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DECLARATION SUBMITTING
FATTY'S PAD CONDOMINIUM
TO CONDOMINIUM OWNERSHIP

FATTY'S PAD, LLC

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**DECLARATION SUBMITTING
FATTY'S PAD CONDOMINIUM
TO CONDOMINIUM OWNERSHIP**

THIS DECLARATION, pursuant to the provisions of the Oregon Condominium Act, is made and executed this 5th day of April 2006, by **FATTY'S PAD, LLC**, an Oregon limited liability company ("Declarant").

Declarant proposes to create a condominium to be known as Fatty's Pad Condominium, which will be located in the City of Bend, Deschutes County, Oregon. The purpose of this Declaration is to submit the property described in Article 2 below to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act.

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

ARTICLE 1.

DEFINITIONS

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

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

1.2 "**Bylaws**" means the Bylaws of the Fatty's Pad Condominium Association adopted pursuant to Section 14.4 below as the same may be amended from time to time.

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

1.4 "**Declarant**" means Fatty's Pad, LLC, an Oregon limited liability company, and its successors and assigns.

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

1.6 "**Plat**" means the plat of Fatty's Pad Condominium recorded simultaneously with the recording of this Declaration.

1.7 **Incorporation by Reference**. Except as otherwise provided in this Declaration, each of the terms defined in ORS 100.005, a part of the Oregon Condominium Act, shall have the meanings set forth in such section.

ARTICLE 2.

SUBMISSION OF PROPERTY TO CONDOMINIUM STATUTE

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

ARTICLE 3.

NAME OF CONDOMINIUM

The name by which the Condominium shall be known is **"Fatty's Pad Condominium."**

ARTICLE 4.

UNITS

4.1 **General Description of Buildings.** The Condominium contains one building. The building contains two stories with a full basement. The building contains two units. The building is of wood framing with lap siding, and contains a composite roof.

4.2 **General Description, Location and Designation of Units.** The Condominium is located at 134 NW Florida Avenue in Bend, Oregon, as more specifically described in Exhibit A. The Condominium consists of two units: "Unit 1" and "Unit 2." Each unit is 1,907 square feet. The designation, location, description of boundaries and area in square feet of each unit are shown on the Plat.

4.3 **Boundaries of Units.** Each unit shall be bounded by the interior surfaces of its perimeter and bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim. The location of each unit is included in the enclosed condominium plat. The unit shall include all lath, furring, wallboard and/or gypboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of its finished surfaces, except those portions of the walls, floors or ceilings that materially contribute to the structural or shear capacity of the Condominium. All other portions of the walls, floors or ceilings shall be a part of the common elements. In addition, each unit shall include the following: (a) All spaces, nonbearing interior partitions, windows, window frames, exterior doors, door frames and all other fixtures and improvements within the boundaries of the unit; and (b) All outlets of utility and communications service lines, including but not limited to power, light, gas, hot and cold water, heating, refrigeration, air conditioning and waste disposal, security, cable television and telephone, within the boundaries of the unit, but shall not include any part of such lines or ducts themselves.

ARTICLE 5.

GENERAL COMMON ELEMENTS

The general common elements consist of all portions of the Condominium that are not part of a unit or a limited common element, including, but not limited to, the following: (1) The Land and Grounds; (2) Pipes, Ducts, Flues, Chutes, Conduits, Wires and Other Utility Communications Installations to Their Outlets; (3) Roofs, Foundations, Subfloors, Bearing and Shear Walls, Perimeter Walls, Beams, Columns and Girders to the Interior Surfaces Thereof; (4) All Other Elements of the Building and the Condominium Necessary or Convenient to Their Existences, Maintenance and Safety, or Normally in Common Use, Except as May be Expressly Designated in this Declaration as Part of a Unit or Limited Common Element.

ARTICLE 6.

LIMITED COMMON ELEMENTS

The following shall constitute limited common elements of the Condominium:

6.1 **Parking Areas, Walkways, Porches, and Decks Adjacent to Units.** There is one parking area, one entry or porch area, one deck area, and connecting walkways, forming one contiguous area, adjacent to each unit, and marked "LCE" on the plat. Each such area is reserved for the exclusive use of the owner of the unit to which the area is adjacent.

ARTICLE 7.

ALLOCATION OF UNDIVIDED INTERESTS IN COMMON ELEMENTS

7.1 **Allocation of Interest.** Each unit will be entitled to a one-half undivided ownership interest in the common elements, including the general common elements and the limited common elements.

7.2 **Inseparability of Interest from Unit.** Each unit's interest in the common elements shall be inseparable from the unit and any conveyance, encumbrance, judicial sale, or other transfer, voluntary or involuntary, of an undivided interest in the common elements shall be void unless the unit to which that interest is allocated is also transferred.

ARTICLE 8.

COMMON PROFITS AND EXPENSES; VOTING

8.1 **Allocation of Common Profits and Expenses.** The common profits and common expenses of the Condominium shall be allocated to each unit according to the allocation of undivided interest in the common elements as set forth in Article 7 above, so that each unit shall be entitled to and bear that portion of such profits and expenses. Except upon termination of the Condominium or as otherwise provided in the Bylaws with respect to damage, destruction

or condemnation, any such common profits shall be used solely for the purpose of maintaining, repairing and replacing the common elements or for other expenses or reserves of the Association. Notwithstanding the provisions of this Section 8.1 concerning the allocation of common expenses, the expenses relating to the limited common elements shall be borne only by the unit or units to whom such limited common elements are reserved.

8.2 **Allocation of Voting Rights.** Each unit owner shall be entitled to vote in the affairs of the Association and for the purposes of this Declaration. Unit 1 shall exercise the authority of two votes. Unit 2 shall exercise the authority of one vote. For all times in which the Declarant owns one unit, Declarant shall exercise the authority of two votes. The method of voting shall be as specified in the Bylaws.

ARTICLE 9.

SERVICE OF PROCESS

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

ARTICLE 10.

USE OF PROPERTY

The units shall be used for residential purposes only. Additional limitations on use are contained in the Bylaws and the rules and regulations adopted pursuant to the Bylaws. Each unit owner shall be bound by each of such documents.

ARTICLE 11.

MAINTENANCE OF COMMON ELEMENTS

The necessary work to maintain, repair or replace the general common elements shall be the responsibility of the board of directors of the Association and shall be carried out as provided in the Bylaws. The necessary work to maintain, repair or replace the limited common elements shall be borne only by the unit or units to whom such limited common elements are reserved.

ARTICLE 12.

EASEMENTS

12.1 **In General.** Each unit has an easement in and through each other unit and the common elements for all support elements and utility, wiring, heat, plumbing, and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium. In addition, each unit and all the common elements are specifically subject to easements as required for the electrical wiring and plumbing for each unit.

The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common elements reserved by law. Each unit owner has an unrestricted right of ingress and egress to his, her or its unit. This right is perpetual and passes with the ownership of the unit.

12.2 **Encroachments.** Each unit and all common elements shall have an easement over all adjoining units and common elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the property, or any other similar cause, and any encroachment due to building overhang or projection as long as the physical boundaries of the units are in substantial accord with the description of those boundaries that appears in the Declaration. There shall be valid easements for the maintenance of the encroaching units and common elements so long as the encroachments shall exist, and the rights and obligations of owners shall not be altered in any way by the encroachment. This provision does not relieve a unit owner of liability in the case of willful misconduct of the unit owner, or relieve Declarant or any contractor, subcontractor or materialman from any liability as a result of failure to adhere to the Plat. The encroachments described in this Section 12.2 shall not be construed to be encumbrances affecting the marketability of title to any unit.

