of a lease. Nothing in this Section shall affect the validity of any Supplement to this Declaration which imposes additional restrictions regarding leasing of Units subject to that Supplement.

(h) Abridging Existing Rights. No Rule shall require the Owner or tenant of any Unit to dispose of personal property or pets kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought on to the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

(i) Reasonable Rights to Develop. No Rule may unreasonably interfere with the ability of the Declarant, any Declarant Affiliate, or any Builder to develop, market, and sell property in the Community.

(j) Interference with Easements. No Rule may unreasonably interfere with the exercise of any easement, except as set forth in Section 13.1(d).

(k) Compliance with Governmental Requirements. The Association may not enact any Rule or take any action which is in violation of, or which prevents actions required to comply with, any applicable law or regulation (including, without limitation, O.R.S. Section 94.779 relating to irrigation and child care providers) or the terms of any order, permit, or approval of any governmental or quasi-governmental body which is applicable to the Community (*e.g.*, a development order).

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7.4. Owners' Acknowledgment and Notice to Purchasers

By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

Chapter 8 - Compliance and Enforcement

The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Community. However, if they are to have any real meaning, there must be a commitment by each Owner and occupant of a Unit to comply with them, and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This Chapter sets forth the obligation to comply and the remedies available to the Association in the event of noncompliance.

8.1. Compliance



All Owners and occupants of Units, as well as their tenants, guests, and other visitors, must abide by the Governing Documents. If any of them fail or refuse to comply with the Governing Documents, they may be subject to various penalties, including fines and the loss of the right to use the Common Areas.

Every Owner, occupant, and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this Chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants or visitors to their Units, and for any damage to the Area of Common Responsibility that such occupants or visitors may cause.

8.2. Remedies for Non-Compliance

The Association, the Declarant, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents, subject to the requirements of Chapter 19, as applicable. The Declarant's rights of enforcement shall continue so long as the Declarant owns any property subject to, or holds any other rights under, this Declaration or the Residential Declaration. In addition, the Board may impose sanctions for violation of the Governing Documents, including those listed below and any others described elsewhere in the Governing Documents. Any entry upon a Unit or property of an Additional Association pursuant to this Section 8.2 shall not be deemed a trespass. All costs which the Association incurs in curing any violation of, obtaining compliance with, or otherwise

exercising its remedies under and enforcing the Governing Documents, including reasonable attorneys' fees, whether or not suit is filed, may be assessed against the Unit of the violator as a Specific Assessment pursuant to Section 12.4 and shall be secured by the Association's lien against the Unit under Section 12.7.

(a) Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the By-laws, the Board may:

(i) impose reasonable monetary fines, not to exceed \$100.00 for a single violation or \$100 per day in the case of a continuing violation; provided, in the case of a continuing violation, only a single notice and opportunity for hearing is required. The Board may adopt a schedule of fines establishing a range of fines for particular types of violations, which range may vary depending on the nature of the violation. There is no limit on the aggregate amount of any fine for a continuing violation;

(ii) suspend the right of any Owner and the occupants of any Unit to use any Common Area facilities (other than as required to provide vehicular and pedestrian access and utilities to the Unit which they own or occupy) for a reasonable period of time for failure to comply with the Governing Documents;

(iii) suspend services the Association provides to the Unit if the Owner is more than 90 days delinquent in paying any assessment or other charge owed the Association, which suspension may continue until such assessments or other charges have been paid in full; provided,

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nothing herein shall authorize the Board to suspend essential utilities (*i.e.*, electricity, natural gas, or water);

(iv) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents), except that no prior notice or hearing opportunity shall be required in any situation within the scope of Section 8.2(b)(iii);

(v) without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who causes damage to any property in the Community owned by others or fails to comply with the terms and provisions of Chapter 5 and the Design Guidelines from continuing or performing any further activities in the Community;

(vii) draw upon and apply any construction deposit received from the Owner for the purposes set forth in Section 5.2(e);

(vii) levy Specific Assessments to cover costs the Association incurs in bringing a Unit or the common property of any Additional Association into compliance with the Community-Wide Standard or other requirements under the Governing Documents, or in repairing damage to any portion of the Area of Common Responsibility resulting from actions of any Owner or occupant of a Unit, their contractors, subcontractors, agents, employees, or invitees; and

(viii) record a notice of violation with respect to any Unit on which a violation exists.

If, within 12 months after the date of written notice providing an opportunity to cure the violation without sanctions and an opportunity for a hearing in accordance with the Bylaws, the violation continues or recurs, the Board may impose any of the above sanctions without further notice or opportunity for another hearing.

(b) Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing, provided they are approved at a properly noticed Board meeting and, upon approval, the Owner (and occupant, if applicable) is notified by mail or hand delivery:

(i) suspend the vote allocated to any Unit if the Owner is more than 90 days delinquent in paying any monetary obligation to the Association pursuant to Chapter 12, which suspension may continue until all of such Owner's monetary obligations to the Association are paid in full;

(ii) suspend the right of any Owner and occupants of a Unit to use any Common Area facilities (other than as required to provide vehicular and pedestrian access and utilities to the Unit which they own or occupy) if the Owner is more than 90 days delinquent in paying any monetary obligation to the Association, which suspension may continue until all of such Owner's monetary obligations to the Association are paid in full;

(iii) exercise self-help or take action to abate a violation in any situation that requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(iv) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(v) require an Owner or an Additional Association, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on the Additional Association's property, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

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(vi) enter the property and exercise self-help to remove or cure a violating condition if an Owner or Additional Association fails to take action as required pursuant to Section 8.2(b)(v) within 10 days after receipt of written notice to do so; or

(vii) bring suit at law for monetary damages or in equity to stop or prevent any violation, or both, subject to the requirements of Chapter 19, if applicable.

(c) Powers Relating to Additional Associations. The Association may require specific action to be taken by any Additional Association in connection with its obligations and responsibilities under this Declaration or any applicable Supplement, such as requiring specific maintenance or repairs or aesthetic changes.

An Additional Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Additional Association fails to comply, the Association shall have the right to effect such action on behalf of the Additional Association and levy Specific Assessments against the Units within the Additional Association's jurisdiction to cover the costs, as well as an administrative charge and sanctions.

(d) The Declarant's Right to Impose Sanctions. In the event that the Association fails or refuses to take action or impose sanctions under this Chapter after notice from the Declarant of a violation of the Governing Documents, the Declarant shall have the right to levy monetary fines on behalf of the Association after notice and hearing in the same manner as the Association under Section 8.2(a). In addition, the Declarant may exercise self-help or take action to abate a violation or bring suit at law or in equity in the same manner as the Association under Section 8.2(b).

(e) Powers Related to Owners of Multiple Units. Notwithstanding any other provision of

the Governing Documents, in the case of an Owner who owns more than one Unit, the Owner's voting rights and rights to use any Common Area facilities may be suspended with respect to all of such Owner's Units, regardless of the fact that the reason for the sanction relates to less than all of the Owner's Units.

8.3. Board Decision to Pursue Enforcement Action

The Association's decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4. Attorneys' Fees and Costs

In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably in-

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curred in such action, in addition to such other amounts as may be authorized by Oregon law.

8.5. Enforcement of Ordinances

The Association, by contract or other agreement, may enforce applicable laws, regulations, ordinances, and governmental requirements. In addition, the City of Hillsboro and other governmental entities having jurisdiction, may enforce laws, regulations, ordinances, and governmental requirements within the Community.

PART THREE: ASSOCIATION OPERATIONS

Chapter 9 - Property Management

One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of the Community. This Chapter establishes the Association's obligation to accept property that the Declarant designates as Common Area or Limited Common Area and to maintain, operate, and insure it, along with certain other properties, for the benefit of the Community.

9.1. Acceptance and Control of Association Property

(a) *Transfers and Conveyances by Declarant.* The Declarant and its designees, any Declarant Affiliate, and with the Declarant's written consent, any Builder, may transfer, grant or convey to the Association interests in and assign obligations with respect to real or personal property within or for the benefit of the Community at any time prior to expiration of the Development and Sale Period, and the Association shall accept such transfers, grants, and conveyances, assume and hold the Declarant harmless from such obligations, and cooperate with and support any effort by the Declarant, Declarant Affiliates, or their designees to be released from such obligations. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. There shall be no limit on the Declarant's right to create or annex Common Area during the Development and Sale Period. All property described on Exhibit "C," as it may be supplemented by the Declarant, shall be conveyed to the Association not later than termination of the Development and Sale Period.

Upon the Declarant's written request, the Association shall reconvey to the Declarant, or convey to a third party whom the Declarant may designate, any real property which the Declarant originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

The Declarant shall have the right to convey any property to the Association as Common Area subject to easements permitting persons who are not Members of the Association to use and enjoy such Common Area upon such terms and conditions as may be specified in the instrument creating the easement.

The Declarant may also transfer and assign to the Association any continuing obligations and responsibilities under development agreements or conditions of development approvals relating to the Properties, including any obligation to post or maintain maintenance bonds on improvements within public rights-of-way or other portions of the Area of Common Responsibility. The Association shall accept, assume, and fulfill all such obligations and responsibilities as the Declarant shall assign to it.

(b) *Management and Control.* The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area for payment or no payment, as the Board deems appropriate, subject to Section 20.4, if applicable, and the requirements of Oregon law. The Association may permit use of Common Area facilities and Association property by persons other than Owners and occupants of Units and may charge rent or use fees, in such amount as the Board may establish, for such use.

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9.2. Maintenance of Area of Common Responsibility

(a) The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard and the terms of any Supplement or Covenant to Share Costs applicable to any portion of the Area of Common Responsibility. Except to the extent that the Maintenance Association or another entity is assigned responsibility pursuant to other recorded covenants or assumes such responsibility by agreement with the Association, the Area of Common Responsibility includes, but is not limited to:

(i) the Common Area, if any, except for landscaping within any area to be maintained by Owners pursuant to Section 6.1;

(ii) any Private Streets (as defined in Section 13.9) within the Community, to the extent that such Private Streets are not the responsibility of an Additional Association;

(iii) community signage, entry features, monumentation, and landscaping installed by the Declarant at entrances to the Community and along roadways running through or adjacent to the Community, whether located on Common Area or in public rights-of-way;

(iv) pipes, lines, culverts, detention and retention ponds, and other structures and facilities now or hereafter constructed or installed by Declarant within the Properties which are designed to direct, divert, capture, store, pump, transport and distribute storm water runoff and surface waters (collectively, "**Stormwater Facilities**") which are the Association's responsibility under Section 9.4;

(v) any retaining wall constructed by the Declarant or the Association on one or more Units which retaining wall runs along the common boundary between such Unit(s) and adjacent Common Area;

(vi) mailbox kiosks containing mailboxes serving multiple Units, whether such kiosks are located on Common Area, or property of the Declarant;

(vii) such other property as may be dictated by this Declaration, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association; and

(viii) any property and facilities that the Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Declarant shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Declarant revokes such privilege of use and enjoyment by written notice to the Association

The Association may maintain other property it does not own, including, without limitation, Units, property dedicated to the public, or property owned or maintained by an Additional Association, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Without limiting the generality of the foregoing, the Declarant may assign to the Association and, upon the Declarant's request the Association shall assume, the Declarant's ongoing responsibilities under any development agreement or conditions of zoning or development approvals imposed by the City of Hillsboro, Oregon or other local governmental or quasi-governmental subdivisions, any state and federal agencies, and similar entities of any kind with respect to maintenance, monitoring, or inspection of any portion of the Area of Common Responsibility, and shall indemnify and hold the Declarant harmless with respect to such assumed responsibilities. In addition, the Association shall comply with all governmental or quasi-governmental permits, ap-

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provals, or regulations relating to the Community.

