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AMENDMENT OF BYLAWS TO THE
BONITA TOWNHOMES HOMEOWNER'S ASSOCIATION,
INC.

IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON

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THIS AMENDMENT OF BYLAWS FOR THE BONITA TOWNHOMES HOMEOWNERS ASSOCIATION, COUNTY OF WASHINGTON AND STATE OF OREGON, recorded September 28, 2004 as Fee no. 2004-112650 in the County of Washington, state of Oregon is hereby made this 14th day of March, 2005 by JLS Custom Homes, Inc. an Oregon Corporation.

RECITALS

Article XI shall now read:

Section 1. By the Association. The Board shall obtain, and maintain in effect, from reputable insurance companies authorized to do business in the State of Oregon, public liability insurance with respect to all the Common Area in such amounts and in such forms as the Board deems advisable to provide adequate protection for bodily injury, including deaths of persons, and property damage, whether caused by the negligence of the Association or otherwise; provided, however, that such policy(ies) shall not be for an amount of less than \$1,000,000.00 per person, per occurrence, and that such policy(ies) shall provide that the coverage there under cannot be canceled or substantially modified without at least 10 days written notice to the Association. Additionally, the Association shall obtain, and maintain in effect, from such companies fire and extended coverage casualty insurance (including coverage for damage resulting from vandalism and malicious mischief) with respect to each attached Unit, including electrical and plumbing installations in the exterior walls, and the Common Areas (including any insurable improvements in the Common Areas) in an amount equal to 100% of the replacement cost thereof. The casualty coverage may be obtained on a "blanket" basis. The Association may obtain such other and further policies of insurance, as it deems advisable. The named insured on the policy shall read "Bonita Townhomes Homeowner's Association". The casualty insurance to be obtained by the Association pursuant to this paragraph 10.1(b) shall include the following terms, if the Board determines they are reasonably available:

- i) A waiver of subrogation by the insurer as to any claims against the Board, any Owner, or any guest of an Owner;
- ii) A waiver by the insurer of its right to repair and reconstruct instead of paying cash;
- iii) A provision that no policy may be canceled, invalidated, or suspended because of the action of an Owner;



- iv) A provision that no policy may be canceled, invalidated, or suspended because of the conduct of any director, officer, or employee of the Association unless the insurer gives the Association a prior written demand that the Association correct the defect and allows the Association a reasonable time to make the correction; and
- v) A provision that any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.

Any insurance policy obtained by the Association shall, if possible, be written by an insurer with at least a "B" general policyholder's rating and a "III" financial size category in Best's "Key Rating Guide". If the current insurance market allows, the deductible shall not exceed the lesser of \$10,000 or one percent of the face value of the policy.

At the discretion of the Board, the Association may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Association, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of the Articles of Incorporation of the Association.

Section 2. By the Owners. The insurance described in Article XI, Section 1 above does not provide personal liability coverage for the Owners, nor fire or extended coverage casualty insurance for the Owners' personal property, the inside surfaces of the Building Structure, and all other improvements including, but not limited to, appliances, heaters and air conditioners, cabinets, flooring, wall and window coverings, light fixtures and personal property nor the Lot or land on which the Building Structure resides. The responsibility for obtaining insurance that covers at least these items rests solely with the individual Owners.

IN WITNESS THEREOF, the undersigned has caused this Amendment to the Bylaws of The Bonita Townhomes Homeowners Association, Inc to be duly executed the day and year first above written.

BONITA TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

By:

Dan Crates
Dan Crates, Secretary



State of Oregon, County of Washington March 14, 2005

Personally appeared before me the above DAN CRATES in his capacity above and acknowledged the foregoing signature as his voluntary act and deed.

Laura Weathers
Notary Public for Oregon

My Commission Expires: Nov 29, 2008





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

Jerry Hanson
Jerry R. Hanson, Director of Assessment and Taxation, Ex-Officio County Clerk



After Recording Return To:
Derek L. Brown
Bonita Townhomes, LLC
4949 SW Meadows Road, Suite 400
Lake Oswego, Oregon 97035

**BYLAWS OF THE
BONITA TOWNHOMES
HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I
DEFINITIONS**

In construing these Bylaws,

1.1 "Association" means the nonprofit corporation as defined in these Bylaws and the corporation's successors and assigns.

1.2 "Board" means the Board of Directors of this Corporation constituted in accordance with Article V of these Bylaws.

1.3 "Common Area" means those areas designated as private tracts, sensitive areas or common or open space on any plat of any portion of the Property.

1.4 "Corporation" means Bonita Townhomes Homeowners' Association, Inc., an Oregon nonprofit corporation.

1.5 "Declarant" means Bonita Road Townhomes, LLC an Oregon Limited Liability Company, and its successors and assigns if such successor or assignee should acquire: (i) Declarant's interest in the Property or (ii) all of Declarant's rights under the Declaration pursuant to a recorded instrument executed by Declarant. Upon the transfer of a Declarant's complete interest in the Property to a successor Declarant, the transferring Declarant will be released from any further liability or obligations hereunder from and after the date of the transfer.

1.6 "Declaration" means the Declaration of Covenants, Conditions and Restrictions for Bonita Townhomes, and all of the easements, covenants, restrictions and charges set forth therein, together with any rules or regulations promulgated thereunder, as the same may be amended or supplemented from time to time in accordance with the provisions thereof.

1.7 "Director" means a director of the Corporation as described in and elected in accordance with Article V of these Bylaws.



1.8 "Improvement" means every structure or improvement of any kind, including but not limited to a fence, wall, street, sidewalk, street lights, driveway, trees, hedges or plantings, or other product of construction efforts on or in respect to the Common Area. "Improvement" does not include maintenance of turf, shrubs or trees.

1.9 "Lot" means a platted or partitioned lot or tract within the Property, with the exception of any tract or lot marked on any plat of any portion of the Property as common or open space. Each Lot shall constitute a private area for the exclusive use and enjoyment of the Owner of such Lot.

1.10 "Officer" means an officer of the Corporation as described in and elected in accordance with Article VI of these Bylaws.

1.11 "Owner" means any person or entity, including the Declarant, at any time owning a Lot, including any vendee under a recorded land sale contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot, including any vendor under a recorded land sale contract who has surrendered possession.

1.12 "President" means the President of the Corporation as described in Article VI, Section 5 of these Bylaws.

1.13 "Property" means the real property legally described in the Declaration.

1.14 "Secretary" means the Secretary of the Corporation as described in Article VI, Section 6 of these Bylaws.

1.15 "Successor Declarant" means the transferee of any Special Declarant Rights.

1.16 "Treasurer" means the Treasurer of the Corporation as described in Article VI, Section 7 of these Bylaws.

1.17 "Turnover Date" means the date on which the Declarant elects in writing to terminate the Class B membership.

All other capitalized terms not otherwise defined in these Bylaws shall have the meaning given to them in the Declaration.

ARTICLE II OFFICES

The principal office of the Corporation in the State of Oregon shall be in a location determined by the Board. The Corporation may have such other offices, either within or without the State of Oregon, as the Board may determine or as the affairs of the Corporation require from time to time. The Corporation shall have and continuously maintain in the State of Oregon a registered office, and a registered agent whose office is identical with such registered office, as required by the nonprofit corporation laws of the State of Oregon. The registered office may be,



but need not be, identical with the principal office in the State of Oregon, and the address of the registered office may be changed from time to time by the Board.

**ARTICLE III
MEMBERSHIP, VOTING RIGHTS, AND POWERS AND OBLIGATIONS**

Section 1. Membership. Every Owner of one or more Lots shall, immediately upon creation of the Corporation and thereafter during the entire period of such Owner's ownership of one or more Lots, shall become a member of the Corporation. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Such membership shall commence, exist, and continue simply by virtue of such ownership, shall automatically expire upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

Section 2. Suspension. All voting rights of a Member shall be suspended during any period in which such Member is delinquent in the payment of an assessment duly established pursuant to Article II of the Declaration or is otherwise in default hereunder or under the Declaration or Rules and Regulations of the Association. The Board of Directors may also suspend the Member's right to use of any of the Common Areas during such period of default.