12.3 **Granting of Easements by Association.** Pursuant to ORS 100.405(5), the Association, upon prior approval of the owners of both of the units, may grant, execute, acknowledge, deliver and record on behalf of the unit owners leases, easements, rights-of-way, licenses, and similar interests in excess of two years affecting the common elements. Any such instrument shall be executed and acknowledged by the chairperson and secretary of the Association. No such interest may be granted with regard to a limited common element unless the owners and mortgagees of the units having the right to use such limited common element consent to and join in the instrument granting the interest.

12.4 **Right of Entry.** The board of directors of the Association or any other person authorized by the board of directors shall have the right to enter any unit and limited common element in the case of an emergency originating in or threatening such unit or other condominium property, whether or not the owner is present at the time. Such persons shall also have the right to enter any unit and limited common element for the purpose of performing installations, alterations or repairs to any common element and for the purpose of inspection to verify that the unit owner is complying with the restrictions and requirements described in this Declaration and the Bylaws, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner.

12.5 **Easements for Declarant.** Declarant and Declarant's agents, successors and assigns shall have an easement over, through and upon the common elements as may be reasonably necessary for the purpose of completing or making repairs to existing structures for the purpose of carrying out sales and rental activities necessary or convenient for the sale or rental of units and for the purpose of discharging any other obligation of Declarant or exercising any other special Declarant right, whether arising under the Oregon Condominium Act or reserved in this Declaration or the Bylaws.

ARTICLE 13.

ASSOCIATION OF UNIT OWNERS

13.1 **Organization.** Upon the recording of this Declaration an association of unit owners shall be organized to serve as a means through which the unit owners may take action with regard to the administration, management and operation of the Condominium. The name of this association shall be "Fatty's Pad Condominium Association," and the Association shall be an Oregon nonprofit corporation.

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

13.3 **Powers and Duties.** The Association shall have such powers and duties as may be granted to it by the Oregon Condominium Act, including each of the powers set forth in ORS 100.405(4), together with such additional powers and duties afforded it by this Declaration or the Bylaws.

13.4 **Adoption of Bylaws, Declarant Control of Association.** Upon the execution and the recording of this Declaration, Declarant shall adopt Bylaws for the Association, which Bylaws are attached as Exhibit B. Declarant specifically reserves the right to control the Association by appointing the interim directors of the Association until the organizational and turnover meeting of the Association has been held and the unit owners have elected regular directors as provided in Sections 2.2 and 3.3 of the Bylaws. In addition, Declarant shall have the right to consent to any amendment to the Declaration or the Bylaws as provided in Section 14.2 below and Section 9.2 of the Bylaws.

ARTICLE 14.

AMENDMENT

14.1 **How Proposed.** Amendments to the Declaration shall be proposed by either a member of the board of directors or by any unit owner. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

14.2 **Approval Required.** Except as may otherwise be provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if such amendment is approved by unit owners holding 51 percent or more of the voting rights of the Condominium. Declarant's prior written consent shall also be required so long as Declarant owns one of the units in the Condominium, but no such consent shall be required after three years from the date of conveyance of the first unit to a person other than Declarant. Except as otherwise permitted by the Oregon Condominium Act, no amendment may change the size, location, allocation of undivided interest in the common elements, method of determining liability for common

expenses, right to common profits, or voting rights of any unit unless such amendment has been approved by the owners and mortgagees of the affected unit. Any amendment which would limit or diminish any special Declarant rights established in this Declaration or the Bylaws shall require the written consent of Declarant.

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

ARTICLE 15.

SEVERABILITY

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

ARTICLE 16.

APPLICABILITY

Each unit owner, including Declarant as to any unsold unit, shall be subject to all of the rights and duties assigned to unit owners under the terms of the Declaration and Bylaws.

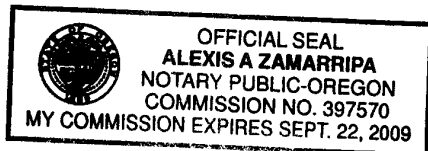
IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the day and year first set forth above.

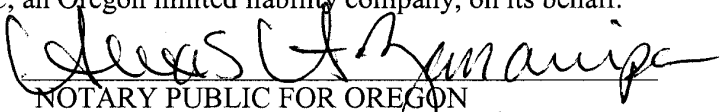
FATTY'S PAD, LLC, an Oregon limited liability company

By 
KURT BENNETT, Sole Member

STATE OF OREGON)
)ss.
County of Deschutes)

The foregoing instrument was acknowledged before me this 5th day of April, 2006, by Kurt Bennett, sole member of Fatty's Pad, LLC, an Oregon limited liability company, on its behalf.




NOTARY PUBLIC FOR OREGON
My Commission Expires: 9/22/09
Commission No.: 397570

The foregoing Declaration is approved this _____ day of _____ 2005.

Scot Langton
ASSESSOR
FOR DESCHUTES COUNTY

By *[Signature]*

The foregoing Declaration is approved pursuant to ORS 100.110 this 9th day of April, 2006, and in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two years from this date.

SCOTT W. TAYLOR
Real Estate Commissioner

By *[Signature]*

EXHIBIT A

FATTY'S PAD CONDOMINIUM

Parcel Two of Partition Plat No. 2004-64, located in the southwest $\frac{1}{4}$ of the southeast $\frac{1}{4}$ of Section 32 in Township 17 South and Range 12 East of the Willamette Meridian, City of Bend, Deschutes County, Oregon fully described as follows:

Beginning at a 5/8" iron rod with a "BRYANT LS 920" yellow plastic cap, at the southeast corner of said Parcel Two and the Initial Point of beginning for this plat; thence following the boundary of said Parcel Two, North $89^{\circ}56'36''$ West 50.00 feet, along the northerly right-of-way of Florida Avenue to a 5/8" iron rod; thence leaving said northerly right-of-way, North $00^{\circ}02'16''$ West 98.94 feet to a 5/8" iron rod; thence South $68^{\circ}18'36''$ East 36.75 feet to a 5/8" iron rod; thence South $89^{\circ}32'38''$ East 15.97 feet to a 5/8" iron rod; thence South $00^{\circ}02'10''$ West 85.28 feet to the point of beginning. Contains 4,505 square feet.

Exhibit "C"

BYLAWS

OF

FATTY'S PAD CONDOMINIUM ASSOCIATION

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**BYLAWS OF
FATTY'S PAD CONDOMINIUM ASSOCIATION**

ARTICLE 1.

PLAN OF CONDOMINIUM OWNERSHIP

1.1 **Name and Location.** These are the bylaws of the **FATTY'S PAD CONDOMINIUM ASSOCIATION** (the "Association"). Fatty's Pad Condominium (the "Condominium") is located in the City of Bend, Deschutes County, Oregon, and has been submitted to the Oregon Condominium Act by a declaration recorded simultaneously with these Bylaws (the "Declaration"). The location of the Condominium is more specifically described in the Declaration.

1.2 **Principal Office.** The principal office of the Association shall be located at 134 NW Florida Avenue Unit 1, Bend, OR 97701, or such other address as may be designated by the board of directors from time to time.