(b) The Board shall prepare, and thereafter review and update annually, a maintenance plan for the maintenance, repair and replacement of all property for which the Association has maintenance, repair or replacement responsibility, as required by O.R.S. §94.595. Such maintenance plan shall:

(i) describe the maintenance, repair and replacement to be conducted;

(ii) include a schedule for the maintenance, repair and replacement;

(iii) be appropriate for the size and complexity of the Association's maintenance, repair and replacement responsibility; and

(iv) address issues that include but are not limited to warranties and the useful life of the items for which the Association has maintenance, repair and replacement responsibility.

(c) All costs which the Association incurs in performing its responsibilities under this Section shall be a Common Expense, except as otherwise specified in this Declaration or any applicable Supplement.

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

9.3. Reduction or Discontinuation of Operation or Service

After termination of the Declarant Control Period, the Board shall not materially reduce the level of or discontinue the maintenance or operation of the Common Area facilities during such regular or seasonal operating hours as the Board may adopt or provision of any services provided to the Community as a Common Expense unless

the Declarant, during the Development and Sale Period, and thereafter Members entitled to cast 67% of the total votes in the Association, consent in writing to such action. Any reduction of maintenance or operating levels relating to Limited Common Area shall require the approval in writing of at least 67% (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned and the written consent of the Declarant, during the Development and Sale Period.

This Section shall not apply during the Declarant Control Period and shall not restrict the Board's ability to establish reasonable operating hours, which may vary by season, or to preclude temporary closures or interruptions in operation, as the Board may determine appropriate to perform maintenance or repairs.

9.4. Stormwater Facilities.

(a) **Public Drainage Facilities.** Except to the extent that the Maintenance Association is responsible for maintenance thereof pursuant to the Maintenance Declaration: (i) the Association shall be responsible for maintenance, repair and replacement of portions of the public drainage system within the Properties until accepted by a governmental or quasi-governmental body or public utility; and (ii) the Association shall also maintain, repair and replace the Stormwater Facilities receiving storm water from public roads.

(b) **Private Drainage Facilities.** Except to the extent that the Maintenance Association is responsible for maintenance thereof pursuant to the Maintenance Declaration, the Association shall be responsible for maintenance, repair and replacement of all Stormwater Facilities located within private drainage easements established and depicted on recorded plats of the Properties ("**Private Drainage Easements**") which serve two or more Units. However, the Association's responsibility for Private Drainage Easements located on Units shall be limited to maintaining proper functioning of such facilities for the purposes for which they were designed; each Owner

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shall be responsible for maintaining landscaping and any improvements other than drainage facilities installed within and around Private Drainage Easements located on such Owner's Unit unless such responsibility is expressly assigned to the Association in an applicable Supplement or otherwise expressly assumed by the Association. Except as otherwise provided herein or in any applicable Supplement, costs which the Association incurs in performing its responsibilities hereunder shall be a Common Expense; however, to the extent that the Association incurs costs to restore proper functioning of any Stormwater Facilities due to the actions of the Owner or occupants of any Unit, the Association may assess such costs to the Unit and the Owner thereof as a Specific Assessment pursuant to Section 12.4 of this Declaration.

(c) *Assignment and Assumption of Responsibilities.* Notwithstanding the above, the Association shall have the right to enter into agreements and covenants to share costs with any owners association, special purpose or utility district, governmental body, or other entity providing for the assignment to and assumption by such entity of some or all of the Association's responsibilities under this Section, or vice versa.

9.5. Restoring Damaged Improvements

In the event of damage to or destruction of any portion of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged Common Area improvements, unless:

(a) this Declaration has terminated pursuant to Section 21.1;

(b) repair or restoration would be illegal under any state or local statute or ordinance; or

(c) with respect to Common Areas other than Limited Common Areas, Members entitled to cast at least 75% of the total votes in the Association, decide within 60 days after the loss not to repair or reconstruct, and with respect to Limited Common Area or Units within a Service Area, any decision not to restore the damaged improvements is approved by Owners representing at least 75% of the Units to which such Limited Common Area is assigned or the affected Service Area, respectively. In addition, the Declarant's approval is required for the decision not to repair or reconstruct portions of the Common Area prior to the termination of the Development and Sale Period.

If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. No Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed.



This provision ensures that desirable Common Area improvements will be replaced if destroyed, but it also makes it possible not to repair or rebuild if the Owners who benefit from the Common Area prefer not to rebuild.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The insurance proceeds, if any, attributable to any Units or Limited Common Areas that are not rebuilt shall be distributed to the Owners of the damaged Units or the Units to which such Lim-

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ited Common Areas were assigned, or to their respective lienholders, as their interests may appear, in proportion to their relative liability for Association expenses. The Association shall retain and place in a capital improvements account for the benefit of all Owners, the Owners of Units within the affected Service Area, or the Owners of Units to which such Limited Common Areas were assigned, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.4.

Chapter 10 - Provision of Services

In addition to its property management role, the Association is a vehicle for providing a variety of services for the benefit of the Community at large and individual Units. This Chapter describes some of the services the Association may provide and the mechanism by which it may provide varying levels and types of services to different areas of the Community.

10.1. Provision of Services to Units

The Association may arrange for or provide services to Owners and their Units, directly or through contracts with the Declarant or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to all Units, or only to Units improved with a completed dwelling that is occupied or has been conveyed by the Builder for residential occupancy ("**Improved Units**"), or to all Units in a Service Area, or to particular Units upon request of each Owner, or any of the foregoing. By way of example and not limitation, bulk services provided to all Units or all Improved Units might include such things as cable television, technology services, utilities, fire protection, security, and trash collection. Services provided to a Service Area or at the option of Owners might include such things as landscape and other exterior maintenance, pest control, caretaker services, concierge and similar types of services.

Services provided to all Units shall be a Common Expense assessed pursuant to Section 12.1(a). Services provided only to Units within a Service Area shall be a Service Area Expense assessed pursuant to Section 12.1(b). Services provided only to Improved Units shall be assessed as a Specific Assessment pursuant to Section 12.4(b). The Association shall charge a separate use fee, in such amount as the Board may determine appropriate in its discretion, for any services offered at the option of an Owner, which fee shall be assessed against the benefited Unit as a Specific Assessment pursuant to Chapter 12.

Any Association contract for services may require individual Owners or occupants to execute

separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination and any failure or refusal to participate shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as a Common Expense or Service Area Expense pursuant to Chapter 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

10.2. Provision of Services to Service Areas

(a) Service Areas Designated by Declarant. The Association shall provide services to Units within any Service Area designated by the Declarant pursuant to Section 3.3 as required by the terms of any Supplement applicable to such Service Area.

(b) Service Areas Designated by Board. In addition to Service Areas which the Declarant may designate pursuant to Section 3.3, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (i) special benefits or services that are not provided to all Units, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be

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signed by Owners of a majority of the Units within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If the Board and Owners of at least 67% of the Units within the proposed Service Area approve the proposal in writing, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

10.3. Community Technology

(a) *Community Systems.* Without limiting the generality of Sections 10.1 and 10.2, the Declarant or any Declarant Affiliate may provide, or may enter into and assign to the Association or cause the Association to provide or to enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software to serve the Community ("**Community Systems**"), subject to the terms of O.R.S. 94.700, if applicable. Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Community Systems as the Declarant or Board determines appropriate.

The Declarant specifically reserves for itself and Declarant Affiliates, and their respective successors and assigns, the right to establish a community intranet for the Community, the right to contract with third parties to provide service, software, and support; the right to grant access to the community intranet to the Association and its members on such terms and conditions as the Declarant or Declarant Affiliate determines appropriate, the right to sell advertising on such community intranet and retain all revenues from

the sale of such advertising, and all rights to any domain name established or obtained by the Declarant in connection with any such intranet or other website relating to the Community.

(b) *Use of Technology.* The Association, alone or in conjunction with the Commercial Association or other associations pursuant to a Covenant to Share Costs, may make use of technology to facilitate community interaction and encourage community involvement in Reed's Crossing. For example, the Association may, as a Common Expense, sponsor a community cable television channel, create and maintain a community intranet or website, publish an "online" newsletter, maintain an online bulletin board, and offer other technology-related opportunities for Owners and residents to interact and participate in the Community.

Chapter 11 - Association Insurance

The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This Chapter describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.

11.1. Required Coverages

The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Property insurance covering loss or damage by fire or other hazards, including extended coverage and coverage for vandalism and malicious mischief, on a replacement cost basis, for all insurable improvements on:

(i) the Common Area and any other property owned by the Association, including any Units owned by the Association following foreclosure of its lien under Article 12;

(ii) property within any Service Area, to the extent specified in any applicable Supplement; and

(iii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty.

The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes, if such insurance is available at reasonable cost;

(b) Flood insurance on the properties described in subsection (a) above, to the extent located in a flood zone as indicated by flood insurance rate maps issued by the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA), in such amounts as the

Board may determine advisable, appropriate and affordable; and

(c) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for property damage or personal injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverage or limits;

(d) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(e) Directors and officers liability coverage; and

(f) Commercial crime insurance, including fidelity insurance covering the President, Secretary and Treasurer of the Association, any other Persons authorized to sign checks on behalf of the Association, the Association manager, if any, and any other Persons responsible for controlling, disbursing, or handling Association funds, in an amount sufficient to cover the maximum funds that will be in the custody of the Association or its management agent at any time; provided, this requirement may be waived in whole or in part if such waiver is approved annually by the affirmative vote of persons entitled to cast a majority of the votes represented in person or by proxy at a

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duly called meeting of the Association. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

Unless otherwise required by an applicable Supplement, Association property and liability insurance does not cover individual Units, and it is the responsibility of each Owner to insure its Unit and the contents of its Unit as provided in Section 6.3.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Washington County, Oregon area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this Section requires.

11.2. Deductibles

The Association's insurance policies may contain a deductible, not to exceed the maximum authorized under O.R.S. §94.675, which shall be added to the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage under Section 11.4. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess up to the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment, but the right to do so shall not affect or impair any waiver of subrogation provision of any policy.



The Board may hold any Persons who cause damage to insured improvements responsible for the insurance deductible payable on any insurance claim related to such damage.

11.3. Policy Requirements

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner and Mortgagee. The Association may charge to any Owner requesting such a certificate any costs which the Association incurs in obtaining and delivering it to the Owner, which charges may be collected at the time of such request or delivery or may be levied as a Specific Assessment pursuant to Section 12.4.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Oregon that satisfies the requirements of the Federal National Mortgage Association or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Units within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(d) contain an inflation guard endorsement;

(e) include a co-insurance waiver or an agreed amount endorsement, if the policy contains a co-insurance clause;

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(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;


(g) provide a waiver of subrogation against any Owner or household member of an Owner;

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation; and

(i) satisfy any insurance requirements established by the Federal Home Loan Mortgage Corporation applicable to planned unit developments.

In addition, the Board shall use reasonable efforts to secure insurance policies that identify the Owners as additional insureds and provide:

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

 *Subrogation is a legal concept by which one person is substituted in the place of another with respect to a lawful claim or right. For example, once they have paid a claim by an insured party, insurance companies generally have the right to step into the shoes of the insured party and sue anyone that the insured party could have sued.*

(b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least 30 days' prior written notice to the Association of

any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

11.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be a Service Area Expense unless the Board reasonably determines that other treatment of the premiums is more appropriate.