Section 3. Voting Rights. Voting rights within the Corporation shall be allocated as follows:

(a) **Lots.** Except as provided in clause (b) of this Section 3, Lots shall be allocated one vote per Lot.

(b) **Classes of Voting Membership.** The Corporation shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners, including Declarant). Class A members shall be entitled to voting rights for each Lot owned, computed in accordance with Article III, Section 3(a). When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more votes be cast with respect to any Lot than as set forth in Article III, Section 3(a). If such persons cannot agree upon the vote, the vote of the Lot shall be disregarded in determining the proportion of votes with respect to the particular matter at issue.

Class B. The Class B member shall be Declarant and shall be entitled to three (3) times the voting rights computed under Article III, Section 3(a) for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the occurrence of Declarant's election in writing to terminate the Class B membership.

Section 4. Powers and Obligations. The Corporation shall have, exercise and perform all of the following powers, duties, and obligations:



(a) Declaration. The powers, duties and obligations granted to the Corporation by its Articles of Incorporation, the Declaration, and these Bylaws.

(b) Statutory Powers. The powers, duties, and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon and of a homeowners association of a planned community pursuant to the Oregon Planned Community Act, as either be amended from time to time.

(c) General. Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Corporation pursuant to the Declaration or otherwise promoting the general benefit of the Owners within the Property. The powers and obligations of the Corporation may from time to time be amended, repealed, enlarged or restricted by changes in the Declaration made in accordance with the provisions therein, accompanied by changes in the Articles of Incorporation of the Corporation or these Bylaws made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

ARTICLE IV MEETINGS OF OWNERS

Section 1. Annual Meetings Prior to Turnover Meeting. Prior to the Turnover Meeting, as defined below, a meeting of Owners shall be held annually. Such meeting shall be called in accordance with Section 3 below.

Section 2. Meetings to Elect Directors; Annual Meetings Following Turnover Meeting. The first meeting of the Owners held for the purpose of electing Directors pursuant to this Article IV shall be the Turnover Meeting (the "Turnover Meeting"), which shall be the initial meeting of the Corporation for purposes of ORS 94.635(1). The first annual meeting of the Corporation shall be held 1 year from the date of the Turnover Meeting. Subsequent meetings of the Corporation shall be held annually within the same month as the original Turnover Meeting. Each such meeting shall be called in accordance with Section 3 below.

Section 3. Notice of Meeting. Any meeting held pursuant to this Article IV shall be held on such date, at such time, and at such place within Washington County, Oregon, as may be designated by the Secretary. Written notice of each meeting of the Owners under this Article IV shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting, but not more than fifty (50) days before such meeting, to each Owner entitled to vote thereat, addressed to the Owner's address last appearing on the books of the Corporation, or supplied by such Owner to the Corporation for the purpose of notice, and to any mortgagee having requested notice thereof. Mortgagees of a Lot may designate a representative to attend a meeting called under this Section 3. Such notice shall specify the place, day, and hour of the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, or any proposal to remove a Director or Officer. Notice of any such meeting may be waived by any Owner at any time. No Owner who is present at a meeting may object to the adequacy or timeliness of the notice given.



Section 4. Proxies; Quorum; Voting. Except as provided in Section 5.3 of the Declaration, each Owner and Declarant shall have the number of votes provided for in Article III, Section 2. Any Owner may give a proxy to any person, so long as such proxy is in writing, signed by such Owner, and filed with the Secretary. A proxy shall expire on the earlier of: (i) eleven (11) months after the date of the proxy or (ii) the date of the sale of the Owner's Lot by its Owner. No quorum requirement shall be necessary for the Turnover Meeting. Voting of the Owners may be by mail with respect to any matter before the Owners. In any case in which voting by mail is necessary or desirable, the Secretary shall give written notice to all Owners at least (10) days before written ballots are scheduled to be mailed or otherwise delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise delivered at least ten percent (10%) of the Owners petition the Board requesting secrecy procedures, a written ballot shall be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner and instructions for marking and returning the ballot. Any vote by mail shall: (a) include a written resolution setting forth the proposed action, (b) state that the Owners are entitled to vote by mail for or against such resolution, (c) if the proposed action otherwise would require a meeting at which a certain quorum must be present and/or at which a certain percentage of total votes cast is required to authorize the proposed action, state the number of responses needed to meet such quorum requirement and/or the required percentage of total votes needed for approval, and (d) specify that the date by which all votes must be received at the principal office of the Corporation is the earlier of a date not less than twenty-five (25) days after the date of such notice. Votes received after the date specified shall be of no effect.

Section 5. Annual Meetings. At any annual meeting of Owners, the President, and any other Officer the Board or the President may designate, shall report on the activities and financial condition of the Corporation.

Section 6. Special Meetings. Special meetings of the Owners may be called at any time by the President or a majority of the Board, or upon written request of Owners who are entitled to vote at least 25% of all of the votes of the Class A members. Business transacted at a special meeting shall be restricted to the purposes set forth in the notice thereof.

ARTICLE V BOARD OF DIRECTORS

Section 1. General. The affairs of the Corporation shall be managed by the Board, which shall be comprised of the number of Directors determined as provided in Section 2 of this Article V. The Board shall have all requisite power, duty and authority to perform its obligations under the Declaration, the Articles of Incorporation, these Bylaws, the nonprofit corporation laws of the State of Oregon and the Planned Community Act, including, without limitation, the power, duty, and authority to enforce the provisions of the Declaration and these Bylaws and to acquire and pay for, out of the funds provided by assessments pursuant to the Declaration, all goods and services necessary or appropriate for the proper functioning of the Corporation in accordance with the Declaration and these Bylaws.

Section 2. Number; Appointment by Declarant Prior to Turnover Meeting. After the Turnover Meeting, the Board shall be comprised of three (3) Directors. Prior to the Turnover



Meeting, the Directors shall not be required to be Owners. Thereafter, all Directors shall also be Owners. Until the Turnover Meeting, Declarant shall appoint an interim board comprised of up to three (3) Directors to serve as the Board. On the date of the Turnover Meeting, the Directors appointed by Declarant shall submit their resignations, effective upon the election of successors as provided in this Article V, Section 2. At and after the Turnover Meeting, the Directors shall be elected in the manner provided in this Article V, Section 3. Voting for Directors shall not be cumulative.

Section 3. Election of Directors. At and after the Turnover Meeting, all Directors shall be elected by a majority vote of the Owners who cast votes, whether in person, by proxy, or by mail, taken at the annual meeting or at a special meeting called therefor, with each Owner entitled to the votes specified in Article III, Section 2.

Section 4. Terms of Directors.

4.1 The Directors elected at the Turnover Meeting shall serve until the first annual meeting of the Corporation.

4.2 At the first annual meeting of the Corporation, the Owners shall elect one Director for a term of one year, one for a term of two years and one for a term of three years.

4.3 Except as provided in Article V, Sections 4.1 and 4.2, all Directors shall serve three-year terms. Any Director may serve more than one term.

Section 5. Resignation. Any Director may resign at any time by sending a written notice of such resignation to the Secretary. Unless otherwise specified in such notice, a resignation shall take effect upon receipt of the notice by the Secretary.

Section 6. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association present at a duly called Meeting of the Members. The quorum provision for a Meeting of Members shall apply.

Section 7. Vacancies. Vacancies on the Board caused by the death, resignation or removal of a Director shall be filled by vote of the majority of the remaining Directors, even if they constitute less than a quorum. Any Director so elected shall serve the remainder of the replaced Director's term.

Section 8. Meetings of the Board.

8.1 The initial meeting of the Board shall occur within ninety (90) days after the date the Articles of Incorporation for the Corporation are filed.