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

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

1.5 **Composition of Association.** The Association shall be composed of all the unit owners of the Condominium, including Fatty's Pad, LLC, an Oregon limited liability company, and its successors and assigns (the "Declarant"), and the Association, itself, to the extent any of these own any unit or units of the Condominium.

1.6 **Incorporation.** The Association shall be incorporated under the Oregon Non-Profit Corporation Law. The Articles of Incorporation of the Association shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the bylaws of the incorporated association.

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

ARTICLE 2.

MEETINGS OF ASSOCIATION

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

2.2 **Organizational and Turnover Meeting.** Within three years after the date of conveyance of the first unit to a person other than the Declarant, the Declarant shall call the initial meeting of the unit owners to organize the Association and to elect directors. Notice of such meeting shall be given to all owners as provided in Section 2.5. If the Declarant fails to call the meeting, the meeting may be called and notice given by any unit owner or mortgagee of a unit. The expense of giving notice shall be paid or reimbursed by the Association. At the meeting, the Declarant shall deliver to the Association such information and documents as may be required by the Oregon Condominium Act. Nothing in this Section shall be construed as preventing the Declarant from calling the organizational and turnover meeting prior to such date, or from calling informal, informational meetings of the unit owners.

2.3 **Annual Meetings.** The annual meetings of the Association shall be held on such date each year as may be established by the board of directors from time to time, or if the board does not establish such a date, then in the month of May at such hour and on such date as the chairperson may designate, or if the chairperson should fail to designate such date by the first day of May then on the second Monday in May. The annual meetings shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

2.4 **Special Meetings.** Special meetings of the Association may be called by the chairperson or by a majority of the board of directors, and must be called by such officers upon receipt of a written request from at least one of the unit owners stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.5 **Notice of Meetings.** Notice of the annual meeting and all other meetings of the Association stating the time and place and the objects for which the meeting is being called shall be given by the chairperson or secretary. Such notice shall be in writing and delivered not less than 10 days nor more than 50 days prior to the date of the meeting to each unit owner at his address as it appears on the books of the Association and to any mortgagee requesting such notice. Proof of such delivery shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived by any unit owner before or after meetings. When a meeting is adjourned for less than 30 days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

2.6 **Voting.** The Declarant shall be entitled to vote as the unit owner any then existing units retained by the Declarant, based upon the voting authority set forth above, and the board of directors shall be entitled to vote on behalf of any unit, based upon the voting authority set forth above, which has been acquired by or on behalf of the Association; provided, however, that the board of directors shall not be entitled to vote such units in any election of directors.

2.7 **Absentee Ballots and Proxies.** A vote may be cast in person, by absentee ballot or by proxy. A proxy given by a unit owner to any person who represents such owner at meetings of the Association shall be in writing and signed by such owner, and shall be filed with the secretary, at any time prior to the meeting. An owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall

terminate one year after its date unless the proxy specifies a shorter term. Every proxy shall automatically cease upon sale of the unit by its owner.

2.8 **Fiduciaries and Joint Owners.** An executor, administrator, guardian or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any unit owned or held in such capacity, whether or not the same shall have been transferred to his, her or its name; provided, that such person shall satisfy the secretary that he or she is the executor, administrator, guardian or trustee, holding such unit in such capacity. Whenever any unit is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such unit may be exercised by any one of the owners then present, in the absence of protest by a co-owner, and that vote shall be the vote of the co-owners. In the event of disagreement among the co-owners, the vote of such unit shall be disregarded completely in determining the proportion of votes given with respect to such matter unless a valid court order establishes the authority of a co-owner to vote.

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

2.10 **Quorum of Unit Owners.** At any meeting of the Association, members holding 100 percent of the voting rights, present in person or by proxy at the beginning of the meeting, shall constitute a quorum. The subsequent joinder of a unit owner in the action taken at a meeting by signing and concurring in the minutes of the meeting shall constitute the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a unit owner or owners. If any meeting of members cannot be organized because of a lack of quorum, the member who is present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.11 **Majority Vote.** The vote of the holders of 51 percent or more of the voting rights, present in person or by proxy at a meeting at which a quorum is constituted, shall be binding upon all unit owners for all purposes except where a higher percentage vote is required by law, by the Declaration or by these Bylaws.

2.12 **Order of Business.** The order of business at annual meetings of the Association shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees, if any;

- (f) Election of directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

2.13 **Rules of Order.** Unless other rules of order are required by the Declaration or by a resolution of the Association or the board of directors, all meetings of the Association shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association.

2.14 **Ballot Meetings.**

(a) Unless prohibited or limited by the Declaration, at the discretion of the board of directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every member that is entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(b) The board of directors shall provide owners with at least 10 days' notice before written ballots are mailed or otherwise delivered. If, at least three days before written ballots are scheduled to be mailed or otherwise distributed, at least one of the unit owners petition the board of directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the owner and instructions for marking and returning the ballot. Notwithstanding the applicable provisions of paragraph (c) of this Section, written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(c) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of unit owners has voted and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected. If approval of a proposed action otherwise would require a meeting at which a specified percentage of unit owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met. Except as otherwise provided in the Declaration or in paragraph (b) of this Section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are counted.

(d) All solicitations for votes by written ballot shall state the number of responses needed to meet any applicable quorum requirement and the total percentage of votes needed for approval. All such solicitations for votes by written ballot shall specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of (i) the date on which the Association has received a sufficient number of approving ballots to pass the proposal, or (ii) the date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage, or (iii) a date certain on which all ballots must be returned to be counted. Except as otherwise provided in the Declaration, a written ballot may not be revoked.

ARTICLE 3.

BOARD OF DIRECTORS

3.1 **Number and Qualification.** The affairs of the Association shall be governed by a board of directors composed of one interim director or two regular directors, as provided in Sections 3.2 and 3.3 of this Article. All directors, other than interim director appointed by the Declarant, shall be owners or co-owners of units of the Condominium. At all times after the turnover described in Section 2.2, the owner(s) of each unit shall be entitled to one, and only one, director position. For purposes of this Section, the officers and any duly appointed employees of any corporate owner, the members of any limited liability company and the partners of any partnership shall be considered co-owners of any units owned by such corporation, limited liability company or partnership.

3.2 **Allocation of Voting Rights.** That director who possesses an ownership interest in Unit 1 shall exercise the authority of two votes. That director who possesses an ownership interest in Unit 2 shall exercise the authority of one vote.

3.3 **Interim Directors.** Upon the recording of the Declaration submitting the Condominium to the Oregon Condominium Act the Declarant shall appoint an interim board of one director, who shall serve until replaced by the Declarant or his, her or its successor has been elected by the unit owners as provided below.

3.4 **Selection and Term of Office.** At the first organizational and turnover meeting called by the Declarant pursuant to Section 2.2 of these Bylaws, the interim director shall resign and two successors shall become directors, one from the ownership of each unit. Each director shall serve until another director is chosen from the ownership of the same unit, or until the director ceases to own an interest in a unit. If more than one person possesses an ownership interest in a unit, those owners may decide how to select one of them to serve on the Board of Directors.