Chapter 12 - Association Finances

This Chapter provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments this Chapter authorizes the Association to levy against the Units and collect from the Owner of each Unit. Assessments are secured by a lien on each Unit as described in this Chapter.

12.1. Association Expenses

(a) Common Expenses. Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, improvement, and operation of the Area of Common Responsibility, in performing its duties and exercising its authority under the Governing Documents, in fulfilling its obligations under the Maintenance Declaration and any Covenant to Share Costs, and otherwise for the general benefit of the Owners, are considered "**Common Expenses**." Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate.

Except as provided in Section 9.1(a), Common Expenses shall not include any expenses incurred during the Declarant Control Period for initial development or original construction costs unless the Declarant, during the Development and Sale Period, and Members representing a majority of the total vote in the Association approve such expenditure. This approval requirement shall not apply to payments due under leases of capital improvements which are commonly leased instead of purchased, such as streetlights.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Declaration, any Supplement, any Covenant to Share Costs, or any other recorded covenants or agreements.

(b) Service Area Expenses. All expenses that the Association incurs or expects to incur in connection with the ownership, maintenance, and operation of Limited Common Areas or in providing other benefits and services to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "**Service Area Expenses**." Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

12.2. Budgeting for and Allocating Association Expenses

(a) Preparation of Budgets. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year ("**General Budget**"). In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year ("**Service Area Budget**").

The estimated expenses in each budget shall include a contribution to a reserve fund for major maintenance, repair or replacement of any capital improvements to be maintained as a Common Expense or as a Service Area Expense of the Service Area for which the budget is prepared, as applicable. The amount of the contribution to such reserves to be included in the General Budget and any Service Area Budget shall be determined by the Board based upon a reserve study

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which, except as otherwise authorized in O.R.S. §94.595 with respect to the initial budget and assessment, shall be conducted or reviewed and updated annually, as provided in O.R.S. §94.595. Such reserve study shall identify the items and components for which reserves are to be established, the estimated remaining useful life of each, the expected repair or replacement cost or deferred maintenance expense, whether such item is maintained as a Common Expense or a Service Area Expense (and if the latter, the responsible Service Area), and the contribution required to fund the projected needs by annual contributions (but not necessarily equal annual contributions) over the item's remaining useful life, considering the current rate of inflation and estimated returns on any invested reserve funds.

The funds in each reserve account shall be used only for the purposes for which such reserves were established and shall be maintained separate from the Association's other funds. Unless the Board determines that the reserve account is adequately funded, the reserve funding required hereunder shall not be suspended or eliminated except as may be authorized pursuant to O.R.S. §94.595(8). So long as the Board exercises business judgment, which may include relying in good faith on the advice of its accountants or other professional advisers as to the adequacy of reserve funds and needs, the Board shall not be liable if the reserve funding proves inadequate.

In addition to such reserves as are required hereunder, the estimated expenses in each budget may include operating reserves and reserves to fund other items as the Board deems appropriate, including insurance deductibles, landscape replacements, and damage to uninsurable structures on the Common Area.

The General Budget and each Service Area Budget shall separately set forth the sources and estimated amounts of funds to cover the estimated expenses in such budget, which may include any surplus to be applied from prior years, any

income expected from sources other than assessments levied against the Units (including amounts to which the Association is entitled pursuant to any Covenant to Share Costs or other agreement), and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to Sections 12.2(b) and (c). Each budget shall reflect the estimated surplus or deficit as of the end of the current year.

(b) Calculation of Base Assessments. The Board shall establish Base Assessments at a rate per Unit which it believes will be sufficient to fund the General Budget when levied (i) equally against all Units subject to full assessment under Section 12.5; and (ii) at a discounted rate, as provided in Section 12.5, against other Units which are subject to assessment under Section 12.5; however, in establishing such assessment rate, the Board may also take into account any other anticipated sources of income during the year. The total assessment against each such Unit for its share of the General Budget shall be levied as a "**Base Assessment**," subject to the provisions of subsection (e).

(c) Calculation of Service Area Assessments. For each Service Area Budget, the Board shall establish a rate of assessment which it believes will be sufficient to fund such Service Area Budget when levied against all Units in the Service Area that are subject to assessment under Section 12.5 in accordance with the allocations described in that Section (or if otherwise specified in the Supplement applicable to such Service Area, in accordance with such Supplement). The total assessment against each Unit for its share of the Service Area Budget shall be levied as a "**Service Area Assessment**," subject to the provisions of subsection (e).

All funds that the Association collects as Service Area Assessments shall be accounted for separately from the Association's general funds and expended solely for the benefit of the Service Area for which they were collected.

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(d) Declarant's Subsidy Option; Advances. The Declarant may, but shall not be obligated to:

(i) reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Declarant under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant; and

(ii) advance or loan funds to the Association to assist in covering Common Expenses until cash flow is sufficient to meet the Association's cash requirements. Any such advances or loans and the amount thereof shall be documented in the Association's records and repaid as soon as funds are available unless otherwise agreed by the Declarant in writing.

(e) Notice of Budget and Assessment; Right to Disapprove. Within 30 days after adoption of any General Budget or revision thereto, the Board shall send a copy of such General Budget, together with notice of the amount of the Base Assessment to be levied thereunder, to each Owner. Within 30 days after adoption of any Service Area Budget or revision thereto, the Board shall send a copy of such Service Area Budget, together with notice of the amount of the Service Area Assessment to be levied thereunder, to each Owner to be assessed for a portion of the Service Area Expenses thereunder.

Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations (as described below), after termination of the Declarant Control Period, any Base Assessment that is more than 10%

greater than such assessment for the immediately preceding fiscal year is subject to disapproval at a meeting by Members entitled to cast at least 75% of the votes allocated to Units subject to such assessment.

Except for increases necessary for emergency situations, after termination of the Declarant Control Period, any Service Area Assessment that is more than 10% greater than such assessment for the immediately preceding fiscal year is subject to disapproval at a meeting by Owners representing a majority of the votes within the Service Area subject to such assessment.

An emergency situation is any one of the following:

(i) an extraordinary expenditure is required by an order of a court;

(ii) an extraordinary expenditure is necessary to repair or maintain any portion of the Community for which the Association is responsible where a threat to personal safety is discovered;

(iii) an extraordinary expenditure is necessary to repair or maintain any portion of the Community for which the Association is responsible and which could not reasonably have been foreseen by the Board in preparing and distributing the pro forma budget. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Notice of the Board meeting at which such resolution is to be considered, explaining the nature of the assessment proposed, shall be provided to the Owners along with the notice of such assessment; or

(iv) an extraordinary expenditure is necessary for the Association to defend itself in

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litigation, arbitration, or other legal or administrative actions brought against it.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the General Budget, on petition of the Members as provided for special meetings in the Bylaws, and in the case of a Service Area Budget, on petition of Owners of at least 67% of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment. In addition, if required by Oregon law, Owners shall be given notice of and the opportunity to attend Board meetings at which assessments are to be considered and levied.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(f) **Budget Revisions.** The Board may revise the budget and adjust the Base Assessment or Service Area Assessments anytime during the year, subject to the same notice requirements and rights to disapprove set forth in Section 12.2(e).

(g) **Surplus.** Any net surplus at the end of a fiscal year shall be applied to offset Common Expenses in the next fiscal year or added to reserve funding, as the Board deems appropriate.

12.3. Special Assessments

In addition to other authorized assessments, the Association may levy "**Special Assessments**" for Common Expenses equally against all Units subject to assessment under Section 12.5, or Special Assessment for Service Area Expenses equally against the Units within any Service Area, to cover non-routine or unanticipated expenses or expenses in excess of those anticipated by the applicable budget. During the Declarant Control Period, any Special Assessment for capital improvements or additions may be adopted only

upon approval of Members entitled to cast a majority of the total votes in the Association and, during the Development and Sale Period, any Special Assessment for any purpose shall require the written consent of the Declarant. Except as otherwise specifically provided above and elsewhere in this Declaration, and subject to the Declarant's approval if required:

(i) any Special Assessment for Common Expenses may be adopted by the Board unless it would exceed, on a per Unit basis, 10% of the Base Assessment levied against each Unit for the year in which the Special Assessment is adopted, in which case it shall be subject to disapproval in the same manner as the General Budget under Section 12.2(e). Any Special Assessment for Common Expenses shall be allocated equally among all Units subject to assessment under Section 12.5.

(ii) Any Special Assessment for Service Area Expenses may be adopted by the Board unless it would exceed, on a per Unit basis, 10% of the Service Area Assessment levied against each Unit in the Service Area for the year in which the Special Assessment is adopted, in which case it shall be subject to disapproval in the same manner as the applicable Service Area Budget under Section 12.2(e). Any Special Assessment for Service Area Expenses shall be allocated in the same manner as Service Area Assessments under Section 12.1(c).

Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

12.4. Specific Assessments

The Association may levy "**Specific Assessments**" against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to

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the Unit upon request of the Owner pursuant to any menu of optional services the Association may offer pursuant to Section 10.1. Specific Assessments for optional services may be levied in advance of the provision of the requested service; and

(b) in the case of an Improved Unit, to cover the charges for services provided to all Improved Units pursuant to any bulk service or similar agreement entered into by the Association pursuant to Section 10.1;

(c) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the Bylaws before levying any Specific Assessment under this subsection;

(d) to cover the Unit's pro rata share of any costs that the Association incurs in bringing any Additional Association of which the Unit is a part into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Additional Association and the Owners of Units comprising it and an opportunity for such Owners to be heard before levying any such assessment; and

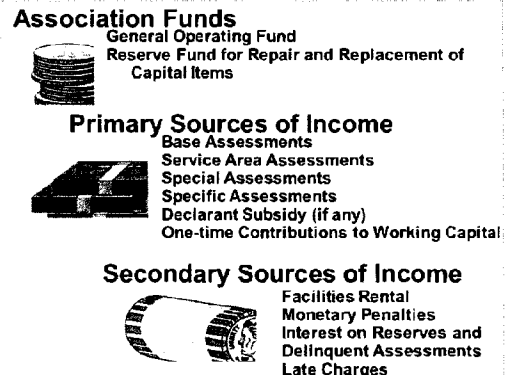
(e) to cover any deductible assessed against the Owner of a Unit pursuant to Section 11.2;

(f) in the amount of any working capital contribution due pursuant to Section 12.9; and

(g) to cover any other amounts that the Governing Documents authorize the Association to charge to a particular Owner or levy against any particular Unit.

The Association may levy Specific Assessments against an Additional Association to cover costs that the Association incurs in bringing the

Additional Association into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Additional Association's board of directors and an opportunity for the Additional Association to be heard before levying any such assessment.