8.2 All meetings of the Board shall be open to all Owners, except that at the discretion of the Board, the following matters may be considered in executive session, as provided by law: (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. For



other than emergency meetings and executive sessions, notice of Board meetings shall be mailed to all Owners, at the last address for each Owner in the records of the Corporation, not less than ten (10) days before the meeting; or posted at a place or places on the Property at least three (3) days prior to the meeting; or provided by a method otherwise reasonably calculated to inform Owners of the meeting. Except in an emergency, the Board shall vote in an open meeting whether to meet in an executive sessions. If the Board votes to meet in executive session, the President shall state the general nature of the action to be considered and when and under what circumstances the deliberations can be disclosed to Members.

8.3 The Board shall meet at least annually, within thirty (30) days after each annual meeting of the Owners. At each annual meeting, the Board shall adopt a budget for the following fiscal year and determine the amount of the Regular Assessment (as defined in the Declaration) for such year. Within thirty (30) days after adopting the annual budget, the Board shall provide a summary of the budget to all owners. In addition, the Treasurer shall present to the Board a report on the financial condition of the Corporation, including a report of receipts and disbursements for the preceding calendar year, the allocation thereof to each Lot, and the estimated receipts and expenses for the coming year. If the Board fails to adopt a budget, the last adopted annual budget shall continue in effect.

8.4 Special meetings of the Board may be called at any time by the President or two Directors. Such meetings shall be scheduled by the Secretary within thirty (30) days after the Secretary's receipt of written requests signed by two or more Directors; provided that if the purpose of a special meeting is to elect a successor Secretary pursuant to Section 2 of Article VI or to consider removal of the Secretary pursuant to Section 3 of Article VI, such meeting may be scheduled by the President or, if the meeting is also for the purpose of electing a successor President or removing the President, any other Director.

8.5 Meetings of the Board shall be held at such place within Washington County, Oregon, as may be designated from time to time by the Board.

8.6 The Secretary shall give at least two days' written notice to each Director of special meetings of the Board, stating the date, time, and place of the meeting. To the extent notice is required, it shall be sent to the address of each Director as listed on the books of the Corporation, or to such other address as any Director may designate by written notice to the Secretary given at least ten (10) days prior to the giving of notice of the meeting. Notice of any meeting may be waived by any Director at any time. No Director who is present at a meeting may object to the adequacy or timeliness of the notice given. When a meeting is adjourned for fewer than thirty (30) days, whether or not a quorum is present at the adjourned meeting, no notice of the resumption or reconvening of such adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

Section 9. Voting by the Board. Each Director shall have one vote. So long as a quorum is constituted, the vote of Directors together holding more than 50% of the total votes shall be a binding vote of the Board for all purposes, unless a greater percentage is required by law or the Declaration.



Section 10. Quorum. The presence in person of a majority of the Directors shall constitute a quorum for voting at a Board meeting. The Board shall have the power to adjourn a meeting even if less than a quorum is present.

Section 11. Removal. Any Director, other than a Director appointed by Declarant, may be removed, with or without cause, by the majority vote of Owners present and entitled to vote at any meeting of the Owners at which a quorum is present. No removal of a Director is effective unless the matter of removal was included in the notice of the meeting and listed as an item on the agenda. At such meeting, the Owners shall elect a replacement Director to serve the remainder of the replaced Director's term.

Section 12. Compensation. No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for the Director's actual expenses incurred in the performance of his or her duties.

Section 13. Committees. The Board may from time to time establish committees of the Board pursuant to ORS 65.354.

ARTICLE VI OFFICERS

Section 1. Officers. The Officers shall be the President, the Treasurer, and the Secretary, each of whom shall be elected by the Board. After the Turnover Meeting has been held, the same person shall not concurrently hold more than one office. The Board may designate such additional Officers as it deems appropriate.

Section 2. Election and Term of Office. The Officers of the Corporation shall be elected annually by the Board and shall hold office at the pleasure of the Board and until their successors are elected and qualified. If any office becomes vacant, the Board shall elect a successor to fulfill the unexpired term at a special meeting of the Board called for such purpose.

Section 3. Removal. The Board may remove any Officer, at any time, with or without cause, and a successor may be elected at a special meeting of the Board called for such purpose.

Section 4. Compensation. Other than reimbursement of out-of-pocket expenses incurred on behalf of the Corporation, neither the President, the Treasurer, nor the Secretary shall receive any compensation from the Corporation for acting as an Officer, unless the Board authorizes such compensation.

Section 5. President. The President shall be a Director and shall be the chief executive officer of the Corporation. The President shall preside at all meetings of the Board, and, except to the extent otherwise provided in the Declaration, shall have all of the general powers and duties normally incident to the office of the chief executive officer of a corporation.

Section 6. Secretary. The Secretary shall not be required to be a Director or an Owner. The Secretary shall keep the minutes of all proceedings of the Board and all other



Corporation records and shall attend to the giving of all notices to the Board and other notices pursuant to these Bylaws or the Declaration or required by law. The Secretary shall perform all other duties incident to the office of secretary of a corporation or as may be directed by the Board. The Secretary shall perform all of such duties at the expense of the Corporation.

Section 7. Treasurer. The Treasurer shall not be required to be a Director or an Owner. The Treasurer shall be responsible for Corporation funds and shall keep full and accurate financial records and books of account sufficient for proper accounting purposes showing all receipts and disbursements necessary for the preparation of all financial data and tax returns. The Treasurer shall be responsible for the deposit of all Corporation funds in such depositories as may from time to time be designated by the Board, and shall disburse Corporation funds for such purposes as may be permitted under these Bylaws or the Declaration. The Treasurer shall perform all other duties incident to the office of the Treasurer of a corporation or as may be directed by the Board. The Treasurer shall perform all such duties at the expense of the Corporation.

ARTICLE VII SHARES OF STOCK AND DIVIDENDS PROHIBITED

The Corporation shall not have or issue shares of stock. No dividends shall be paid and no part of the income of the Corporation shall be distributed to its Directors or Officers, or to the Owners. The Corporation may pay compensation in a reasonable amount to its Officers for services rendered as provided by the Articles of Incorporation, the Declaration, other provisions of these Bylaws, or resolution of the Board of Directors.

ARTICLE VIII LOANS TO DIRECTORS AND OFFICERS PROHIBITED

Section 1. No Loans to Directors or Officers. No loan shall be made by the Corporation to its Directors or Officers. The Directors of the Corporation who vote for or assent to the making of a loan to a Director or Officer of the Corporation, and any Officer or Officers participating in the making of such loan, shall be jointly and severally liable to the Corporation for the amount of such loan until the repayment thereof.

Section 2. Contribution; Subrogation. Any Director against whom a claim shall be asserted under or pursuant to this Article VIII shall be entitled to contribution from the other Directors who voted for the action upon which the claim is asserted. To the extent that any Director is required to pay such claim, he shall be subrogated to the rights of the Corporation against the debtor on the loan.

ARTICLE IX CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section 1. Contracts. The Board may authorize any Officer or Officers or agent or agents of the Corporation, in addition to the Officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the



Corporation, and such authority may be general or confined to specific instances. Among other things, such contracts may provide for the employment of personnel necessary for the maintenance, upkeep, and repair of the Common Area. Notwithstanding the foregoing, no management agreement, service contract or employment contract made by or on behalf of the Corporation prior to the Turnover Meeting shall be for a term in excess of three (3) years, and any such agreement shall terminate without penalty to Declarant, the Corporation or the Board upon not less than thirty (30) days' written notice to the other party thereto given by the Board not later than sixty (60) days after the Turnover Meeting.

Section 2. Checks, Drafts, Etc. All checks, payment vouchers, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation (including checks or vouchers for the payment of the expenses incurred in maintaining the Common Area), shall be signed by such Officer or Officers or agent or agents of the Corporation and in such manner as shall from time to time be determined by the Board.