3.5 **Vacancies.** Vacancies in the board of directors caused by any reason other than the removal of a director by a vote of the Association shall be filled by the sole remaining director, so long as the new director is the owner or co-owner of a different unit than the remaining director. Each person so elected shall be a director until a successor is elected to fill the unexpired term at the next annual meeting of the Association or the next special meeting of

the Association called for that purpose. Vacancies in interim directors shall be filled by the Declarant.

3.6 **Removal of Directors.** At any regular or special meeting of the Association duly called, any one or more of the directors, other than interim directors, may be removed with or without cause by a majority vote of the unit owners present in person or by proxy, and a successor shall be elected at that meeting to fill the vacancy thus created. The notice of any such meeting shall state that such removal is to be considered, and any director whose removal has been proposed shall be given an opportunity to be heard at that meeting.

3.7 **Powers and Duties.** The board of directors shall have all of the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or by these Bylaws may not be delegated to the board of directors by the unit owners. The powers and duties to be exercised by the board of directors shall include, but shall not be limited to the following:

- (a) Operation, care, upkeep, maintenance, repair and replacement of the general and limited common elements and Association property.
- (b) Determination of the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.
- (c) Preparation and adoption of budgets, preparation, review and update of reserve studies and assessment and collection of the common expenses, all in accordance with the provisions of these Bylaws.
- (d) Employment and dismissal of such personnel as necessary for the efficient maintenance, upkeep and repair of the common elements.
- (e) Employment of legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific matter unless the unit owners have enacted a resolution authorizing the incurring of such fees by a vote of 51 percent of the voting rights present in person or by proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to legal fees incurred in defending the Association and the board of directors from claims or litigation brought against them. The limitation set forth in this paragraph shall increase by \$500 on each fifth anniversary of the recording of the Declaration. To the extent required by ORS 100.490, the board shall notify the owners prior to instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association, the board shall periodically report to the unit owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the board to disclose any privileged communication between the Association and its counsel.

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

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

(h) Purchasing units of the Condominium at foreclosure or other judicial sales in the name of the Association, or its designee, on behalf of all the unit owners as provided in these Bylaws.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of directors), or otherwise dealing with units of the Condominium acquired by the Association or its designee on behalf of all the unit owners.

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

(k) Making additions and improvements to, or alterations of, the common elements; provided, however, that no such project may be undertaken by the board if the total cost will exceed the amount of \$20,000 unless the unit owners have enacted a resolution authorizing the project by a majority vote of the members. This limitation shall not be applicable to maintenance, repairs or replacement undertaken pursuant to paragraph (a) above. The limitation set forth in this paragraph shall increase by \$1,000 on each anniversary of the recording of the Declaration.

(l) Modify, close, remove, eliminate or discontinue the use of a general common element facility or improvement or portion of the common element landscaping.

(m) Designating one or more committees which, to the extent provided in the resolution designating the committee, shall have the powers of the board of directors in the management of the affairs of the Association. At least one member of each committee shall be a member of the board of directors.

(n) Enforcement by legal means of the provisions of the Oregon Condominium Act, the Declaration, these Bylaws and any rules and regulations adopted hereunder. Nothing in these Bylaws shall be construed as requiring the Association to take any specific action to enforce violations.

(o) The filing of an Annual Report and any amendment in accordance with ORS 100.250.

3.8 **Contracts Entered into by Declarant or Interim Board.** Notwithstanding any other provision of these Bylaws, any leases or contracts (including management contracts, service contracts and employment contracts) entered into by the Declarant or the interim board on behalf of the Association shall have a term not in excess of three years. In addition, any such lease or contract shall provide that it may be terminated without cause or penalty by the

Association or board of directors upon not less than 30 days' notice to the other party given at any time after election of the permanent board at the organizational and turnover meeting described in Section 2.2 of these Bylaws.

3.9 **Organizational Meeting.** Unless otherwise agreed by the board, within 14 days following the annual meeting of the Association or following any meeting at which an election of directors has been held, the board of directors shall hold an organization meeting at such place and time as shall have been fixed by the directors at the meeting at which the election was held.

3.10 **Regular and Special Meetings.** Regular meetings of the board of directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Special meetings of the board of directors may be called by the chairperson and must be called, by the secretary at the written request of at least one director. Notice of any special meeting shall be given to each director, personally or by mail, telephone or telegraph at least seven days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. Unless other rules of order are adopted by resolution of the Association or the board of directors, all meetings of the board of directors shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association.

3.11 **Open Meetings.** All meetings of the board of directors shall be open to unit owners except that, in the discretion of the board, the following matters may be considered in executive session: (a) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (b) personnel matters, including salary negotiations and employee discipline; and (c) the negotiation of contracts with third parties. Except in the case of an emergency, the board of directors shall vote in an open meeting whether to meet in executive session. If the board of directors votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. Meetings of the board of directors may be conducted by telephonic communication. The meeting and notice requirements of this Section may not be circumvented by chance or social meetings or by any other means.

3.12 **Waiver of Notice.** Any director may, at any time, waive notice of any meeting of the board of directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board shall constitute a waiver of notice by such director, except where the director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all of the directors are present at any meeting of the board, no notice to directors shall be required and any business may be transacted at such meeting.

3.13 **Quorum of Board of Directors.** At all meetings of the board of directors, two directors must be present to constitute a quorum, and a majority of the votes authorized to be voted by directors present at a meeting at which a quorum is present shall constitute the decision of the board of directors. If at any meeting of the board of directors less than a quorum should be present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice to directors.

3.14 **Compensation.** No director shall receive any compensation from the Association for acting as such.

3.15 **Liability and Indemnification of Directors, Officers and Managing Agent.** A member of the board of directors or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his, her or its duties, except for acts of gross negligence or intentional acts. In the event any member of the board of directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the owners or any third parties on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent and its officers and employees from any such claims, other than for gross negligence or intentional misconduct.

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

ARTICLE 4.

OFFICERS

4.1 **Designation.** The principal officers of the Association shall be the chairperson and the secretary/treasurer, both of whom shall be elected by the board of directors. The directors may appoint a vice chairperson, an assistant treasurer, an assistant secretary, and such other officers as in their judgment may be necessary. The chairperson and the secretary/treasurer shall be members of the board of directors, but the other officers need not be directors or unit owners.

4.2 **Election of Officers.** The officers of the Association shall be elected annually, by the board of directors at the organization meeting of each new board and shall hold office at the pleasure of the board. If any office shall become vacant, the board of directors shall elect a successor to fill the unexpired term at any regular meeting of the board of directors, or at any special meeting of the board of directors called for such purpose.

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

4.4 **Chairperson.** The chairperson shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the board of directors. The chairperson shall have all of the general powers and duties which are usually

vested in the chief executive officer of an association, including but not limited to the power to appoint committees from among the unit owners from time to time as the chairperson may in his, her or its discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.5 **Secretary/Treasurer.** The secretary/treasurer shall keep the minutes of all proceedings of the board of directors and the minutes of all meetings of the Association. He or she shall attend to the giving and serving of all notices to the unit owners and directors and other notices required by law. The secretary/treasurer shall keep the records of the Association, and shall perform all other duties incident to the office of secretary of an association and as may be required by the directors or the chairperson. In addition, the secretary/treasurer shall act as vice chairperson, taking the place of the chairperson and performing the chairperson's duties whenever the chairperson is absent or unable to act, unless the directors have appointed another vice chairperson. The secretary/treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of required financial statements. He or she shall be responsible for overseeing the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the board of directors, and shall disburse or cause to be disbursed funds of the Association upon properly authorized vouchers. The secretary/treasurer shall perform all other duties incident to the office of treasurer of an association and such other duties as may be assigned to him or her by the board of directors.