12.5. Authority to Assess Owners; Common Expense Liability; Time of Payment

The Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the calendar quarter (January 1, April 1, July 1, or October 1) next following commencement of construction of the slab or foundation for a dwelling on the Unit; however, unless otherwise specified in any Supplement applicable to the Unit, a Unit within a Service Area shall be assessed at 50% of the rate of the full Service Area Assessment levied on Improved Units within such Service Area until the first day of the month following the month in which the Unit becomes an "Improved Unit" (as defined in Section 10.1). The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

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Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may permit assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

12.6. Obligation for Assessments

(a) *Personal Obligation.* By accepting a deed or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 18% per annum), late charges as determined by Board resolution, not to exceed the greater of \$25.00 or 5% of the amount of each installment not paid by the due date thereof, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Subject to the limitations in O.R.S. Section 94.712, upon a transfer of title to a Unit, the grantee shall be jointly and severally liable with the previous Owner for any assessments and other charges due at the time of conveyance, without prejudice to any right the grantee may have to recover from the prior Owner the amounts paid by the grantee, except that for purposes of this provision the term "previous Owner" shall not include the Association if the Association acquired title to the Unit through foreclosure or deed in lieu of foreclosure of its lien on the Unit. However, a Mortgagee who obtains title to a Unit by foreclosure or deed in lieu of foreclosure of its Mortgage shall not be liable for unpaid assessments that accrued prior to such acquisition of title except to the extent now

or hereafter provided in the OPC Act and as provided in Section 12.7.



By buying a Unit in the Community each Owner agrees to pay all assessments levied against his or her Unit. If the Owner does not pay on time, that Owner will be charged late fees on all past due amounts. Owners may not claim a reduction in their assessments due to action or inaction by the Association.

Notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying the payment, all payments accepted by the Association on the account of any Owner shall be applied first to interest accrued, then to any late charge, then to any costs and reasonable attorney's fees incurred in collection, and then to the principal amount of the delinquent assessment.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments at the rate established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, for inconvenience or discomfort arising from the making of

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repairs or improvements, or from any other action it takes.

Within 10 business days after receipt from an Owner or Mortgagee of a written request therefor, the Association shall provide a writing statement signed by an officer or authorized agent of the Association setting forth the amount of any unpaid assessments and other charges owed to the Association with respect to the Unit at the time the request was received ("**Assessment Statement**"), including any accrued interest and late charges, and setting forth the percentage rate at which interest accrues on assessments that are not paid when due, and the percentage rate or fixed amount charged for late payment. If so authorized by Board resolution, the Association may require the payment of a reasonable fee for the preparation and issuance of such certificate and the amount of such fee shall be stated in the statement.

(b) Declarant's Financial Obligations to Association. Until the Board first levies assessments against Units subject to assessment under Section 12.5, the Declarant shall pay all Common Expenses. Thereafter, the Declarant shall be liable for assessments on any Units it owns that are subject to assessment under Section 12.5; provided, the Declarant may elect to defer that portion of any amount payable under this clause (ii) which the applicable budget allocates to funding of reserves until the earlier of (i) the date the Unit is conveyed by the Declarant; or (ii) termination of the Declarant Control Period. The books and records of the Association shall reflect the amount, if any, deferred hereunder on account of each Unit owned by the Declarant. If the Declarant advances funds to the Association to fund cash shortfalls during a fiscal year and the total of such advances exceeds the amounts due from the Declarant hereunder for such fiscal year (before any deferment under clause (ii)), the Declarant may treat such excess as a loan to be repaid by the Association out of any cash surplus in the current or future fiscal years; provided, budgeted contributions to reserve funds and

funds held in trust for a Service Area shall not constitute "surplus" for this purpose.

Any of the Declarant's financial obligations to the Association may be satisfied in the form of cash, by "in kind" contributions of services or materials, or by a combination of these; provided, any credit received by the Declarant for "in kind" contributions of services or materials shall not exceed the Board's reasonable determination of the fair market value thereof taking into consideration proposals, quotes, invoices, or similar documentation from independent third parties who provide comparable services or materials.

12.7. Lien for Assessments

(a) Existence of Lien. The Association shall have a lien against each Unit to secure payment of assessments due hereunder, as well as interest, late charges (subject to the limitations of Oregon law), and costs of collection (including attorneys' fees and expenses). Such lien shall be effective from and relate back to the date on which this Declaration was recorded. Recording of the declaration constitutes record notice and perfection of the lien for assessments and no further recording of a claim of lien for assessments or notice of a claim of lien under this section is required to perfect such lien; however, the Association shall record a notice of claim of lien in such form as required by O.R.S. §94.709 before filing any suit to foreclose its lien. The Association's lien shall be superior to a homestead exemption and all other liens except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (ii) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit and recorded prior to the recording of the Association's notice of claim of lien.

Prior to filing a notice of claim of lien or otherwise taking any action to enforce its lien, the Association shall provide the delinquent Owner with written notice or demand for the past due assessments and any other amounts which the

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Owner owes to the Association pursuant to the Governing Documents. Such notice shall give the Owner at least 14 days within which to pay all amounts due, including, but not limited to, any attorneys' fees and actual costs which the Association has incurred in connection with the preparation and delivery of such notice. Such notice may inform the Owner of the Association's intent to file a claim of lien and to foreclose such lien and collect the amounts due if not paid within such 14-day or longer period. The notice shall be sent by registered or certified mail, return receipt requested, and by first class mail, to the last address of the Owner reflected in the Association's records and to the address of the Unit, if different from the address in the Association's records. If the Owner's address as reflected in the Association's records is located outside the United States, sending the notice to such address by first class United States mail shall be sufficient.

(b) Enforcement of Lien. The Association may take action to foreclose its lien as provided in O.R.S. §94.709, and may also bring an action to recover a money judgment for the amounts due without foreclosing or waiving its lien; however, no such action shall be brought until 14 days after the Owner has been provided with notice of the Association's intent to foreclose and collect the unpaid amount as provided in subsection (a).

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit, subject to the Owner's right of redemption, if any, under Oregon law. While a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association.

The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing

the same in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) Effect of Sale or Transfer. Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit and the subsequent Owner thereof from the personal obligation for assessments due at the time of transfer of title, except that the liability of a holder of a first Mortgage who acquires title to a Unit pursuant to foreclosure of the Mortgage or a deed in lieu of such foreclosure for assessments due prior to such acquisition of title shall be limited as provided in O.R.S. §94.723. Any unpaid assessments for which such holder is not liable shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 12.5, including such acquirer, its successors and assigns.



If an Owner does not pay his or her assessments on time, the Association may foreclose its lien on the Owner's Unit, causing it to be sold to pay the past due assessments. The Association also may sue an Owner in court to recover past due assessments.

12.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant or a Declarant Affiliate as are included in the Area of Common Responsibility;

(b) Any property dedicated by recorded plat or conveyed to and accepted by any governmental or quasi-governmental authority or public utility, so long as owned and used for public purposes;

(c) Property owned by any Additional Association for the common use and enjoyment of its members, or owned by the members of an Additional Association as tenants-in-common; and

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(d) "Association Property," as such term is defined in the Maintenance Declaration.

In addition, both the Declarant and the Association shall have the right, but not the obligation, to grant exemptions to schools, houses of worship, hospitals, or Units owned by and used by Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code. Exemptions granted by the Declarant shall be binding on the Association.

12.9. Capitalization of Association

(a) Upon each transfer of a Unit other than a transfer exempt under subsection (b), the transferee shall make a contribution to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit levied by the Association on Units subject to full assessment for the year in which the transfer occurs. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be considered an advance payment of such assessments. This amount shall constitute a Specific Assessment against the Unit and shall be deposited into the purchase and sales escrow and disbursed to the Association immediately upon transfer of title to the Unit, for the Association's use in covering initial start-up expenses, operating expenses, and other expenses that it incurs pursuant to this Declaration and the Bylaws, which may include contributions to reserve funds, as the Board deems appropriate.

(b) No working capital contribution shall be assessed under subsection (a) upon transfer of a Unit:

(i) by or to the Declarant or a Declarant Affiliate;

(ii) by a co-Owner to any Person who was a co-Owner immediately prior to such transfer;

(iii) by an Owner to such Owner's spouse or child, or to such Owner's former spouse pursuant to a divorce decree or other court order;

(iv) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(v) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership or beneficial interest in such trust, the working capital contribution shall become due;

(vi) to an institutional lender pursuant to the remedies set forth in a Mortgage or upon foreclosure of a Mortgage; or

(vii) under other circumstances which the Board, in its discretion, deems to warrant classification as an exempt transfer.

12.10. Use and Consumption Fees

The Association may offer services or facilities for which it does not recover its costs through assessments under this Chapter. The Board may charge use and consumption fees to any Person who chooses to use such services, equipment, or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

Chapter 13 - Easements

The easements created in this Chapter establish the rights of Owners to use the Common Area and create various rights for the benefit of Owners, the Declarant, the Association, and others over property within the Community. Some of these rights are related to development and construction within the Community and on adjacent property while others relate to the rights of the Association to come upon property of others to fulfill its responsibilities.

13.1. Easements in Common Area



An easement is one person's right to go onto the property of another.

The Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

(a) the Governing Documents and any other applicable covenants;

(b) any restrictions or limitations contained in any deed conveying such property to the Association;

(c) certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area," if any; and

(d) the Board's (and, as applicable, the Declarant's) right to:

(i) adopt rules regulating Common Area use and enjoyment, including without limitation, rules limiting the hours of use and the number of guests who may use the Common Area and rules requiring an Association-issued pass to access any recreational facilities and requiring payment of a fee for issuance of passes to occupants of any accessory dwelling on a Unit; however, no rule shall unreasonably restrict an Owner's right to peaceably assemble on the Common Area or to invite public officers or candidates for public office to appear and speak on the Common Area;

(ii) charge reasonable admission, participation, or other use fees and guest fees for use of Common Area facilities for purposes (other than access to and from a Unit) and for participation in any programs, activities, or events offered or sponsored by the Association or by such Persons as it may authorize to use the Common Area for such purpose;

(ii) suspend an Owner's or occupant's right to use Common Area facilities (other than for access to and from a Unit) for nonpayment of assessments or other violations of the Governing Documents;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be required under Section 20.4;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area, which fees may vary by class of user as provided in Section 7.2(b);

(v) require execution of an assumption of risk and waiver and release of liability in favor of the Association as a condition of using any facility or participating in any Association-sponsored activity or any activity taking place on the Common Area;

(vi) rent all or a portion of any Common Area facility on an exclusive or non-exclusive short-term basis to any Person;

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(vii) permit use of any Common Area facility by persons other than Owners and occupants of Units, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion; and

(viii) permit use of any Common Area facilities, at such charge or no charge as the Board may determine appropriate, for the purpose of offering and conducting classes or other activities for interested Owners and occupants, whether offered on a fee basis for profit or otherwise; and

(ix) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to Section 20.4;


(e) the Board's duty to permit use of Common Area facilities by residents of Units within any Age-Qualified Area or dwellings within any multi-family rental apartments within Reed's Crossing, and their respective guests, upon such terms and conditions and payment of such fees as may be set forth in any Supplement or agreement relating to such use executed by (i) the Declarant during the Development and Sale Period, or by the Association at any time; and (ii) the developer of any such Age-Qualified Area or the owner of any such multi-family rental apartments to be granted use privileges;

(f) the right of the Declarant and its designees to use the Common Area pursuant to Section 18.2.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease, except that an Owner who leases a garage apartment or similar accessory dwelling pursuant to Chapter 5 may extend such rights of use and enjoyment to the lessee of such accessory dwelling without re-

linquishing such rights for the benefit of the occupants of the main dwelling on the Unit, subject to the Board's right to charge fees for use of recreational facilities by the occupants of any accessory dwelling as provided in Section 13.1(d)(i).