Section 3. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select. All assessments, including Declarant subsidies, shall be deposited in a separate account in the name of the Association. All expenses of the Association shall be paid from such account.

Section 4. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation.

ARTICLE X FINANCIAL MATTERS AND RECORDS

Section 1. General. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board and committees having any of the authority of the Board and shall keep at its registered or principal office a record giving the names and addresses of the Directors. All books and records of the Corporation may be inspected by any Director, or his agent or attorney, for any proper purpose at any reasonable time.

Section 2. Financial Statements. The Board may appoint a certified public accountant or certified public accounting firm as auditor, who shall not be an Officer or own any interest in any Lot, to audit the books and financial records of the Corporation. Within ninety (90) days after the end of each fiscal year, the Board shall distribute to each Owner and, upon request, any mortgagee of a Lot a copy of the annual financial statement of the Corporation, consisting of a balance sheet and income and expense statement for the preceding fiscal year. The Corporation shall make available to Owners and to holders, insurers or guarantors of any



mortgage on a Lot, for their inspection and copying, upon request, during normal business hours or under other reasonable circumstances, current copies of: (i) the Declaration, Articles of Incorporation, Bylaws, and rules concerning the Property, (ii) the Corporation's most recent financial statement, (iii) the current operating budget of the Corporation, and (iv) all other records of the Corporation. Upon written request of a prospective purchaser of a Lot, the Corporation shall make available for examination and duplication during reasonable hours the documents and items described in items (i) through (iii) in the preceding sentence. The Corporation may charge a reasonable fee for furnishing copies of any documents, information, or records described in this Section 2. The fee may include reasonable personnel costs for furnishing such copies.

Section 3. Tax Returns. The Board shall cause to be filed the necessary income tax returns for the Corporation.

Section 4. Fiscal Year. The Corporation's fiscal year shall commence January 1 and shall end on December 31.

ARTICLE XI INSURANCE

Section 1. By the Association. The Board shall obtain, and maintain in effect, from reputable insurance companies authorized to do business in the State of Oregon, (i) public liability insurance with respect to all the Common Area in such amounts and in such forms as the Board deems advisable to provide adequate protection for bodily injury, including deaths of persons, and property damage, whether caused by the negligence of the Association or otherwise; provided, however, that such policy (ies) shall not be for an amount of less than \$1,000,000.00 per person, per occurrence, and that such policy (ies) shall provide that the coverage thereunder cannot be canceled or substantially modified without at least 10 days' written notice to the Association; and (ii) hazard insurance for all insurable improvements in the Common Area sufficient to cover the full replacement costs or any repair or reconstruction in the event of damage or destruction from any such hazard if the insurance is available at reasonable cost. The insurance coverage obtained and maintained by the Board may not be brought into contribution with insurance bought by Owners or their mortgagees. Any insurance policy obtained by the Corporation pursuant to the Declaration shall show the Corporation as the named insured and shall, if possible, be written by an insurer with a "B" general policyholder's rating and a "III" financial size category in Best's "Key Rating Guide." The policies obtained by the Corporation pursuant to the Declaration may contain a reasonable deductible not to exceed the lesser of \$10,000 or one percent of the face value of the policy, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance equals at least the required full replacement cost. Any policies obtained by the Corporation shall, if reasonably available, provide a waiver of subrogation by the insurance company as to any claims against the Board, any Owner, or any guest of an Owner.

Section 2. By the Owners. Each Owner of a Lot shall obtain, and maintain in effect, the from reputable insurance companies authorized to do business in the State of Oregon, public liability and property damage insurance with respect to such Lot in an amount of not less than



\$500,000.00 per person, per occurrence. Additionally, each Owner shall obtain, and maintain in effect, from such companies fire and extended coverage casualty insurance with respect to the Unit in an amount equal to 100% of the replacement cost thereof. Each Owner shall also be responsible for obtaining fire and extended coverage casualty insurance with respect to that Owner's personal property.

Section 3. Director and Officer Insurance. At the discretion of the Board, the Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the Articles of Incorporation of the Corporation.

Section 4. General Provisions. Premiums for insurance obtained by the Board pursuant to this Article XII shall be a common expense of the Corporation. At least annually, the Board shall review the insurance coverage of the Corporation. If reasonably available, the Board shall obtain insurance policies with the provisions specified in ORS 94.680 and with an "inflation guard" endorsement.

ARTICLE XII TRANSFER OF CONTROL

Section 1. Transitional Advisory Committee. No later than sixty (60) days after the later of (a) the date the Declarant conveys 50% or more of the Lots in the first phase to Owners other than a Successor Declarant or (b) the date the Declarant has conveyed 10 Lots to Owners other than a Successor Declarant, Declarant shall call a special meeting of the Owners to select a Transitional Advisory Committee. Declarant shall give notice in accordance with Article IV, Section 3 to each Owner of the special meeting. At such meeting, the Owners in attendance, other than Declarant, by vote of a majority of those present, shall select two (2) members of a Transitional Advisory Committee composed of three (3) members. The third member shall be selected by Declarant. The members of the Transitional Advisory Committee shall serve until the Turnover Meeting. The function of the Transitional Advisory Committee shall be to facilitate the transition from control of the administration of the Corporation by Declarant to control by the Owners. The Transitional Advisory Committee shall have reasonable access to all information and documents that Declarant is required to turn over to the Association under ORS 94.616(3). If the meeting required pursuant to this Section 1 is not called by Declarant within the time specified, the meeting may be called and notice given by any Owner. Notwithstanding the foregoing, if the Owners do not select members of the Transitional Advisory Committee as provided above, Declarant shall have no further obligation to form the Transitional Advisory Committee. There shall be no requirement that a Transitional Advisory Committee be formed and no Transitional Advisory Committee shall be appointed, once the Turnover Meeting has been held.

Section 2. Turnover Meeting. On a date that is not later than ninety (90) days after the Turnover Date, Declarant shall call the Turnover Meeting. Declarant shall give notice of



such meeting as provided in Article IV, Section 3 to each Owner. The notice shall state the purpose of the meeting, which shall be the relinquishment by Declarant of control of the administration of the Corporation, and the time and place at which the meeting is to be held. If Declarant does not call the Turnover Meeting required by this Section 2 within the required period, the Transitional Advisory Committee described in Section 1 or any Owner may call such a meeting and give notice as required by this Section 2. At the Turnover Meeting: (i) Declarant shall relinquish control of the administration of the Corporation and the Owners shall assume the control thereof, (ii) the Directors of the Corporation then serving shall resign and the Owners (including Declarant) shall elect a board of Directors in accordance with these Bylaws, and (iii) Declarant shall deliver to the Corporation all of the items set forth in ORS 94.616(3). After the Turnover Meeting, Declarant or its representative shall be available to meet with the Board on at least three mutually acceptable dates as provided under ORS 94.616(4).

**ARTICLE XIII
RULES AND REGULATIONS**

The Board shall have power to adopt and publish rules and regulations governing the conduct of persons and the operation and use of the Lots and the Common Area as it may deem necessary or appropriate to assure the peaceful and orderly use and enjoyment of the Property, and to establish penalties for the infraction thereof. Such rules and regulations may be adopted upon a majority vote of the members of the Board present at a meeting at which there is a quorum of Board members and as to which notice has been given as provided in these Bylaws. Such notice shall include a verbatim copy of all proposed rules and regulations. No rule or regulation shall be adopted without a copy thereof first having been delivered or mailed to each Owner at the last address for such Owner in the records of the Association. Upon adopting any such rules and regulations, the Board shall cause copies thereof to be delivered to each Owner. All such rules and regulations become binding on all Owners and occupants of all Lots upon the date of delivery. Any rule or regulation which conflicts with these Bylaws or the Declaration shall be null and void.