4.6 **Execution of Instruments.** All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the board of directors and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the chairperson. All checks shall be signed by the treasurer, or in the absence or disability of the treasurer, by the chairperson or any duly elected assistant treasurer.

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

ARTICLE 5.

BUDGET, EXPENSES AND ASSESSMENTS

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

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

- (a) Expenses of administration, including management fees.
- (b) Expenses of maintenance, repair or replacement of common elements, any other portions of the Condominium required to be maintained by the Association pursuant to the Declaration or these Bylaws, and any Association property.
- (c) Cost of insurance or bonds obtained in accordance with these Bylaws.
- (d) A general operating reserve, including an amount sufficient to cover the deductible under the property damage insurance policy.
- (e) Reserve for replacements, repairs and maintenance.
- (f) Any deficit in common expenses for any prior period.
- (g) Utilities for the common elements and other utilities with a common meter or commonly billed, such as water and sewer.
- (h) Any other items properly chargeable as an expense of the Association.

5.3 **Assessment of Common Expenses.**

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

(b) **Working capital fund.** The Declarant shall establish an initial working capital fund in an amount at least equal to two months of estimated regular association assessments for each unit. At the time of closing of the initial sale of each unit and thereafter on any subsequent sale of a unit, the purchaser shall make a contribution to the working capital of the Association equal to two months' regular association assessments for the unit. At the time of the organizational and turnover meeting, the Declarant shall pay such contribution for all unsold units, but may obtain reimbursement for such sums

from the purchaser upon the sale of each such unit. Such contribution shall be in addition to the regular monthly common expense assessment and shall not be considered as an advance payment of regular assessments. The working capital fund shall be transferred to the Association for deposit to a segregated fund at the time of the organizational and turnover meeting. The Declarant may not use the working capital fund to defray any of the Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits while the Declarant is in control of the Association. After the organizational and turnover meeting, the board of directors, at its discretion, may use working capital funds for regular operating expenses, extraordinary items of maintenance, repair or replacement or capital additions, or may deposit all or a portion of such funds into the reserve account.

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

(d) **Commencement of assessment for replacement reserves.** Regular monthly assessments for replacement reserves as described in Section 5.5 for all units in the Condominium shall commence upon the closing of the sale of the first unit in the Condominium. The Declarant may elect to defer payment of such reserve assessments to the Association for each unit owned by the Declarant until the closing of the sale of such unit, but not beyond the date of the turnover meeting referred to in Section 2.2 above, or if no turnover meeting is held, the date the owners assume administrative control of the Association. The books and records of the Association shall reflect the amount owing from the Declarant for all reserve assessments.

5.4 **Special or Extraordinary Assessments.**

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

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

5.5 **Replacement Reserves.**

(a) **Establishment of Account.** The Declarant shall conduct a reserve study as described in paragraph (c) of this Section and establish a reserve account for replacement of those common elements all or a part of which will normally require replacement in more than three and less than 30 years, and for exterior painting if the common elements include exterior painted surfaces and for such other items as may be required by the Declaration or these Bylaws. The reserve account need not include those items that could reasonably be funded from operating assessments.

(b) **Funding of Account.** The reserve account shall be funded by assessments against the individual units for the purposes for which the reserve account is being established, which sums shall be included in the regular monthly assessment for the unit, except as otherwise provided in Section 5.3(b). The reserve account shall be established in the name of the Association.

(c) **Reserve Studies.** The board of directors annually shall conduct a reserve study or review and update an existing study to determine the reserve account requirements for the items described in paragraph (a) of this Section and may adjust the amount of payments in accordance with the study or review and may provide for other reserve items that the board of directors, in its discretion, may deem appropriate. The reserve account need not include items that could reasonably be funded from operating assessments. The reserve study shall include:

- (i) Identification of all items for which reserves are to be established;
- (ii) The estimated remaining useful life of each item as of the date of the reserve study;
- (iii) An estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and
- (iv) A 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

(d) **Use of Reserve Funds.** The reserve account shall be used only for the purposes for which the reserves have been established and shall be kept separate from other funds. After the organizational and turnover meeting described in Section 2.2, however, the board of directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses which will later be paid from assessments, if the board of directors has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the board of directors shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. In addition to the authority of the board of directors under paragraph (c) of this Section, after the organizational and turnover

meeting, the Association may, on an annual basis, elect not to fund the reserve account described in paragraph (a) of this Section by unanimous vote of the owners or elect to reduce or increase future assessments for the reserve account by an affirmative vote of at least 75 percent of the voting power.

(e) **Sale of Units.** Nothing in this Section shall prohibit prudent investment of the reserve account subject to any constraints on investment imposed by the Declaration, these Bylaws or rules of the Association. Assessments paid into the reserve account are the property of the Association and are not refundable to sellers of units. Sellers of the units, however, may treat their outstanding share of the reserve account as a separate item in any sales agreement.

5.6 **Default in Payment of Assessments.** In the event of default by any unit owner in paying any assessments to the Association, including assessed common expenses and any other charge imposed or levied by the Association pursuant to the provisions of the Declaration, these Bylaws or the Oregon Condominium Act, such unit owner shall be obligated to pay interest at the rate of 12 percent per annum on such assessment from the due date thereof, or at such greater rate as may be established by the board of directors from time to time, not to exceed the maximum lawful rate, if any. In addition, the defaulting unit owner shall pay a late charge for any assessment not paid within 10 days of its due date in the amount of five percent of the delinquent payment, or such other reasonable late charge or administrative fee, or both, as may be established by the board of directors from time to time by resolution that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing address designated by the unit owner in writing, together with all expenses incurred by the Association in collecting such unpaid assessments, including attorneys' fees (whether or not suit is instituted, and at trial or any appeal or petition for review therefrom). If the assessment is not paid within 30 days of its due date, the board of directors may declare any remaining installments of assessments for the balance of the fiscal year immediately due and payable. The board of directors shall have the right and duty to recover for the Association such assessments, together with such charges, interest and expense of the proceeding, including attorneys' fees, by an action brought against such unit owner or by foreclosure of the lien upon the unit granted by the Oregon Condominium Act. The board of directors shall notify the holder of any first mortgage upon a unit and any eligible mortgage insurer or guarantor thereof of any default not cured within 60 days of the date of default.

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

5.8 **Priority of Lien; First Mortgages.** Any lien of the Association against a unit for assessments shall be subordinate to tax and assessment liens and any prior mortgage of record. Where the purchaser or mortgagee of a unit obtains title to the unit as a result of foreclosure of a first mortgage, such purchaser or mortgagee, its successors and assigns, shall not be liable for any of the assessments chargeable to such unit which became due prior to the acquisition of title

to such unit by such purchaser or mortgagee. Such unpaid share of assessments shall be a common expense and reallocated on a pro rata basis for all units, including the mortgaged unit. The purchaser or mortgagee shall not be relieved of the obligation to pay further assessments. A deed in lieu of foreclosure accepted by the holder of a first mortgage shall extinguish a lien filed by the Association to secure unpaid assessments under the circumstances described in ORS 100.465.