13.2. Easements of Encroachment

 *An encroachment occurs when a person's home, fence, or other structure extends onto his or her neighbor's property. This section permits minor, inadvertent encroachments to remain.*

The Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of less than one foot, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

13.3. Easements for Utilities and Other Infrastructure

(a) *Installation and Maintenance.* The Declarant reserves for itself, its success, assigns, and designees, and grants to the Association and all utility providers perpetual non-exclusive easements throughout the Community (but not through a structure) for the purpose of:

(i) installing utilities and Community Systems, security and similar systems, drainage systems, and other infrastructure to serve any property within Reed's Crossing;

(ii) installing walkways, pathways and trails, streetlights, and signage on property the Declarant or the Association owns or within pub-

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lic rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described above; and

(iv) access to read utility meters.

Notwithstanding the above, the Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. The Declarant also reserves the non-exclusive right and power to grant and record such specific easements consistent with Section 13.3(a) as it deems necessary or appropriate to develop the property described in Exhibits "A" and "B." The location of the specific easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in Section 13.3(a) and (b) shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.


13.4. Easements to Serve Additional Property

The Declarant reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and de-

velopment of the property described in Exhibit "B," regardless of whether such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property. This easement shall also include, without limitation, the right to make any or all of the Common Area facilities available on a temporary or permanent basis to owners of any portion of the property described on Exhibit "B."

If the above easement grants permanent access or permanent use privileges to the owners of any property that is not submitted to this Declaration, the Declarant or its successors or assigns shall enter into a reasonable agreement with the Association by which the owners of the benefited property or any mandatory membership owners association having jurisdiction over such property shall (a) share on a reasonable basis the costs which the Association incurs in connection with the ownership, maintenance, repair, replacement, operation, and insurance, of the Common Area facilities of which use is shared, and/or (b) provide reciprocal rights to the Association's Members to use comparable facilities owned or controlled by the owner of the other property, or (c) a combination of (a) and (b). The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

13.5. Easements for Maintenance, Emergency, and Enforcement

 The Association may come onto the exterior portions of a Unit to do maintenance or to address violations of the covenants but will give prior notice unless there is an urgent need to enter the property before notice can be given.

Easements

By this Declaration, the Declarant grants to the Association easements over such portions of the Units as necessary to enable the Association to exercise its authority and fulfill its maintenance responsibilities under this Declaration and the terms of any order, permit, or approval of any governmental or quasi-governmental body which is applicable to the Community and to exercise its enforcement rights under Chapter 8. The Association also shall have the right, but not the obligation, to enter upon exterior portions of any Unit for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

13.6. Easement for Fence and Landscape Maintenance

The Declarant reserves for itself, the Association, and their respective successors, assigns, and designees, a perpetual, nonexclusive right and easement over portions of the Community lying within 20 feet of the perimeter boundary of the Community, and within 15 feet of the back-of-curb of any public or private street or alley within or adjacent to the Community, for the purpose of constructing, installing, maintaining, repairing, and replacing perimeter fencing or walls and landscaping along the perimeter boundary of the Community or within or immediately adjacent to the right-of-way of any public or private streets or alleys adjacent to or within the Community. Nothing in this Section shall obligate the Declarant, the Association, or any Builder to install fencing, walls, or landscaping, the installation of such items being in the sole discretion of the Declarant and the Association.

13.7. Easements for Maintenance of Water Bodies and Flooding

The Declarant reserves for itself, Declarant Affiliates, the Association, and their respective successors, assigns, and designees, the nonexclusive right and easement, without obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility, and to enter upon exterior portions of Units lying within 20 feet of such bodies of water and wetlands, to (a) construct, install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, install, maintain, and repair fountains, aeration devices, and structures and equipment for retaining and pumping water; (c) temporarily flood and back water upon and maintain water over such property; and (d) perform such maintenance and repair as the Board may deem appropriate, which may include maintenance of shorelines, bulkheads, and water quality, algae control, removal of silt and debris, removal of dead or diseased trees, shrubs, and plants; and taking action to control any condition or remove any thing that constitutes a potential health or safety hazard. The Declarant, the Association, and their respective successors, assigns, and designees shall have an access easement over and across any portion of the Community that abuts or contains bodies of water or wetlands, to the extent reasonably necessary to exercise their rights under this Section.

All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make the Declarant, the Association, or any other Person liable for damage resulting from flooding due to weather events or other natural occurrences.

Easements

13.8 Easements for Stormwater Drainage and Runoff.

Each portion of the Community is hereby granted a perpetual, non-exclusive easement for the discharge of storm water into and flow of storm water through those Stormwater Facilities constructed in public rights-of-way and within public drainage easements shown on recorded plats.

13.9. Easements over Streets

(a) Any street, road, drive, lane, or alley depicted as a separate parcel of land on a recorded plat of the Community and designed to accommodate vehicular traffic ("**Street**"), except a Private Street as defined in subsection (b), shall be subject to a temporary, nonexclusive easement for access, ingress, and egress for the benefit of the Association, each Unit and the Owner and occupants thereof, and each other portion of the Community, until such time as such Street is dedicated to and accepted by a governmental entity for public use. (b) The Declarant hereby establishes a perpetual, nonexclusive easement of access, ingress, and egress over any Street or access easement designed to provide vehicular access to two or more Units and described as "private" on a recorded plat of the Community (each a "**Private Street**") for the benefit of the Units adjacent to and served by such Private Street, which easement may be exercised by the Owners and occupants of the benefited Units, their guests and invitees, including their contractors and others providing labor, materials and construction services to their Units, subject to such rules as the Association may establish governing their use.

(c) The Declarant hereby reserves for itself and its agents, employees, successors, and assigns, and invitees of the Declarant or its successors and assigns, an easement for access, ingress and egress over all Private Streets during the Development and Sale Period.

(d) The Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over all Private Streets for the Association, its agents and employees; for law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel acting in their official capacities; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to the Community.

Chapter 14 - Private Amenities

Various recreational and other facilities may be located within or in the vicinity of the Community that are privately owned and operated by Persons other than the Association. Those facilities are not part of the Common Area of the Community, and ownership of property in the Community does not give any person the right to use them. This Chapter explains the right of the owners of those facilities to determine if and on what terms they wish to make their facilities available for use by Owners. It also establishes certain rights for the benefit of the owners of such facilities.

14.1. General

Any such facilities, and any other property and facilities located within, adjacent to, or near the Community, which Persons other than the Association own and operate for recreational and related purposes, are referred to in this Declaration as a "**Private Amenity**" or "**Private Amenities**."

Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as the owners of the Private Amenities may determine. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users and also shall have the right to reserve use rights and to terminate use rights altogether subject to the terms of any written agreements with their respective members.

14.2. Ownership and Operation of Private Amenities

All Persons, including Owners, are hereby advised that no representations or warranties have been or are made by the Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenities. No purported representation or war-

ranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenities.

Ownership or operation of the Private Amenities may change at any time by virtue of, without limitation: (a) the sale to or assumption of operations of any Private Amenities by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenities or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenities; or (c) the conveyance of any Private Amenities to one or more Declarant Affiliates. A change in ownership or operation of any Private Amenities, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance, shall not require approval of the Association, any Additional Association, or any Member or Owner.

Chapter 15 - Disclosures and Waivers

This Chapter discloses some important information about the Community for the benefit of prospective purchasers of property in the Community. Each Owner, by accepting a deed to property in the Community, also accepts and agrees to the matters set forth in this Chapter.

15.1. Access by General Public

Various streets within and adjacent to the Community are public streets and, as a result, the general public will have access within and through the Community and may be able to gain access to its Common Areas, including but not limited to greenbelts, parks, trails and paths. The Association may, but shall have no obligation to, control access to or police the Common Areas to identify and eject unauthorized persons.

Certain facilities and areas within the Community may be dedicated to the public on recorded plats and, as such, may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: lakes, ponds, recreational facilities, greenbelts, trails and paths, roads, sidewalks, medians, and parks.

15.2. Safety and Security

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to promote or enhance the level of safety or security that each person provides for himself or herself and his or her property. However, the Association, the Declarant, and Builders shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, or that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any tenants and other occupants of such Owner's Unit and their guests that the Association, its Board and committees, and the Declarant are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties. Owners shall include in each lease for any Unit or any portion thereof provisions informing and binding tenants to these provisions.

15.3. Changes in Development Plan

The Declarant reserves the right to make changes in the Development Plan in its discretion, subject to such governmental approvals as may be required. Each Owner acknowledges that the Community is a master planned community, the development of which is likely to extend over many years, and agrees that neither the Association nor any Additional Association shall, without the Declarant's prior written consent, engage in or use Association funds to support any protest, challenge, or other form of objection to (a) changes in uses or density of property within

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the Community, or (b) changes in the Development Plan.

15.4. View Impairment

Neither the Declarant, nor any Declarant Affiliate, nor the Association guarantee or represent that any view over and across the Units, any open space within the Community, or any Private Amenity will be preserved without impairment. The Declarant, Declarant Affiliates, the Association, and any Private Amenity owner shall have no obligation to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association (with respect to the Common Area) and Private Amenity owners (with respect to any Private Amenity) have the right to add trees and other landscaping from time to time, subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

15.5. Notices and Disclaimers as to Community Systems

Any Community System and its providers, managers, and operators may be subject to federal, state, or municipal regulations, laws, and ordinances. Such regulations, laws, and ordinances may have a significant impact on certain aspects of the system including, but not limited to, the fees charged, the method of delivery, the rights of the system users, as well as the rights of the system providers or operators. These regulations and their impact are beyond the control of the Association, the Declarant, and Declarant Affiliates.

In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, neither the Declarant nor any Declarant Affiliate, nor the Association, nor any of their respective successors or assigns, shall in any manner be liable for any interruption in Community Systems services.

The Owner of each Unit shall be responsible for ensuring that the dwelling on such Unit is pre-wired to connect to any Community System installed by or at the request of the Declarant pursuant to Section 18.7. If such wiring is installed by a party other than the provider of the Community System, the Owner shall contact the provider of the Community System upon completion of such installation and arrange for the provider of the Community System to inspect the wiring to ensure compatibility with the Community System. If authorized by the Declarant, the provider of the Community System may charge the Owner of the Unit a reasonable fee for such inspection. If it is determined that the wiring is not compatible, the Owner of the Unit shall promptly arrange for such wiring to be replaced with wiring that is compatible with the Community System.

Each Owner acknowledges and agrees that the Association, by virtue of contractual relationships with Community Systems providers, may gain access to information relating to individual use of the Community Systems, including account and content information. In recognition of this fact, each Owner waives any privacy rights he or she may have in such information and any claims against the Association, the Board, Declarant, and Declarant Affiliates, and the Builder of such Owner's Unit relating to the acquisition of such information. Further, each Owner acknowledges and agrees that the acquisition of such information by the Association shall not create any duty on the part of the Association, Declarant, or Declarant Affiliates to any Person to act in any manner with respect to such information.

15.6. Construction Activities

All Owners, occupants, and users of Units are hereby placed on notice that the Declarant, any Declarant Affiliates, Builders, and the developer of adjacent properties, and/or their agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, will be conducting development and construction activities within

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Reed's Crossing and that such activities may be conducted in phases and may cause disturbance and disruption that impact the use and enjoyment of a Unit.

By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest and by using any portion of a Unit or the Community generally, the Owners and all occupants and users of Units acknowledge and agree: (a) that such activities shall not be deemed nuisances or noxious or offensive activities under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Unit or any other portion of the Community where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) that the Declarant, any Declarant Affiliates, and all of their agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; (d) that any purchase or use of any portion of a Unit or any other portion of the Community has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to the Declarant or Declarant Affiliates to sell, convey, lease, and/or allow the use of Units and other facilities within the Community.