**ARTICLE XIV
MAINTENANCE**

The Corporation shall have the maintenance responsibilities set forth in Section 3.9 of the Declaration. Costs and expenses incurred by the Corporation in discharging its maintenance responsibilities shall be paid in the manner described in Article IX, Section 2.

**ARTICLE XV
ASSESSMENTS**

Section 1. Generally. All Lots shall be subject to assessment in accordance with the provisions of the Declaration. Regular Assessments shall be made on a monthly basis. Subject to amendment by the Board, the Association shall give written notice to each Owner as to the amount of the Regular Assessment with respect to each Lot on or before December 15 for each year for the calendar year commencing January 1 of the next year. The Regular Assessment shall be due and payable as the Board shall determine.



Section 2. Request for Assessments Due. The Association shall provide, within ten (10) business days of receipt of a written request from an owner, a written statement that provides (i) the amount of assessments due from the Owner and unpaid at the time the request was received, such as regular and special assessments, fines, accrued interest, late payment charges and other charges, (ii) the percentage rate at which interest accrues on unpaid assessments and (iii) the percentage rate or fixed charge for late payments. The Association need not provide the amount of assessments due as provided in (i) 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 XVI
AMENDMENTS TO BYLAWS**

Section 1. Except as expressly provided in the Declaration, these Bylaws may be amended or repealed and new bylaws may be adopted by a majority of the Directors present at any regular meeting or at any special meeting, if at least two (2) days' written notice is given of intention to amend or repeal and adopt new bylaws at such meeting accompanied by a copy or summary of the amendment; provided, however, that the Board shall have no authority to amend or repeal any provision of these Bylaws relating to the election, qualifications, powers, duties or terms of Directors without the approval of the Owners given at a special meeting called for such purpose; and provided, further, that all such amendments shall be consistent with the provisions of the Declaration. No special declarant right as defined in ORS 94.550(20) or contained in these Bylaws or the Declaration may be amended without the consent of Declarant and Declarant may unilaterally make the amendments to the Bylaws permitted by Section 16.3 of the Declaration and ORS 94.585. An amendment is not effective unless it is certified by the President and Secretary of the Association as having been adopted in accordance with these Bylaws and ORS 94.625, and recorded in the office of the Deed Records of Washington County, Oregon.

Section 2. So long as there is a Class B membership, Declarant shall submit a written request for approval of any amendment of these Bylaws to HUD/VA. If HUD/VA fails to give written notice to Declarant of objections to the request within fifteen (15) days of the date of Declarant's request for approval, such HUD/VA approval shall be deemed to have been granted. A statement in the applicable document that all requisite approvals have been granted shall be sufficient to evidence of record any HUD/VA approvals required under the Bylaws. "HUD/VA" means the federal Department of Housing and Urban Development, the Federal Housing Administration or the Veterans Administration. Request for approval may be sent to any of such agencies, or any other federal agency with responsibility for the matter at issue, and approval of such agency shall be considered HUD/VA approval for all purposes

**ARTICLE XVII
- WAIVER OF NOTICE -**

Whenever any notice is required to be given under the provisions of the nonprofit corporation laws of the State of Oregon, as it exists or may be amended in the future, or under the provisions of the Articles of Incorporation or these Bylaws, a waiver thereof in writing signed by



the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XVIII
HEADINGS

The headings contained in these Bylaws are for convenience and shall not in any way affect the meaning or interpretation of these Bylaws.

ARTICLE XIX
ACTION WITHOUT A MEETING

Any action which applicable law, the Declaration or these Bylaws require or permit the Owners or the Board to take at a meeting may be taken without a 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 the Board, as the case may be, shall be filed in the records of minutes of the Corporation.

ARTICLE XX
LITIGATION

Before initiating any litigation or an administrative proceeding in which the Association and an Owner have an adversarial relationship, the party that intends to initiate litigation or an administrative proceeding shall offer to resolve the problem through an alternative dispute resolution program pursuant to ORS 94.630(4).

ARTICLE XXI
CONFLICTS

These Bylaws are intended to comply with applicable law and the Declaration. In case of any irreconcilable conflict, applicable law and the Declaration shall control over these Bylaws, any amendments hereto and any rules or regulations adopted hereunder.

I, Derek L. Brown as Secretary of Bonita Townhomes Homeowners' Association, Inc. do hereby certify the foregoing to be the Bylaws of the Corporation, as adopted by the Board effective as of the 9th day of Sept., 2004.

By: 
Its: Secretary



State of Oregon

Clackamas

County of ~~Washington~~

On this 9th day of Sept., 2004 before me appeared

Derek L. Brown

_____ on behalf of the membership.



Jill Warren
Notary Public for the State of Oregon
My Commission Expires: May 7, 2007



00660801200401126490270272

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

Jerry Hanson

Jerry R. Hanson, Director of Assessment and Taxation, Ex-Officio County Clerk



After recording return to:
Derek L. Brown
Bonita Townhomes, LLC
4949 SW Meadows Road, Suite 400
Lake Oswego, Oregon 97035

**DECLARATION
OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR BONITA TOWNHOMES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BONITA TOWNHOMES (this "Declaration") is made and entered into effective this ___ day of _____, 2004, by Bonita Road Townhomes, LLC, an Oregon Limited Liability Company ("Declarant"). Declarant desires to create a Class II planned community known as Bonita Townhomes. The community shall be subject to ORS 94.550 to 94.783.

1. DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.1 Articles. "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

1.2 Assessment. "Assessment" shall mean any assessment levied against one or more Owners by the Association for payment of expenses relating to the Property and shall include Regular, Special, and Limited Assessments as those terms are defined herein.

1.3 Association. "Association" shall mean the nonprofit corporation formed or to be formed to serve as the association of Owners as provided in this Declaration and such corporation's successors and assigns.

1.4 Board. "Board" shall mean the duly-elected Board of Directors of the Association.

1.5 Bylaws. "Bylaws" shall mean the Bylaws of the Association, as amended from time to time. The Bylaws shall be adopted pursuant to ORS 94.625 and recorded in the Deed Records of Washington County, Oregon.

1.6 Common Area. "Common Area" shall mean those portions of the Property designated as "Open Space", inclusive in the final plat of Bonita Townhomes (the "Plat") and shall be owned and maintained by the Association.



1.7 **Declarant.** “Declarant” shall mean Bonita Road Townhomes, LLC, an Oregon Limited Liability Company, and its successors and assigns if such successor or assign should acquire: (i) Declarant’s interest in the Property or (ii) all of Declarant’s rights under the Declaration pursuant to a recorded instrument executed by Declarant. Upon the transfer of a Declarant’s complete interest in the Property to a successor Declarant, the transferring Declarant will be released from any further liability or obligations hereunder from and after the date of transfer.

1.8 **HUD/VA.** “HUD/VA” means the federal Department of Housing and Urban Development, the Federal Housing Administration or the Veterans Administration. Wherever in this Declaration the approval of HUD/VA is required as to any matter, request for approval may be sent to any of such agencies, or any other federal agency with responsibility for the matter at issue, and approval of such agency shall be considered HUD/VA approval for all purposes.

1.9 **Limited Assessment.** “Limited Assessment” shall mean an assessment levied against an Owner by the Association for costs and expenses incurred by the Association for corrective action performed pursuant to this Declaration that is required as a result of the willful or negligent actions or omissions of such Owner or such Owner’s tenants, guests, contractors, or invitees. “Limited Assessment” also includes assessments for a common expense or any part of a common expense that benefits fewer than all the Lots.

1.10 **Lot.** “Lot” shall mean a platted or partitioned lot or tract within the Property, with the exception of any tract or lot designated on the Plat of any portion of the Property as Common Area. Each Lot shall constitute a private area for the exclusive use and enjoyment of the Owner of such Lot.

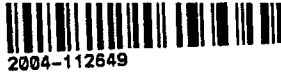
1.11 **Owner.** “Owner” shall mean any person or entity, including the Declarant, at any time owning a Lot, including any vendee under a recorded land sale contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot, including any vendor under a recorded land sale contract who has surrendered possession.