5.9 **Voluntary Conveyance.** In a voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the unit up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser the board of directors shall make and deliver a statement of the unpaid assessments against the prospective grantor or the unit, and the grantee in that case shall not be liable for, nor shall the unit when conveyed be subject to, a lien filed thereafter for any unpaid assessments against the grantor in excess of the amount set forth in the statement.

ARTICLE 6.

RECORDS AND AUDITS

6.1 **General Records.** The board of directors shall keep detailed records of the actions of the board of directors, minutes of the meetings of the board of directors and minutes of the meetings of the Association. The board of directors shall maintain a Book of Resolutions containing the rules, regulations and policies adopted by the Association, and the board of directors. The board of directors shall maintain a list of owners entitled to vote at meetings of the Association and a list of all mortgagees of units. All documents, information and records delivered to the Association by the Declarant pursuant to ORS 100.210 shall be kept within the State of Oregon.

6.2 **Financial Records and Accounts.** The board of directors or its designee shall keep within the State of Oregon financial records sufficient for proper accounting purposes. All assessments shall be deposited in a separate bank account, located in the State of Oregon, in the name of the Association. All expenses of the Association shall be paid from the Association's bank account.

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

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

6.5 **Reports and Audits.** An annual financial statement consisting of a balance sheet and income and expense statement for the preceding fiscal year shall be rendered by the board of directors to all unit owners and to all mortgagees of units who have requested the same within 90 days after the end of each fiscal year. From time to time the board of directors, at the expense of the Association, may obtain an audit or review of the books and records pertaining to the Association and furnish copies thereof to the owners and such mortgagees. Upon written request, any holder, insurer or guarantor of a first mortgage shall be entitled to an audited financial statement for the immediately preceding fiscal year at the expense of the requesting party, if one is not otherwise available.

6.6 **Notice of Sale, Mortgage, Rental or Lease.** Immediately upon the sale, mortgage, rental or lease of any unit, the unit owner shall promptly inform the secretary or manager of the name and address of said vendee, mortgagee, lessee, or tenant.

6.7 **Availability of Records.** During normal business hours or under other reasonable circumstances, the Association shall make available to unit owners, prospective purchasers and lenders, and to holders, insurers, or guarantors of any first mortgage, current copies of the Declaration, Bylaws, other rules concerning the Condominium and Association, amendments or supplements to such documents, and the books, records, most recent financial statements and current operating budget of the Association. Upon written request by the unit owner or mortgagee of a unit, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The Association may charge a reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs incurred to furnish the information.

6.8 **Statement of Assessments Due.** The Association shall provide, within 10 business days of receipt of a written request from an owner, a written statement that provides: (a) the amount of assessments due from the owner and unpaid at the time the request was received, including regular and special assessments, fines and other charges, accrued interest, and late payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed rate charge for late payment. The Association is not required to comply with this Section if the Association has commenced litigation by filing a complaint against the owner and the litigation is pending when the statement would otherwise be due.

ARTICLE 7.

MAINTENANCE AND USE OF CONDOMINIUM PROPERTY

7.1 **Maintenance and Repair.** Except as otherwise provided in Section 7.3 for damage or destruction caused by casualty:

(a) **Units.** All maintenance of and repairs to any unit shall be made by the owner of such unit, who shall keep the same in good order, condition and repair and shall do all redecorating, painting and staining which at any time may be necessary to maintain the good appearance and condition of his her or its unit. In addition, each unit owner shall be responsible for the maintenance, repair, or replacement of windows and doors and the

forced air furnace, any plumbing, heating or air conditioning fixtures, telephones, water heaters, fans, vents, lighting fixtures and lamps, electrical outlets, blinds, garbage disposals, fireplaces, refrigerators, dishwashers, ranges, washers and dryers or other appliances and accessories that may be in such owner's unit. The Association, however, may repair or replace, at the Association's expense, portions of units to the extent reasonably necessary for the preservation of the common elements in good condition and working order.

(b) **Common elements.** All maintenance, repairs and replacements to the general and limited common elements and to Association property shall be made by the Association and shall be charged to all the unit owners in accordance with the provisions of the Declaration. Each unit owner, however, shall keep the limited common elements which pertain to such owner's unit in a safe, neat, clean and sanitary condition.

7.2 Additions, Alterations or Improvements.

(a) A unit owner may make any improvements or alterations to such owner's unit that do not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium. A unit owner shall make no repair or alteration or perform any other work on such owner's unit which would jeopardize the soundness or safety of the property, reduce its value, impair any easement or hereditament or increase the common expenses of the Association unless the consent of all the other unit owners affected is first obtained.

(b) Notwithstanding the acquisition by a unit owner of an adjoining unit or an adjoining part of an adjoining unit, no unit owner may remove or alter any intervening partition or to create apertures therein, even if the partition in whole or in part is a common element.

(c) A unit owner may not change the appearance of the common elements or the exterior appearance of a unit without the prior written permission of the board of directors.

7.3 Damage or Destruction by Casualty of Condominium Property. In the case of damage or destruction which affects a material portion of the Condominium, timely written notice shall be given to the unit owners and their mortgagees and any eligible mortgage insurer or guarantor and the following provisions shall apply:

(a) In the event of damage or destruction by casualty of Condominium property, the damage or destruction shall be repaired, reconstructed or rebuilt unless, within 14 days of such damage or destruction, the board of directors or one or more unit owners shall have requested a special meeting of the Association. Such special meeting must be held within 60 days of the date of damage or destruction. At the time of such meeting, unless the owners of both units, whether in person, by writing or by proxy, with the approval of mortgagees as required by the Declaration, vote not to repair, reconstruct or rebuild the damaged property, the damage or destruction shall be repaired; reconstructed or rebuilt. If the damage or destruction is not repaired, reconstructed or

rebuilt, then the property shall be removed from condominium ownership in the manner provided in the Oregon Condominium Act.

(b) The Association shall be responsible for repairing, reconstructing or rebuilding all such damage or destruction to the common elements and, to the extent of the Association's insurance coverage, all such damage or destruction to the units. Each unit owner shall be responsible for such repairing, reconstructing or rebuilding of his unit as is not so covered by the Association's insurance and to the extent of any deductible under the Association's insurance.

(c) If, due to the act or neglect of a unit owner, or of a member of such owner's family or household pet or of a guest or other authorized occupant or visitor of such unit owner, damage shall be caused to the common elements or to a unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a common expense, then such unit owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Association, to the extent not fully covered by the Association's insurance.

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

7.4 Condemnation. If any portion of the Condominium is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall promptly be given to each unit owner and to each mortgagee and any eligible mortgage insurer or guarantor. The Association shall represent the unit owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of any portion of the common elements, and each unit owner appoints the Association to act as his, her or its attorney-in-fact for such purposes. All compensation, damages or other proceeds of the taking, other than any award for moving expenses of specific unit owners, shall be payable to the Association and allocated and distributed as provided in this Section 7.4.

(a) **Complete Taking.** If the entire Condominium property is taken, or if owners of both units agree that such substantial portion of the Condominium has been taken as to make the Condominium obsolete, then the property shall be deemed removed from unit ownership. In such event, any proceeds of the condemnation paid to the Association, together with any other proceeds upon sale of the remaining Condominium property, shall be distributed among the unit owners and their mortgagees, as their interests may appear, in accordance with the provisions of the Oregon Condominium Act.