15.7. Water Management

Each Owner acknowledges and agrees that wetlands, stormwater ponds, and other bodies of water within or adjacent to the Community are not designed as aesthetic features and, due to fluctuations in rainfall and groundwater elevations within the immediate area, may be wet or dry at various times and will not likely maintain a

constant water level. The Declarant and the Association have no control over such elevations. Each Owner, by accepting title to or any interest in a Unit, agrees to release and discharge the Declarant, Declarant Affiliates, and the Association from and against any and all losses, claims, demands, damages, costs, and expenses of whatever nature or kind, including reasonable attorneys' fees and costs at all tribunal levels, related to or arising out of any claim relating to the aesthetics of, the presence or absence of water in, or such fluctuations in water level in such areas.

Except for construction and maintenance activities that are consistent with applicable regulations and permit conditions, no person shall alter, modify, or expand, or deposit fill, debris, or any other material or item in, any part of the Stormwater Facilities serving the Community, or remove, cut, trim, or apply herbicides to any vegetation within, dredge, or introduce grass carp into, any wetlands mitigation area or wet detention pond located within or in the vicinity of the Community, without the prior written approval of the Declarant and such local, state, or federal regulatory or permitting authorities as may have jurisdiction over such matters.

15.8. Entry Upon and Use of Water Bodies

Any Person entering upon or near or otherwise using any wetlands, ponds, or other water bodies and related facilities within or adjacent to the Community, shall be responsible for his or her own personal safety in connection with such entry and use and shall assume all risks of personal injury, including death, relating to such entry or use. The Declarant, Declarant Affiliates, and the Association shall not in any way be a guardian or insurer of safety in connection with the presence, entry upon, or use of any water bodies or features within or adjacent to the Community and shall not be held liable or responsible for any personal injury or death, property damage, or any other loss due to, arising out of, or related to use of such water features for any purpose.

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Some Units are located adjacent to ponds or stormwater detention or retention facilities that may from time to time contain water. Owners and occupants of such Units have no right to erect fences, attach docks, build retaining walls, anchor or store boats or other watercraft, or landscape, clear, or otherwise disturb vegetation between the boundary of the Unit and such ponds, or other facilities.

15.9. Natural Conditions

The Community and surrounding areas contain wetlands and other manmade, natural and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including insects, venomous and non-venomous snakes, alligators and other reptiles, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Unit, and every person entering the Community or such surrounding areas (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movement within or through the Community or such surrounding areas; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife. Neither the Association, nor the Declarant, nor any Builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of them, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Community or surrounding areas, nor shall they have any liability for any injury resulting from the presence, movement or propagation of any plant or wildlife within or through the Community.

The natural areas described in this Section may also contain creeks, ponds, wetlands or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as an environmentally sensitive area or wildlife habitat. No Owner or occupant of a Unit shall enter upon, or permit their guests

or any other person acting on their behalf to enter upon or disturb, any such areas which are demarcated with landscaping and/or signage without the Association's or the Declarant's prior written approval.

15.10. Use of Nonpotable Water for Irrigation.

Each Owner and occupant of a Unit, and their respective employees, guests and invitees, are hereby advised that the water used to irrigate property within or adjacent to Reed's Crossing may be treated effluent, re-use water or "gray water." Although such water is considered safe for irrigation and limited contact, it is not suitable for human or animal consumption and should not be used for drinking, bathing, swimming, or any purpose other than irrigation.

15.11. Utility Easements.

Portions of the Community may be subject to easements for power transmission lines and natural gas and other pipelines, as well as easements for other utilities and storm water drainage. The Association shall have no responsibility for providing maintenance to such areas or improving them to the Community-Wide Standard except as may otherwise specifically be provided in this Declaration, any applicable Supplement, or the instrument creating such easement.

15.12. Local Improvement District Assessments and Lien.

The Community is part of and subject to the infrastructure Planned Unit Development (City of Hillsboro Case File No. Planned Unit Development 006-15, Reed's Crossing infrastructure) established by City of Hillsboro Ordinance No. 6158 (the "IPUD"), and the South Hillsboro Local Improvement District established by City of Hillsboro Resolution No. 2548 (the "LID"). The LID has been established for the purpose of undertaking various transportation and park infrastructure projects to be funded in whole or in part through the issuance of revenue bonds by the City of Hillsboro. Each Unit shall be subject to

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assessment by the LID to retire such bonds and such assessments shall be secured by a first priority lien in favor of the City of Hillsboro. The methodology for allocating project costs and assessment liability among parcels within the LID (the "**LID Methodology**") is described in the South Hillsboro Local Improvement District Project Report attached as Exhibit B to Resolution No. 2548, a copy of which is available from the Declarant or the Association upon request. EACH OWNER, BY ACCEPTING A DEED TO ANY UNIT, IS DEEMED TO ACKNOWLEDGE THE EXISTENCE OF THE LID AND ITS LIEN ON SUCH UNIT AND TO AGREE WITH THE LID METHODOLOGY.

Chapter 16 - Rights of Lenders

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Community.

16.1. Statement of Delinquencies and Violations

Within 10 business days after receipt of a written request from an institutional holder, insurer, or guarantor of a Mortgage providing its name and address and the street address of the Unit to which its Mortgage relates, the Association shall provide a statement of any delinquency in the payment of assessments or charges owed for such Unit or any other violation of the Governing Documents relating to such Unit or the Owner or occupant thereof which has not been cured as of the date of the Association's response.

16.2. Right to Examine Association's Books and Records

Within 10 business days after receipt of a written request from any Mortgagee providing its name and address and the street address of the Unit to which its Mortgage relates, the Association shall provide the Mortgagee with a copy of the Association's most recent financial statement and shall permit such Mortgagee or its agent to inspect the books and records of the Association during normal business hours, subject to the terms of the Bylaws.

16.3. No Priority

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.4. Notice to Association

Within 10 days of the Association's written request, each Owner shall furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit and the identifying number of the loan which such Mortgage secures.

16.5. Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 60 days of the date of the Association's request, provided such request is in writing, names the mortgagor, identifies the Unit securing its mortgage by address or legal description, identifies the mortgage by loan number or recording data, and is delivered to the Mortgagee by certified or registered mail, return receipt requested.

PART FIVE: COMMUNITY DEVELOPMENT

Chapter 17 - Expansion of the Community

The Community is expected to be developed in phases to accommodate market demand. This Chapter addresses the right of the Declarant or the Association to expand the Community beyond the initial property described in Exhibit "A" to this Declaration.

17.1. Expansion by the Declarant

From time to time, the Declarant may expand the Community by recording a Supplement submitting to the terms of this Declaration all or any portion of the real property described in Exhibit "B" and describing the additional property to be submitted. The property added to the Community may include, without limitation, Units, Common Area, rights-of-way, utility parcels, and property dedicated to public use. There is no limitation on the number of Units or the nature or extent of Common Area which may be created within or annexed into the Community. The Declarant may record such a Supplement without the consent of any Person, except that such Supplement shall be signed by the owner of such property if someone other than the Declarant, evidencing such owner's consent.

The Declarant's right to expand the Community under this Section expires when all property described in Exhibit "B" has been submitted to this Declaration or 40 years after this Declaration is recorded, whichever is earlier. Until then, the Declarant may transfer or assign this right, in whole or in part, and with respect to all or any portion of the Exhibit "B" property (reserving all rights as to any portion not included in such assignment), to any Declarant Affiliate or to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be described in a recorded instrument executed by the Declarant.

Nothing in this Declaration shall require the Declarant or any successor to submit additional property to this Declaration or to develop any of

the property described in Exhibit "B" in any manner whatsoever. The Declarant may submit different parcels of property to this Declaration at different times. The Declarant gives no assurances as to the boundaries of the parcels that may be submitted to this Declaration, or as to the order in which the Declarant may submit parcels of property to this Declaration or as to whether buildings erected on any additional property submitted to this Declaration will be compatible with other buildings in the Community in terms of architectural style, quality of construction, principal materials employed in construction, size, or price.

17.2. Expansion by the Association

The Association also may submit additional property to this Declaration by recording a Supplement describing the additional property. Any Supplement that the Association records must be approved by Members entitled to cast more than 75% of the total votes in the Association and by the owner of the property to be submitted. In addition, during the Development and Sale Period, the Declarant's consent is required. The Association's President and Secretary, the owner of the property, and the Declarant, if the Declarant's consent is required, shall sign the Supplement. Notwithstanding the above, if the Association acquires additional Common Area, it may record a Supplement adding a description of such property to Exhibit "C" without the approval of the Members.

Expansion of the Community

17.3. Additional Covenants and Easements

Any Supplement that the Declarant records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting additional property to this Declaration or may be set forth in a separate Supplement applicable to property previously submitted to this Declaration. If someone other than the Declarant owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property. For example, a Supplement for an Age-Qualified Area in which an Additional Association maintains amenities for the exclusive use of residents and their guests may provide for a reduced assessment to be levied on Units within such neighborhood and limit access by such residents to specified recreational facilities maintained by the Association.

17.4. Effect of Filing a Supplement

A Supplement shall be effective upon recording unless otherwise specified in the Supplement and except as otherwise specifically provided in such Supplement, shall operate to extend all of the benefits and burdens of this Declaration to the property described in such Supplement as if such property had been part of the initial property described on Exhibit "A" to this Declaration.

17.5. Voting Rights and Assessment Liability of Annexed Units

On the effective date of the Supplement, any Units within any additional property submitted to

the terms of this Declaration by such Supplement shall be assigned voting rights in the Association and assessment liability in accordance with the same provisions of this Declaration governing voting rights and assessment liability of all previously submitted Units, except as otherwise specified in the applicable Supplement. However, the Board shall have no obligation to reallocate assessment liability of previously submitted Units or otherwise reapportion Common Expenses for the year in which such Supplement is recorded except as may be expressly required by the OPC Act.

Chapter 18 - Additional Rights Reserved to the Declarant

This Chapter reserves various rights to the Declarant, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Declarant's development and sale of property in the Community, to enable the Declarant to respond to Owners' concerns, and to protect various property rights and other interests of the Declarant.

18.1. Special Development Rights

In addition to the rights specifically reserved to the Declarant under Chapter 17 with respect to expanding the Community, the Declarant reserves the right, during the Development and Sale Period, to exercise any or all of the special declarant rights described in the OPC Act, including, without limitation, those rights described in O.R.S. §94.550(22), and the right to:

(a) add, construct and install improvements anywhere within the Community, whether or not specifically described or contemplated by this Declaration, except that the Declarant shall not construct improvements on any Unit without the consent of the Owner thereof; provided, nothing herein shall obligate the Declarant to add, construct or install any improvements;

(b) create Units, Common Areas, and Limited Common Areas, and to designate roadways, within any portion of the Community which it owns;

(c) divide any Unit into two or more Units, or combine any Units which it owns in order to create larger Units, Common Areas, and/or Limited Common Areas;

(d) convert any Unit which it owns into Common Area, Limited Common Area, or roadways;

(e) adjust the boundaries of any Units that it owns and any Common Area or Limited Common Area;

(f) cause the Association to convey or re-convey any portion of any Common Area or Limited Common Area which is not improved with

buildings as necessary to make minor adjustments in boundary lines between such Common Area or Limited Common Area and adjacent properties; and

(g) withdraw from the Community and the coverage of this Declaration any portion of the real property previously submitted to this Declaration, provided that the property to be withdrawn has not been improved with a dwelling. Such withdrawal shall be accomplished by recording a notice of withdrawal signed by the Declarant referencing this Declaration and describing the real property being withdrawn and the intent that it no longer be subject to the provisions of this Declaration or the jurisdiction of the Association. Any such notice of withdrawal shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal. If the property to be withdrawn contains Units which are subject to assessment hereunder, the assessment liability shall be prorated as of the effective date of such withdrawal and the Owner shall pay to the Association all amounts due for the period prior to the effective date of such withdrawal. The liability for Common Expenses for the period after the effective date of such withdrawal shall be reallocated among the remaining Units which are subject to assessment in accordance with Chapter 12; however, the Board shall have no duty to adjust the Base Assessment previously levied for the fiscal year in which such withdrawal occurs if it determines that the Association has sufficient funds to cover the Common Expenses for such year. The right to withdraw property hereunder shall terminate upon expiration of the Development and Sale Period.