1.12 **Private Streets.** “Private Streets” shall mean Tracts A through G, which shall be owned and maintained by the Association.

1.13 **Property.** “Property” shall mean the real property located in Washington County, Oregon. The name of the planned community located on the Property is Bonita Townhomes. There are 53 Lots in the Property, in addition to the Tracts, as depicted on the Plat.

1.14 **Regular Assessment.** “Regular Assessment” shall mean an assessment by the Association against all Owners to provide for the payment of all estimated normal expenses of the Association for the performance of the Association’s duties as provided in this Declaration.

1.15 **Special Assessment.** “Special Assessment” shall mean an assessment against all Owners in the event that the Regular Assessment for any particular year is or will become inadequate to meet the expenses of the Association.



1.16 Special Declarant Rights. "Special Declarant Rights" shall have the meaning provided in Section 12.

1.17 Unit. "Unit" shall mean a dwelling unit located on a Lot and any associated improvements.

2. DECLARATION

2.1 Property Covered. The property that is covered by and is hereby made subject to this Declaration is the Property.

2.2 Purpose. The purpose of this Declaration is to provide for the maintenance and repair of the Common Area and to set forth other terms and conditions governing the use and enjoyment of the Property.

2.3 Declaration. Declarant hereby declares that the Property and all lots, parcels and portions thereof are hereby made subject to all of the conditions, covenants, restrictions, and provisions contained in this Declaration.

2.4 Limitations on Improvements. Declarant does not elect to limit Declarant's rights to add improvements not described in this Declaration.

3. THE ASSOCIATION

3.1 Organization. Declarant shall, within 60 days after execution and recording of this Declaration, organize the Association as a nonprofit corporation under the Oregon Nonprofit Corporation Act under the name "Bonita Townhomes Homeowners' Association, Inc." or such similar name as Declarant shall designate. The Articles shall provide for the Association's perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. Such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles and Bylaws as if they had been drafted to constitute the governing documents of the unincorporated association.

3.2 Membership. Every Owner of one or more Lots shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

3.3 Voting Rights. Voting rights within the Association shall be allocated as follows:

3.3.1 Lots. Except as provided in Section 3.3.2, Lots shall be allocated one vote per Lot.

3.3.2 Classes of Voting Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners, including Declarant). Class A members shall be entitled to voting rights for each Lot owned computed in accordance with Section 3.3.1. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more votes be cast with respect to any Lot than as set forth in Section 3.3.1. If such persons cannot agree upon the vote, the vote of the Lot shall be disregarded in determining the proportion of votes with respect to the particular matter at issue.

Class B. The Class B member shall be Declarant and shall be entitled to three (3) times the voting rights computed under Section 3.3.1 for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the election in writing by Declarant to terminate the Class B membership (the "Turnover Date").

3.4 Powers and Obligations. The Association, acting through the Board, shall have, exercise and perform all of the following powers, duties and obligations:

3.4.1 Declaration. The powers, duties and obligations granted to the Association by this Declaration, including, without limitation, the authority to levy assessments against the Lot Owners for the reasonable costs of maintenance of the Association and its responsibilities, as provided in this Declaration, as well as the operating costs and expenses of the Board.

3.4.2 Statutory Powers. The powers and obligations of a nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act, and of a homeowners association pursuant to ORS 94.630, as either may be amended from time to time, except as provided otherwise by this Declaration or the Bylaws.

3.4.3 General. Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property. The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles or Bylaws made in accordance with such instruments and with the Oregon Nonprofit Corporation Act.

3.5 Liability. Neither the Association nor any officer or member of the Board shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of the Board, provided only that the officer or Board member has acted in good faith in accordance with the



actual knowledge possessed by him or her. The Association shall indemnify, hold harmless, and defend the Board and its members in any suit or proceeding, which may arise by reason of any of the Board's decisions, provided that the Board or the member at issue acted in good faith. The Association shall use all reasonable efforts to procure errors and omissions insurance coverage with respect to members of the Board, in accordance with the provisions of the Bylaws. In the absence of such insurance, each Owner's proportionate share of indemnification shall be determined by allocating the amount of liability on an equal basis among all the Owners.

3.6 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of from one to three directors, who shall serve as the Board until replaced by Declarant or until their successors have been elected by the Owners at the turnover meeting described in Article XII, Section 2 of the Bylaws.

3.7 Transitional Advisory Committee. Declarant or the Owners shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant for the Property to administrative responsibility by the Association, in accordance with Article XII, Section 1 of the Bylaws.

3.8 Association Rules and Regulations. The Association 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 Private Streets, Common Areas, Lawns and the Lots as it may deem necessary or appropriate in order to assure the safe, peaceful and orderly use and enjoyment of the Property, without unduly infringing on the privacy or enjoyment of the Owner or occupant of any part of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and occupants of all Lots upon the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws.

3.9 Maintenance and Repair. Without limiting the generality of the general powers and duties of the Association set forth in Section 3, the Association shall have the power and obligation to conduct and perform, and to engage contractors to conduct and perform, the maintenance and repair of all Common Areas and Private Streets. Maintenance of Common Areas and Private Streets shall include, among other things, maintaining, repairing, and replacing surfaces, improvements, and landscaping in a neat, clean, and attractive condition, as well as the maintenance and repair of all underground sprinkler systems and utility systems serving or within Common Areas. Such improvements shall include: the child's play area, if any; private drives; street lights along private drives; "no parking" signs; and signs for private streets. Decisions as to the nature and extent of maintenance and the timing of such maintenance shall be solely within the discretion of the Board.

3.9.1 The Bonita Townhomes Homeowner's Association will have ownership of the private streets located within the subdivision. The Association will be authorized to access the private streets for any and all reasons with regard to regular maintenance. Regular maintenance shall include but not be limited to a professional street cleaner/sweeper 1 time per year as well as a Slurry Coat or sealant as needed but no less often than every 7 years with crack sealing as needed.



3.10 Committees. The Board may from time to time establish committees pursuant to the Articles and Bylaws, which committees may, to the extent allowed under the Oregon Nonprofit Corporations Act, exercise powers of the Board to the extent so delegated to the committee by the Board. Such committees may include persons who are not members of the Board.

4. ALLOCATION OF COMMON PROFITS AND EXPENSES

4.1 Method of Allocation. The common profits of the Property shall be distributed among, and the common expenses of the Property shall be charged to, the Owners equally, except as provided in Section 5.4 below. Except to the extent otherwise provided in the Bylaws, the common expenses of the Property shall be assessed on a monthly basis.

4.2 No Exception. No Owner may claim exemption from liability for contribution toward the common expenses by waiver by the Owner of the use or enjoyment of any of the Common Elements or by abandonment by the Owner of any of the Owner's Units. No Owner may claim an offset against such liability for failure of the Association to perform its obligations.

5. ASSESSMENTS

5.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Property, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant, to pay to the Association all assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 7, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Section 7 below. No Owner may avoid such personal obligation by abandonment of Owner's Lot.

5.2 Regular Assessments.

5.2.1 Commencement. Regular Assessments against all Lots shall commence on the closing of the sale of each individual Lot to an Owner other than Declarant. Declarant shall pay the common expenses of the Property until the commencement of Regular Assessments.

5.2.2 Amount of Annual Regular Assessment. The total annual Regular Assessment against all Lots shall be based upon an annual budget prepared by the Board with respect to projected expenses of the Association, including, without limitation, the following:

- (a) maintenance, repair, replacement, and operation of Private Streets, Private Street Lights and the Common Areas;

- (b) premiums for all insurance policies that the Association is required or permitted to maintain pursuant to the Bylaws;
- (c) any deficits remaining from the previous fiscal year of the Association;
- (d) reasonable contingency reserves of the Association established at the discretion of the Board;
- (e) costs related to the preparation, review, and update of the reserve study described in Section 6; and
- (f) such other and further costs, expenses, obligations, and liabilities as the Board, in its discretion, may incur for the management, operation, and maintenance of the Property and the Association in accordance with this Declaration.