(b) **Partial Taking.** If less than the entire Condominium property is taken and the property is not determined to be obsolete as provided in paragraph (a) above, then as soon as practicable the board of directors shall, reasonably and in good faith, allocate the award among the units in accordance with the reduction in the value of each unit and its interest in the common elements, compared to the total reduction in value of all units and their interest in the common elements. In the event any unit owner or mortgagee objects to the allocation determined by the board of directors, the matter shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. The cost of such determination shall be paid out of the proceeds of the condemnation. Any portion of the award allocated to a unit owner under this paragraph shall be paid first to all mortgagees and holders of liens on the unit owner's interest in accordance with the existing priorities, and the balance to the unit owner. If any reconstruction or repair is undertaken as a result of the condemnation, the board of directors may retain and apply such portion of each unit owner's share of the award as is necessary to discharge the owner's liability for any special assessment arising from such reconstruction or repair.

7.5 Restrictions and Requirements Respecting Use of Condominium Property.

The following restrictions and requirements are in addition to all other restrictions and requirements contained in the Declaration and these Bylaws:

(a) **Residential use.** The units shall only be used for residential purposes and for no other purpose, including but not limited to commercial activities of any kind, without the consent of the board of directors of the Association, except activities relating to the rental or sale of units. This provision, however, shall not be construed so as to prevent or prohibit a unit owner from maintaining his or her professional personal library, keeping his or her personal business or professional records or accounts, handling his or her personal business or professional telephone calls, or conferring with business or professional associates, clients or customers, in such owner's unit.

(b) **Use of Common Elements.** The common elements shall be used for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of the units. The use, operation and maintenance of the common elements shall not be obstructed, damaged or unreasonably interfered with by any unit owner.

(c) **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on in any unit nor shall anything be done in or placed upon any residential condominium unit or common element which interferes with or jeopardizes the enjoyment of other units or the common elements or which is a source of annoyance. No unlawful use shall be made of the Condominium nor any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

(d) **Animals.** No animals or fowls shall be raised, kept or permitted within the Condominium or any part thereof, except domestic dogs, cats, or other household pets kept inside a unit. No such dogs, cats or pets shall be permitted to run at large nor shall be kept, bred or raised for commercial purposes or in unreasonable numbers. Any

inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective owners thereof, and owners shall be responsible for removal of wastes of their animals. All dogs shall be carried or kept on a leash while outside a unit. No pet shall be permitted to cause or create a nuisance or unreasonable disturbance or noise. A unit owner may be required to remove a pet upon receipt of the third notice in writing from the board of directors of violations of any rule, regulation or restriction governing pets within the Condominium.

(e) **Exterior Lighting or Noisemaking Devices and Antennas.** Except with the consent of the board of directors of the Association, no exterior lighting or noisemaking devices shall be installed or maintained on any residential unit. Seasonal holiday lighting and decorations are permissible if consistent with any applicable rules and regulations and if removed within 30 days after the celebrated holiday. Exterior antennas, satellite receiver and transmission dishes and other communication devices shall not be permitted to be placed upon the general common elements, and may not be placed on any unit or limited common element except in accordance with rules established by the board of directors.

(f) **Windows, Driveways, Yards, Porches, Patios and Outside Walls.** In order to preserve the attractive appearance of the Condominium the board of directors of the Association may regulate the nature of items which may be placed in or on windows, patios, porch decks, units, the common elements, or outside the Condominium. Garments, rugs, laundry, sheets, reflective surfaces and other similar items may not be hung from windows, facades, porch decks or patios.

(g) **Parking of Vehicles.** Except with the consent of the board of directors of the Association, no vehicle in an extreme state of disrepair, trailer, truck camper, motorcycle, boat or boat trailer, or other recreational vehicle or truck rated as one ton or more shall be parked on any portion of the Condominium. A vehicle shall be deemed in an "extreme state of disrepair" when the board of directors reasonably determines that its presence offends the occupants of the Condominium due to its appearance or continued inoperability.

(h) **Leasing and Rental of Units.** No residential unit owner may lease or rent less than his, her or its entire unit and no residential unit owner may rent such owner's unit for transient or hotel purposes, or for a period of less than 180 days. All leases or rentals shall be by written lease agreement, which shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and these Bylaws, and that any failure by the lessee or tenant to comply with the terms of such documents shall be a default under the lease. No residential unit shall be the subject of a time sharing or use sharing arrangement. If the board of directors finds that a lessee or tenant has violated any provision of the Declaration, these Bylaws or the rules and regulations, the board may require the unit owner to terminate such lease or rental agreement. Other than the foregoing, there is no restriction on the right of any unit owner to lease or rent such owner's unit or portion thereof.

(i) **Signs.** Unless written approval is first obtained from the board of directors, no sign of any kind shall be displayed to the public view on or from any unit or the common elements except signs used by the Declarant or a current unit owner to advertise units for sale or lease.

(j) **Trash.** No part of any unit or any part of the common elements shall be used or maintained as a dumping ground for rubbish, trash, garbage, recycling materials or other waste. No garbage, trash, recycling materials or other waste shall be kept or maintained on any part of the property, except in sanitary containers in the designated areas and out of public view, except on garbage pickup days.

(k) **Insurance.** Nothing shall be done or kept in any unit or in the common elements which will increase the cost of insurance on the common elements. No owner shall permit anything to be done or kept in his, her or its unit or in the common elements which will result in cancellation of insurance on any unit or any part of the common elements.

(l) **Association Rules and Regulations.** In addition, the board of directors from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the units and common elements as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Condominium property. Such action may be modified by vote of not less than 51 percent of the voting rights present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of rules and regulations will be under consideration. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the secretary promptly to each unit owner and shall be binding upon all unit owners and occupants of all units from the date of delivery.

7.6 **Abatement and Enjoining of Violations.** The violation of any provision of the Declaration or these Bylaws, of any rule or regulation adopted pursuant to these Bylaws, or of any decision of the Association made pursuant to such documents, shall give the board of directors, acting on behalf of the Association, the right, in addition to any other rights set forth in these Bylaws, to do any or all of the following after giving written notice and an opportunity to be heard:

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

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

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

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

The offending unit owner shall be liable to the Association for a reasonable administrative fee as established by the board of directors and all costs and attorneys' fees incurred by the Association, whether or not legal proceedings are instituted and including attorneys' fees at trial, in arbitration or on appeal or petition for review, together with any expense incurred by the Association in remedying the default, damage incurred by the Association or unit owners, or fines so levied. Such sums shall be assessed against the offending unit as an assessment and enforced as provided in Article 5. In addition, any aggrieved unit owner may bring an action against such other unit owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

ARTICLE 8.

INSURANCE

8.1 **Unit Owners Insure Individual Units.** Each unit owner shall obtain and maintain at all times a policy or policies covering loss or damage from fire, with standard extended coverage and "all risk" endorsements. Owners and tenants of all units must procure and maintain comprehensive liability policies having combined limits in amounts reasonably set by the board of directors no more often than every three years. Such insurance must provide coverage for, without limitation, the negligent acts of the owner and tenant and their guests or other occupants of the unit for damage to the general and limited common elements and other units and the personal property of others located therein.

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

(a) **Property Damage Insurance.**

(i) The Association shall maintain a policy or policies of insurance covering loss or damage from fire, with standard extended coverage and "all risk" endorsements, and such other coverages as the Association may deem desirable.