Additional Rights Reserved to the Declarant

The foregoing rights shall specifically include the right, subject to obtaining the requisite governmental approvals and complying with the procedures set forth in O.R.S. §§92.010 to 92.192, to replat and record revised, amended, or additional plats affecting any property in the Community to accomplish any of the foregoing and/or to vacate right-of-way, eliminate open spaces, convert right-of-way or open space to Units, or convert Units to open space or right-of-way. Such replats or revised or amended plats shall not require the consent of the Association, the Members, any Owner, or any other Person except appropriate governmental authorities and the Owner of any Unit or parcel of property the boundaries of which are altered by such replat or amended plat. If a proposed replat or revised or amended plat would alter the boundaries of any property which Declarant has conveyed to the Association as Common Area and such property has not been improved with recreational facilities, then the Association shall, upon the Declarant's request, execute such documents as may be necessary to grant its consent to such replat or revised or amended plat.

18.2. Marketing and Sales Activities

(a) Notwithstanding anything in the Governing Documents to the contrary, during the Development and Sale Period, the Declarant and its designees or assigns may construct, use, and maintain such facilities and conduct such activities upon portions of the Common Area and other property they own, as, in the Declarant's opinion, may reasonably be required, convenient, or incidental to the construction, maintenance, repair, or sale of Units (including performance of any warranty work), subject to any limitations imposed by applicable zoning. Such permitted facilities and activities shall include business offices, parking facilities, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, information centers, parking facilities, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or

incidental to construction or sales activities, the Declarant and its employees, agents, and designees may park vehicles in designated parking areas. The Declarant, Declarant Affiliates, and Builders whom the Declarant may authorize shall have easements for access to and use of such facilities at no charge. The rights described in this Section 18.2 shall specifically include the right of the Declarant and its designees to use Common Area facilities for an information center and/or for administrative, sales and business offices at no charge during the Development and Sale Period and to restrict use or access to such facilities by the Association, its members and others as long as they are being used for any such purpose. There shall be no limit on the number or location of such facilities, except as otherwise restricted by state law or local ordinance or regulations.

After the Development and Sale Period, the Declarant shall continue to have a right of access to and the right to use all Common Area facilities for parties, special events, and marketing activities in connection with the marketing and sale of other communities being developed, marketed, or sold by the Declarant, its agents, or affiliates, subject to any limitations imposed by applicable zoning. Any such use after the Development and Sale Period shall be subject to reasonable notice to the Association and payment by the Declarant of all reasonable costs the Association directly incurs in connection with such use (*i.e.*, over and above costs the Association would incur in the absence of such use).

(b) The Declarant reserves for itself and its designees the right, without the consent of or payment of compensation to any Person, to take photographs and to capture, produce, and reproduce, by any method and in any format or media, images of any structures, streetscapes, landscapes, signage, public spaces, or other elements located on Units, Common Area, or public property within Reed's Crossing which are visible from public streets or Common Area, and to use such images in advertising, marketing materials, displays, presentations, and publications of any

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kind, including, without limitation, newspaper, internet, television, and other media. Each Owner, by accepting a deed to any Unit, shall be deemed to have consented to the exercise by Declarant and its designees of the rights described in this subsection (b) and to have waived any personal or proprietary right such Owner may have in connection with such images.

18.3. Access for Development Purposes

During the Development and Sale Period, the Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area, Private Streets, Alleys, and other roads within the Community for the purpose of:

(a) exercising any rights reserved to the Declarant pursuant to this Declaration, including the rights set forth in Sections 18.1 and 18.2; and

(b) making, constructing, and installing any improvements indicated on recorded subdivision maps or plats of the Community and such other improvements to the Common Area and to the Exhibit "B" property as it deems appropriate; and

(c) making repairs or correcting any condition on the Common Area or any Unit.

18.4. Right to Approve Changes in Community Standards

During the Development and Sale Period, no amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of the Declarant.

18.5. Approval of Additional Covenants and Restrictions

During the Development and Sale Period, no one other than the Declarant or Declarant Affiliate may record any Additional Covenants affecting any portion of the Community without the Declarant's written consent. Any instrument

recorded without the required consent shall be void and of no force and effect.

18.6. Rights to Use Names; License Agreements

The name "Reed's Crossing," along with all logos associated with such name, are the proprietary trade names and/or service marks of the Declarant or Declarant Affiliates. No Person shall use the name "Reed's Crossing," or any associated logo or depiction, for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, on any Internet website, or in any logo or depiction, without the prior written consent of the Declarant or the Person who owns such mark. In addition, due to the integrated nature of Reed's Crossing as a planned community and the public identification of the Units with Reed's Crossing, any name or "logo" to be used in connection with or displayed on any signage or in any sales or other materials or documentation related to any Unit, shall be subject to the Declarant's prior written consent. Such approval may be given or withheld in the Declarant's discretion and may be subject to such terms and conditions as the Declarant deems appropriate.

The Declarant or the mark or trademark owner may condition the Association's or any Owner's use of protected trade names or marks upon the signing of one or more license agreement(s), which are intended to protect the trade names and service marks from unauthorized use by others. Such license agreement(s) shall be non-exclusive, non-transferable, and in form and substance acceptable to the owner of the mark. Subject to such licensing agreements, the Association may use the word "Reed's Crossing" in its name. Other use by the Association or any Owner is subject to the restrictions set out in this Section or otherwise imposed by the Declarant.

Notwithstanding the above, Owners may use the name "Reed's Crossing" where such term is used solely to specify that particular property is

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located within Reed's Crossing (subject, however, to such terms and conditions as the Declarant may impose in order to protect its registered trade names and service marks).

18.7. Community Systems

The Declarant reserves for itself, Declarant Affiliates, and their respective successors and assigns, a perpetual right and easement over all property in the Community to install and operate such Community Systems as the Declarant, in its discretion, deems appropriate to serve any portion of the Community. Such right shall include, without limitation, the Declarant's right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems services in the region. The Declarant also has the right to charge individual users a reasonable fee, not to exceed the maximum allowable charge for such service, as defined from time to time by the laws, rules, and regulations of the governmental authority having jurisdiction.

Notwithstanding the above, there is no guarantee or representation that any particular Community System will be made available.

18.8. Easement to Inspect and Right to Correct



The Declarant, or someone it designates, may enter onto any Unit to inspect and correct problems with the Unit. The Declarant must give the Owner of the Unit prior notice, and if entering an enclosed structure on the Unit, obtain the Owner's prior consent unless it is an emergency.

The Declarant reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition that may exist on any portion of the property within the Community, including Units, which they constructed, installed, or created, and a perpetual

nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

18.9. Right to Notice of Design or Construction Claims

Neither the Association, nor any Owner, nor any other Person shall initiate the dispute resolution procedures under Article 19, or retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction, unless the Person(s) alleged to have responsibility for such design or construction have been first notified in writing, by certified mail, return receipt requested, and given an opportunity to meet with the Association and/or the Owner of the property affected to discuss the Owner's concerns, conduct their own inspection, and take action to remedy any problem in accordance with this Section. Any notice to the Declarant under this Section shall include a description of the nature and location of the alleged defect in design or construction ("Defect"), a description of any damage suffered as a result of the Defect, the date on which the Defect was discovered, and dates and times during ordinary business hours that the Declarant may meet with the Owner or occupant of the affected Unit or representative of the Association to conduct an inspection.

Nothing in this Section obligates the Declarant to inspect, repair, replace, or cure any alleged Defect. However, if the Person alleged to have

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responsibility for the design or construction elects to cure or repair any Defect, it shall so notify the Association (if the Defect involves Common Area) or the Owner of the affected Unit (if the Defect is in or on a Unit) within 30 days after conducting such inspection and the Association or Owner shall permit such Person, its contractors, subcontractors, and agents access as needed during ordinary business hours to make such repairs which, once begun, shall be completed within a reasonable time, subject to the nature of the repair and unforeseen circumstances and events. All applicable statutes of limitations shall be tolled during the period of inspection and cure under this Section, not to exceed the earlier of: (i) 120 days after the date the Person receives written notice of the Defect in accordance with this section; or (ii) the Person's delivery to the claimant of written notice that the Person does not intend to take any further action to remedy the Defect.

In the event there is any dispute as to the adequacy of the proposed repairs to resolve the problem or as to whether repairs that the Declarant, its contractors, or subcontractors have performed have remedied the Defect, the Declarant may appoint a third-party inspector who is knowledgeable and experienced in the type of construction involved to inspect the Defect and make a determination as to whether any proposed solution is adequate or as to whether the Defect has been remedied. The Association, the Declarant, and the Owner of any affected Unit agree to accept and abide by the decision of the inspector.

If the Association or any Owner fails to comply with this Section, neither the Declarant nor any Declarant Affiliate shall be liable for any general, special, or consequential damages, costs, or diminution in value that might have been avoided had they been given the notice and opportunity to repair described in this Section.

18.10. Right to Transfer or Assign the Declarant's Rights

The Declarant may assign its status as the Declarant and the Declarant Rights to any Person who takes title to any portion of the property described in Exhibits "A" or "B" to this Declaration and who agrees to assume the obligations of the Declarant under this Declaration as of the effective date of such assignment. There shall be no more than one Person holding the status of Declarant at any time; however, the Declarant may partially assign, or permit other Persons to exercise on a limited basis, any or all of the Declarant's Rights without transferring the status of the Declarant and without relinquishing the right to continue to exercise such Declarant Rights itself. For example, the Declarant may authorize a Builder to exercise, with respect to any property described on Exhibits "A" or "B" that such Builder owns, any right which the Declarant could exercise with respect to property which the Declarant owns.

Any assignment of Declarant Rights may impose such conditions upon the exercise of such Declarant Rights as the assignor deems appropriate and any assignment of the status of Declarant may reserve to the assignor the right to exercise such Declarant Rights as are specified therein. However, the Declarant may not assign a broader right than that which it has under the Declaration, nor relieve itself of any obligations except to the extent such assignment states that such obligations are assumed by the assignee. No transfer or assignment of the Declarant's status as the Declarant or as the Declarant Member shall be effective unless it is in a recorded instrument signed by the Declarant and the assignee. The foregoing sentence shall not preclude the Declarant from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Declarant in this Declaration where the Declarant does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to

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evidence the Declarant's consent to such exercise.

18.11. Termination of Rights

If the term of any right contained in this Chapter is not specified, such right shall terminate upon the earlier of (a) termination of the Development and Sale Period; or (b) the Declarant's recording of a written statement, signed by the Declarant evidencing its approval thereof, terminating such right.