5.2.3 Allocation of Assessments. All Regular Assessments shall be allocated equally among all Lots.

5.3 Special Assessments. In addition to the Regular Assessments authorized hereby, the Board shall have the authority to levy Special Assessments to satisfy any actual or projected deficiency between the expenses of the Association and the amounts realized through Regular Assessments; provided, however, that prior to the turnover meeting described in Article XII, Section 2 of the Bylaws, any special assessment for capital improvements or additions shall be approved by not less than 50 percent of the voting power of the Association, determined on the basis of one vote per Lot notwithstanding the special voting rights of Declarant under Section 3.3.2 hereof. Special Assessments shall be allocated equally among the Owners of Lots. Special Assessments are payable as the Board may from time to time determine, within thirty (30) days after mailing notice thereof to affected Owners.

5.4 Limited Assessments. The Association may levy against any Owner a Limited Assessment equal to the costs and expenses incurred by the Association, including legal fees, for corrective action performed pursuant to this Declaration that is required as a result of the breach of this Declaration or the willful or negligent actions or omissions of such Owner or such Owner's tenants, guests, contractors, or invitees (including without limitation damage to Private Streets, the Common Area or Lawns arising from such willful or negligent actions or omissions), or for a common expense or any part of a common expense that clearly benefits a particular Lot or Lots rather than all the Lots, as determined in the sole discretion of the Board.

5.5 Reserve Assessments. The Association shall have the authority to levy reserve assessments necessary to establish and maintain the Reserve Funds created under Section 6. Such reserve assessments shall be allocated in the manner provided in Section 6.

5.6 Statement of Account. Upon payment of a reasonable fee, which shall be established by the Board, and upon written request of any Owner or any mortgagee, prospective mortgagee, or prospective purchaser of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Lot, and the amount of the current monthly Assessments and the dates that such Assessments become or became due, which statement shall be conclusive upon the Association in favor of persons who



rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid Assessments that become due prior to the date of making such request shall be subordinate to the lien of a mortgagee that acquired its interest subsequent to requesting such statement. If a prospective purchaser makes such request, the lien for such unpaid Assessments shall be released automatically if: (i) the statement is not furnished within the 20-day period provided herein, (ii) an additional written request is made by such purchaser and is not complied with within 10 days, and (iii) the purchaser subsequently acquires the Lot.

6. RESERVE FUNDS

6.1 Reserve Fund for Replacing Common Elements. Declarant shall establish a reserve fund in the name of the Association for replacement, in whole or in part, of any improvements located in, on, or under Private Streets, the Common Area and Individual Front Lawns for which the Association is responsible pursuant to this Declaration, that will normally require replacement in more than three (3) and fewer than thirty (30) years, for any exterior painting to the extent the Common Area improvements include exterior painted surfaces, for other items, whether or not involving the Common Area, if the Association has responsibility to maintain the items, and for other items for which reserves are required by the Declaration or Bylaws ("Reserve Fund"). The Reserve Fund need not include those items that could reasonably be funded from the maintenance fund or operating assessments, or for which one or more Owners are responsible for maintenance and replacement under the provisions of this Declaration or the Bylaws.

6.1.1 For purposes of funding the Reserve Fund, Declarant initially, and thereafter the Association, shall impose an assessment to be called the "Reserve Fund Assessment" equally against each Lot. The Reserve Fund Assessment shall be based on the reserve study, and updates thereof, described in Section 6.2, or other sources of reliable information. Nothing herein shall limit the authority of Declarant or the Association to establish other separate and unrelated reserve funds that are funded by assessments for reserves that are in addition to the Reserve Fund or that relate only to a particular type or category of Lot. The Reserve Fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section.

6.1.2 Reserve Fund Assessments shall begin accruing from the date the first Lot assessed is conveyed. Declarant may elect to defer payment of the Reserve Fund Assessments due on Lots it owns until the date of the conveyance of the Lot to an Owner. However, the Declarant may not defer such payment beyond the date of the turnover meeting. The book and records of the Association shall reflect the amount owing from the Declarant for all Reserve Fund Assessments.

6.1.3 After the turnover meeting, the Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other unexpected increases in expenses. Such funds borrowed from the Reserve Fund shall be repaid from regular annual or special assessments against the Lots, if the Board 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 shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

6.1.4 The Board may adjust the amount of the Reserve Fund Assessments as indicated by any reserve study or update, and provide for other reserve items that the Board, in its discretion, may deem appropriate. In addition, after the second anniversary of the turnover meeting, the Association may elect to reduce or increase future Reserve Fund Assessments by a 75% vote of the Owners.

6.1.5 Any funds established for any of the purposes mentioned in this Section shall be deemed to be within the Reserve Fund notwithstanding that it may not be so designated by the Board of Directors. The amount of the Reserve Fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner.

6.2 Reserve Study. The Board of Directors shall annually conduct a reserve study, or review and update an existing study, of Private Streets, the Common Area and Lawn components to determine the requirements of the reserve fund described in Section 6.1 above. The reserve study shall include (a) identification of all items for which reserves are required to be established; (b) the estimated remaining useful life of each item as of the date of the reserve study; (c) the estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and (d) a thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on the reserve fund, to meet the maintenance, repair, and replacement schedule.

7. ENFORCEMENT

7.1 Default in Payment of Assessments; Enforcement of Lien. If an Assessment, reserve assessment under Section 6, or other charge levied under this Declaration is not paid within thirty (30) days after its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date until paid at the rate set forth below and, in addition, the Association may exercise any or all of the following remedies:

7.1.1 Lien. The Association shall have a lien against each Lot for any Assessment levied against such Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 94.709 shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88; provided, however, that notwithstanding ORS 87.055, a lien may be continued in force for a period of time not to exceed six (6) years from the date the claim is filed and recorded pursuant to ORS 94.709. The Association, through its duly authorized agents, may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Lot. For the purpose of determining the date the claim is filed in those cases when subsequent unpaid Assessments have accumulated under the claim as provided in ORS 94.709(2)(b), the

claim regarding each unpaid Assessment shall be deemed to have been filed at the time such unpaid Assessment became due.

7.1.2 Suit or Action. The Association may bring an action to recover a money judgment for unpaid Assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in Section 7.1.1. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

7.1.3 Fines. In addition to any other remedies available to the Association hereunder and subject to the requirements of ORS 94.630(1)(n), the Association shall have the right to impose reasonable fines upon an Owner who violated the Declaration, Bylaws and any rules or regulations of the Association, in the manner and amount the Board deems appropriate in relation to the violation.

7.1.4 Other Remedies. The Association shall have any other remedy available to it by law or in equity.

7.2 Notification of First Mortgagee. The Board shall notify any first mortgagee of any Lot of any default in performance of the terms of this Declaration by the Lot's Owner that is not cured within sixty (60) days.

7.3 Subordination of Lien to Mortgages. The lien for the assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Lot that was made in good faith and for value and that was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the assessment lien, provided that the sale or transfer of any Lot that is subject to a mortgage or deed of trust pursuant to a decree of foreclosure thereunder or pursuant to a proceeding, deed or assignment in lieu of foreclosure shall extinguish the lien of an assessment, notice of which was recorded after the recording of the mortgage or trust deed. Any such sale or transfer, however, shall not release the Lot from liability for any assessments or charges thereafter becoming due or from the lien of such subsequent assessments or charges.

7.4 Interest, Expenses and Attorneys' Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate of twelve percent (12 %), or at such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board not to exceed 30% of such assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by the Association in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof.



7.5 Nonexclusiveness and Accumulation of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of any other remedy permitted hereunder. The remedies provided in this Declaration are not exclusive, but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of this Declaration by appropriate legal proceedings.