(ii) The amount of the coverage shall be for not less than 100 percent of the current replacement cost of the common elements (exclusive of land, foundation, excavation and other items normally excluded from coverage), subject to a maximum deductible of the lesser of \$5,000 or one percent of the policy amount.

(iii) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the common elements and all personal property and supplies belonging to the Association, together with all fixtures, improvements and alterations comprising a part of each unit.

(iv) Such policy or policies shall name the Association as insured, and shall provide for loss payable in favor of the Association, as a trustee for each unit owner and each such unit owner's mortgagee, as their interests may appear. The policies shall contain the standard mortgage clause, or equivalent endorsement (without contribution) which is commonly accepted by institutional mortgage investors in Oregon.

(b) **Liability Insurance.**

(i) The Association shall maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the board of directors, and the unit owners against liability to the public or to the owners of units and of common elements, and their invitees or tenants, incident to the supervision, operation, control, maintenance, ownership or use of the property, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of a unit owner (other than as a member of the Association or board of directors) for liability arising out of acts or omission of such unit owner and liability incident to the ownership and/or use of the part of the property as to which such unit owner has the exclusive use or occupancy.

(ii) Limits of liability under such insurance shall not be less than \$1,000,000.00 on a combined single limit basis.

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

8.3 **Other Insurance Requirements.** Insurance obtained by the Association shall be governed by the following requirements:

(a) All policies shall be written with the State of Oregon or a company licensed to do business in the State of Oregon which falls into an A-general policyholder's rating or a financial performance index of 6 or better, as designated in Best's Key Rating Guide, or an A or better rating from Demotech, Inc.

(b) All property insurance policies shall contain a "Special Condominium Endorsement" or its equivalent providing for the following: recognition of any Insurance Trust Agreement, a waiver of the right of subrogation against unit owners individually, that the insurance is not prejudiced by any act or neglect of individual unit owners which is not in the control of such owners collectively, and that the policy is primary in the event the unit owner has other insurance covering the same loss.

(c) For purposes of this article, insurance policies are unacceptable where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association or unit owners, or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members, or (iii) policy includes any limiting clauses (other than insurance conditions) which could prevent the owners from collecting insurance proceeds.

(d) All policies required by this article shall provide that they may not be canceled or substantially modified without at least 10 days' prior written notice to the Association and to each holder of a first mortgage which is listed as a scheduled holder of a first, mortgage in the insurance policy. Evidence of insurance shall be issued to each unit owner and mortgagee upon request.

8.4 **Optional Provisions.** The board of directors shall make every effort to secure insurance policies that will provide for the following:

(a) Flood Insurance, if the Condominium is in a Special Flood Hazard Area.

(b) If reasonably available, waiver of subrogation by the insurer as to any claims against the board of directors, any unit owner or any guest of a unit owner.

ARTICLE 9.

AMENDMENTS TO BYLAWS

9.1 **How Proposed.** Amendments to the bylaws shall be proposed by any unit owner holding voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

9.2 **Adoption.** A resolution adopting a proposed amendment may be proposed by either the board of directors or by the unit owners and may be approved by the unit owners at a meeting called for this purpose or by ballot vote. Unit owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by the owners of both units, including amendments described in ORS 100.412(4)(a). The Declarant's consent shall also be required for approval of any resolution amending the Bylaws, so long as the Declarant owns one or more of the units in the Condominium. Such consent shall not be required after three years from the date of conveyance of the first unit to a person other than the Declarant. Any amendment which would limit or diminish any special Declarant rights established in these Bylaws shall require the written consent of the Declarant.

9.3 **Execution and Recording.** An amendment shall not be effective until certified by the chairperson and secretary of the Association as being adopted in accordance with these Bylaws and the provisions of the Oregon Condominium Act and recorded as required by law. Any amendment adopted within five years after the recording of the initial bylaws shall be

approved by the Oregon Real Estate Commissioner to the extent required by the Oregon Condominium Act.

ARTICLE 10.

DISPUTE RESOLUTION

10.1 Mediation.

(a) Except as otherwise provided in this Section, before initiating litigation, arbitration or an administrative proceeding in which the directors, or the Association and an owner, have an adversarial relationship, the party that intends to initiate litigation, arbitration or an administrative proceeding shall offer to use any dispute resolution program available within Deschutes County, Oregon, that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party.

(b) If the party receiving the offer does not accept the offer within 10 days after receipt by written notice hand delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party, the initiating party may commence the litigation, arbitration or the administrative proceeding. The notice of acceptance of the offer to participate in the program must contain the name, address and telephone number of the body administering the dispute resolution program.

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

(d) Unless a stay has been granted under paragraph (c) of this Section, if the dispute resolution process is not completed within 30 days after receipt of the initial offer, the initiating party may commence litigation, arbitration or an administrative proceeding without regard to whether the dispute resolution is completed.

(e) Once made, the decision of the court, arbitrator or administrative body arising from litigation, arbitration or an administrative proceeding may not be set aside on the grounds that an offer to use a dispute resolution program was not made.

(f) The requirements of this Section do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation, arbitration or an administrative proceeding initiated to collect assessments, other than assessments attributable to fines.

10.2 **Costs and Attorneys' Fees.** The fees of any mediator and the costs of mediation shall be divided and paid equally by the parties. Each party shall pay its own attorneys' fees and costs in connection with any mediation. Should any suit, action or arbitration be commenced in connection with any dispute related to or arising out of the Declaration or these Bylaws, to obtain a judicial construction of any provision of the Declaration or these Bylaws, to rescind the Declaration or these Bylaws or to enforce or collect any judgment or decree of any court or any award obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute, as the court or may adjudge reasonable, at trial, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit or action. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party shall be decided by the arbitrator by the court or courts, including any appellate or review court, in which such matter is tried, heard or decided, including a court that hears a request to compel.

10.3 **Survival.** The mediation set forth in this Article 10 shall survive the transfer by any party of its interest or involvement in the Condominium and any unit therein and the termination of the Declaration or these Bylaws.

ARTICLE 11.

MISCELLANEOUS

11.1 **Notices.** All notices to the Association or to the board of directors shall be sent to the principal office of the Association or to such other address as the board of directors may designate from time to time. All notices to any unit owner shall be sent to such address as may have been designated by such owner from time to time, in writing, to the board of directors, or, if no address has been designated, then to the owner's unit.

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

11.3 **Action Without a Meeting.** Any action which the Oregon Condominium Act, the Declaration or the Bylaws require or permit the owners or directors to take at a meeting or ballot meeting may be taken without a meeting or ballot meeting if a consent in writing setting forth the action so taken is signed by all of the owners or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the owners or directors, shall be filed in the records of minutes of the Association.

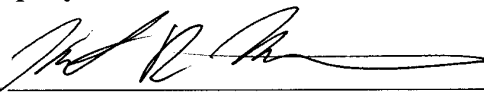
11.4 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

11.5 **Conflicts.** These Bylaws are intended to comply with the Oregon Condominium Act and the Declaration. In case of any irreconcilable conflict, such statute and document shall control over these Bylaws or any rules and regulations adopted hereunder.

DATED this ____ day of ____, 2005.

FATTY'S PAD, LLC, an Oregon limited liability company

By



Kurt Bennett, Sole Member