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

Chapter 19 - Dispute Resolution and Limitation on Litigation

From time to time, disputes may arise between Owners or between an Owner and the Association, the Declarant, or others involved in the Community. This Chapter commits the parties to any such dispute to work together in an attempt to resolve certain types of disputes without litigation in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Community.

19.1. Agreement to Encourage Resolution of Disputes Without Litigation

(a) **Bound Parties.** The Declarant, the Association, any Additional Association, and their respective officers, directors, and committee members, all Owners and other Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party, by accepting a deed or other interest in any portion of the Community, is deemed to agree not to file suit in any court with respect to:

(i) any dispute as to which the Association and an Owner have an adversarial relationship without first complying with the procedures set forth in described in O.R.S. §94.630(4), except that this clause (i) shall not apply to any proceeding initiated to collect assessments other than assessments attributable to fines; and

(ii) any Claim described in Section 19.1(b) without first complying with the dispute resolution procedures set forth in Section 19.2 of this Chapter;

all in a good faith effort to resolve such dispute or Claim.

(b) **Claims.** As used in this Chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute, other than a dispute subject to Section 19.1(a)(i), arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Chapter 5, which shall not be subject to review and shall not be subject to this Chapter.

(c) **Exceptions.** Notwithstanding the above, the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 19.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);

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(iii) any suit that does not include the Declarant, a Declarant Affiliate, the Association, or an Additional Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 19.2;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 19.2(a) unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Chapter; and

(vi) any suit by the Association to enforce the Governing Documents where the Association has given the violator notice and either a hearing or an opportunity to cure the violation, or both, prior to the Association filing suit.

19.2. Dispute Resolution Procedures

(a) **Notice.** The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice ("**Notice**") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person within 30 days after the Respondent's receipt of such notice and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Washington County, Oregon area and shall give written notice to the Claimant by mail or personal delivery identifying the mediator. The parties shall use good faith efforts to schedule the mediation to commence at a mutually convenient time and place within 21 days after the Respondent's receipt of such notice, but if they are unable to do so, the mediator shall schedule such mediation to occur during business hours on a date selected by such mediator within such 30-day period or reasonably close thereto. Each Bound Party shall present the mediator with a written summary of the Claim. The parties shall participate in good faith in all mediation proceedings. The venue of the mediation proceeding shall be determined by the mediator.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation or within such time as determined reasonable by

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the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate, except as otherwise provided in Section 19.3.

The fees and expenses of the mediation proceeding (including the fee of the mediator) shall be shared equally by the Claimant and Respondent; provided, if there is more than one Claimant or more than one Respondent, 50% of the costs shall be shared equally by the Claimants and 50% of the costs shall be shared equally by the Respondents. Each party shall bear its own costs of the mediation, including attorneys' fees.

Notwithstanding the above, in any dispute as to which the Association is a party, the parties may waive mediation by mutual agreement and proceed to file suit or initiate other proceedings.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

19.3. Initiation of Litigation by Association

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any ju-

dicial or administrative proceeding unless first approved by a vote at a meeting of Members entitled to cast 75% of the total votes in the Association, except that no approval shall be required:

(a) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it; or

(b) for actions or proceedings where the amount in controversy is \$100,000 or less if initiated:

(i) during the Declarant Control Period;

(ii) to enforce the provisions of this Declaration or other Governing Documents, including collection of assessments and foreclosure of liens;

(iii) to challenge *ad valorem* taxation or condemnation proceedings; or

(iv) against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(v) in connection with damage to the Common Area.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

19.4. Notice of Association's Intent to Commence Proceeding

At least 10 days prior to instituting any litigation or administrative proceeding to recover damages in its own name and without joining the Owners in any matter relating to or affecting the Units or interests of Owners, as provided in O.R.S. §94.630 (1)(e)(E), the Association shall provide written notice to each affected Owner of the Association's intent to seek damages on behalf of the Owner as required by, and shall comply with, O.R.S. §94.662.

Chapter 20 - Changes in the Common Area


Various influences and circumstances within and outside the Community may give rise to a need or desire to make changes in the ownership of or rights to use Common Area. This Chapter explains the procedures for dealing with matters such as changing use rights in Common Area or Limited Common Area, partition of the Common Area, and condemnation.

20.1. Assignment and Reassignment of Limited Common Area

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Members entitled to cast a majority of the total votes in the Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require the Declarant's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

20.2. Condemnation

 *A public entity such as a town, county, or state has the power to condemn property for its own uses and generally has to pay the value of the property to do so.*


If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Association in lieu of and under threat of condemnation with such approval as may be required under Section 20.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or pro-

ceeds shall be payable to the Association to be disbursed as follows:

(a) If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Declarant, during the Development and Sale Period, and Members entitled to cast at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.5 regarding funds for restoring damaged improvements shall apply.

(b) If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 20.4.

20.3. Judicial Partition

 *Judicial partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.*

Except as permitted in this Declaration, no Person shall bring any action for judicial partition of any portion of the Common Area without the written consent of all Owners and Mortgagees

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and, during the Development and Sale Period, the Declarant. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Declaration, with such approval as may be required under Section 20.4.

20.4. Transfer, Mortgaging, or Dedication of Common Area

In addition to the rights reserved to the Declarant under Sections 9.1 and 18.1, during the Development and Sale Period (a) the Declarant and Declarant Affiliates shall have the absolute right to transfer or dedicate portions of the Common Area which they own to the City of Hillsboro, Oregon or to any other local, state, or federal governmental or quasi-governmental entity, and (b) upon the Declarant's request, the Board shall approve and grant, with respect to the Common Area which the Association owns, a lease, easement, right of way, license or other similar interest to a public body, as defined in ORS 174.109, or to utility or a communications company for installation and maintenance of power, gas, electric, water or other utility and communication lines and services, as the Declarant may specify in such request, and shall approve and execute a consent to vacation of any roadway the Declarant may specify, and no membership approval shall be required. In addition, the Association may at any time transfer portions of the Common Area which it owns to the Maintenance Association or the Commercial Association, if the Maintenance Association or Commercial Association agrees to accept the same, and no membership approval shall be required except as otherwise dictated by O.R.S. §94.665, and then only if such statute would control over any different provision in this Declaration. Otherwise, the Association may subject Common Area to a security interest, or may dedicate, transfer or convey Common Area, only with the following approval:

(a) if Common Area other than Limited Common Area, upon the written direction of

Members entitled to cast at least 80% of the total votes in the Association held by Owners other than Declarant, and the Declarant during the Development and Sale Period; or

(b) if Limited Common Area, upon written approval of Owners of at least 80% of the Units to which such Limited Common Area is assigned owned by Persons other than Declarant, and the Declarant if the Declarant owns any Unit to which such Limited Common Area is assigned.

Notwithstanding the above, no such approval shall be required: (i) to reconvey Common Area to the Declarant as required by Section 9.1(a); or (ii) to grant easements for access and utility purposes over the Common Areas so long as they are not inconsistent with the intended use of the Common Area, or (iii) such other actions as authorized by and taken in compliance with O.R.S. §94.665.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines, unless otherwise directed by Members at the time such sale or mortgage is authorized pursuant to this Section. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

No conveyance or encumbrance of Common Area may deprive any Unit of rights of access or support.

20.5. Acquisition of Common Area

The Association may enter into agreements to purchase or otherwise acquire leaseholds, memberships, and other possessory or use interests in lands or facilities, whether or not contiguous to the Community. However, any such agreement entered into more than 12 months after recording of this Declaration shall be subject to approval

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of Members entitled to cast at least 75% of the total votes in the Association. This Section shall not apply to require approval of transfers of Common Area to the Association by the Commercial Association or Maintenance Association for no consideration, subject to Declarant's approval during the Development and Sale Period, or by the Declarant or its designees for no consideration pursuant to Section 9.1.

Chapter 21 - Termination and Amendment of Declaration

As the Community matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan as well as changes in the needs and desires of the Community that inevitably will occur. This Chapter sets out procedures by which either the Declarant or the Owners as a group may amend this Declaration to address such changes.

21.1. Term and Termination

This Declaration shall be effective, subject to amendments adopted pursuant to Section 21.2, for a minimum of 25 years from the date it is recorded. After 25 years, this Declaration shall be extended automatically for successive 10-year periods unless at least 75% of the then Owners and, during the Development and Sale Period, the Declarant, sign a document stating that the Declaration is terminated and that document is recorded within the year before any extension. In such case, this Declaration shall terminate on the date specified in the termination document.

This Section shall not permit termination of any easement created in this Declaration without the consent of the holder of such easement.

21.2. Amendment

(a) By Declarant. Until conveyance of the first Unit to a Person other than Declarant, the Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration as appropriate to exercise any Declarant Rights reserved in this Declaration and as otherwise authorized in the OPC Act. Until termination of the Declarant Control Period, the Declarant may also unilaterally amend this Declaration in order to comply with requirements of any department, bureau, board, commission or agency of the United States or the State of Oregon or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community.

(b) By Membership. Except as otherwise specifically provided in this Section 21.2 or elsewhere in this Declaration or the OPC Act, this Declaration may be amended only with the affirmative vote or written consent, or a combination thereof, of Members entitled to cast not less than 75% of the total votes in the Association; provided, if a specific provision being amended requires a higher percentage vote or additional approvals to take action under that provision, then any amendment to that provision shall require such higher percentage or additional approval. In addition, during the Development and Sale Period, any such amendment shall also require the Declarant's written consent.

Notwithstanding the above, an amendment under this Section 21.2(b) may not change: (i) the boundaries of any Unit; (ii) the use to which any Unit is restricted to something other than residential and related uses as permitted under Section 7.1; (iii) the method of determining liability for Common Expenses or rights to common profits; or (iv) the method of determining voting rights of any Unit, unless the Owners of the affected Units unanimously consent to the amendment. In addition, after the conveyance of any Unit to a Person other than the Declarant, any amendment which increases the scope of special Declarant rights shall require the approval of Members entitled to cast 75% of the total votes in the Association held by Persons other than Declarant.

An amendment may be proposed by (i) the Declarant during the Development and Sale Period; or (ii) by a resolution approved by a majority vote of the Board or at least 30% of the Owners.

Termination and Amendment of Declaration

Any amendment adopted pursuant to this Section 21.2(b) shall be executed and certified on behalf of the Association by the president and secretary as being adopted in accordance with this Declaration and O.R.S. §94.590 and shall be acknowledged in the manner provided for acknowledgment of deeds and recorded.

(c) *Validity and Effective Date.* No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Declarant Member without the written consent of the Declarant, and if the Declarant has assigned such right or privilege, then such amendment shall also require the written consent of the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. A copy of any amendment shall be provided to the Owners within 30 days after recording.

An amendment to this Declaration shall be conclusively presumed to have been regularly adopted in compliance with all applicable procedures relating to such amendment unless an action is brought within one year after the date such amendment was recorded or the amendment indicates on its face that it received the approval of fewer votes than required for such approval. However, such presumption shall not prevent the further amendment of any provision the Declaration in accordance with the procedures and approvals set forth herein.

In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

(d) *Exhibits.* Exhibits "A" and "B" are incorporated by this reference, and this Chapter shall govern amendment of those exhibits. Exhibit "C" is incorporated by this reference, may be expanded or supplemented as provided in Section 3.1 and Chapter 17, and may otherwise be amended as provided in this Section. All other exhibits are attached for informational purposes only, shall not be considered part of this Declaration for purposes of this Section 21.2, and may be amended as provided in those exhibits or in the provisions of this Declaration that refer to such exhibits.