8. PROPERTY RIGHTS AND EASEMENTS

8.1 Owners' Use and Occupancy. Except as otherwise expressly provided in this Declaration or in the plat in which a Lot was platted or partitioned, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot. Declarant and any representative of the Association authorized by the Association may at any reasonable time, upon reasonable notice to the Owner, enter upon any Lot for the purpose of determining whether or not the use of and/or the improvements on such Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot. Declarant or the Association may grant or assign easements over or with respect to any Lot to municipalities or other utilities performing utility services and to communications companies.

8.2 Owners' Easements of Enjoyment. Subject to the provisions of this Declaration, every Owner and the Owner's family members, tenants, guests, and invitees shall have a right and easement of enjoyment in and to the Common Area, which easement shall be appurtenant to and shall pass with the title to every Lot. Such right shall be conveyed as an undivided easement interest in common with the other Owners of all of the other Lots in the Property. Use of the Common Area shall not result in unreasonable disturbance of occupants of Units and shall be subject to applicable restrictions of any governmental agency, other legal limitations, and such rules and regulations as may be adopted by the Board from time to time pursuant to Section 3.8.

8.3 Title to the Open Space, Common Area and Private Streets.

8.3.1 Declarant shall convey fee title to the Common Area and Private Streets to the Association free and clear of monetary liens and encumbrances at any time, in the discretion of the Declarant, prior to the date on which Class B membership in the Association ceases and is converted to Class A membership. In the alternative, Declarant may convey Tracts of the Common Area to the City of Tigard or other authorized jurisdiction, and upon such conveyance such Tracts shall not longer be considered Common Areas for the purposes of this Agreement except to the extent provided in the terms of the conveyance.

8.3.2 The Association may not by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area or Private Streets unless the holders of at least 75 percent of the Class A voting power of the Association and the Class B member, if any, have given their prior written approval. This provision shall not apply to a grant of the easements described in this Section 8. A sale, transfer, or encumbrance of the Common Area or



Private Streets or any portion thereof accordance with this Section 8 may provide that the Common Area or Private Street so conveyed shall be released from any restriction imposed on such Common Area or Private Street by this Declaration. No such sale, transfer, or encumbrance may, however, deprive any Lot of such Lot's right of access or support without the written consent of the Owner of such Lot.

8.4 Easements. The rights of Owners and the Association shall be subject to the following and all other provisions of this Declaration:

8.4.1 Association's and Owners' Easements. Declarant grants to the Association for the benefit of the Association and all Owners the following easements over, under and upon the Property:

(a) An easement for installation and maintenance of power, gas, electric, sewer, water and other utility and communication lines and other utility and communication lines and services installed by Declarant or with the approval of the Board; and

(b) An easement for construction, maintenance, repair, and use of the Common Area and any improvements thereon.

8.4.2 Declarant's Easements.

(a) So long as Declarant owns any Lot, and in addition to any other easements to which Declarant may be entitled, Declarant reserves an easement over, under and across the Common Area in order to carry out development, construction, sales and rental activities Declarant determines to be necessary or convenient for the development of the Property or the sale or rental of Lots and Units and for such other purposes as may be necessary or convenient for discharging Declarant's obligations or for exercising any of Declarant's rights hereunder.

(b) Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Common Areas or the Lots caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching Property to the extent of such encroachment.

8.4.3 Utility and Other Municipal Easements. Declarant or the Association may (and, to the extent required by law, shall) grant or assign easements to municipalities or other utilities performing utility services and to communications companies, and the Association may grant free access thereon to police, fire, and other public officials and to employees of utility companies and communications companies serving the Property. The rights of the Association and Owners is expressly made subject to any public utility easements shown on the Plat.

8.4.4 Maintenance and Reconstruction Easements. An easement is hereby reserved in favor of the Association and its successors, assigns, contractors, agents, and

employees over and across each Lot, for purposes of accomplishing the repair and restoration of Private Streets, the Open Space, the Common Area and Lawns.

8.5 Limits on Use of the Open Space and Common Area.

8.5.1 No person shall construct or reconstruct any improvements, or alter or refinish any improvements, make any excavation or fill, make any change in the natural or existing surface drainage, or install a utility line in the Common Area unless such person has first obtained approval for this purpose from the Association or a duly appointed committee thereof to which such responsibility has been delegated and, if required, from the City of Tigard or other local or state jurisdiction having authority.

8.5.2 Parking of vehicles in driveways in any manner that blocks or interferes with the flow of traffic on the Private Streets is prohibited, except in an emergency. The Declarant shall post a no parking sign on all driveways on units 25-27, 44-48 and 49-53 that are less the 18 feet in length.

9. GENERAL PROVISIONS FOR AND RESTRICTIONS ON USE OF LOTS

9.1 Maintenance. Except to the extent Front Yard Landscaping is maintained and irrigated by the Owners, Owner shall maintain the Lot and improvements on each Lot in a clean and attractive condition, in good repair, and in such a manner as not to create a fire hazard.

9.2 Residential Use. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two stories in height, and a private garage or carport, and shall be in full compliance with the zoning restrictions of City of Tigard or other municipal jurisdiction having authority.

9.3 Accessory Buildings. A greenhouse of noncommercial type, or a garden tool shed or other residential accessory buildings or improvements, may be erected, provided that these types of improvements are of pleasing architectural design (as determined by the Board), shall have the exterior painted and, if such structure is separate from the Unit, shall be located within the fenced-in patio or courtyard. Such accessory buildings or improvements shall comply with applicable requirements of City of Tigard or other municipal jurisdiction having authority. All Units shall provide a garage or carport sufficient to accommodate a minimum of one vehicle.

9.4 Limits on Vehicles. No campers, boats, boat trailers, recreational vehicles, commercial vehicles, or other types of non-passenger vehicles, equipment, implements, or accessories shall be kept or stored on any Lot except (i) with the Board's approval, or (ii) if fully enclosed within the garage located on such Lot and/or said vehicles and accessories are in an operable condition and are screened from view by a screening structure or fencing approved by the Board. No vehicle shall be parked on any Lot except in the garage or driveway. No commercial vehicle bearing commercial insignia or names shall be kept or stored on any Lot unless approval of the Board is granted; provided that commercial vehicles bearing commercial insignia or names that are (i) temporarily parked on any Lot for the sole purpose of serving such



Lot, or (ii) kept within an Owner's garage at all times are exempt from this restriction. The Board shall not unreasonably withhold consent to keep a commercial vehicle bearing insignia or names where such vehicle is driven by an Owner pursuant to Owner's primary job. The Board shall have the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and adequately screened from public view or otherwise complies with such conditions. Upon an adverse determination by said Board, the vehicle and/or accessory shall be removed and/or otherwise brought into compliance with this Section 9.4. No disabled vehicles, campers, boats, boat trailers, recreational vehicles, recreational trailers, or other types of non-passenger vehicles equipment, implements, or accessories may be kept or stored on any street within the Property for any period in excess of forty-eight (48) hours. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in the streets within the Property, or in any driveway or yard adjacent to a street, or that is not screened from view to the satisfaction of the Board.

9.5 Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for cats, dogs or other generally recognized household pets, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further, than no more than four (4) adult animals may be kept on a single Lot. All such animals shall be kept in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the Association. No animal shall be allowed to run at large, and all animals shall be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Board, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property.

9.6 Offensive Activities. No noxious or offensive activity shall take place on any Lot, as determined by the Board, nor shall anything be done or placed on any Lot that interferes with or jeopardizes enjoyment of other Lots or within the Property. The Board shall have the sole authority to determine violations of this Section 9.6 and their decision shall be final and conclusive.

9.7 View Blockage. In the event any tree, shrub, or other vegetation blocks or substantially obscures the view from any residence, the Owner of such residence may petition the Board for the trimming, topping, or removal of such tree, shrub, or other vegetation. Upon receipt of such petition, the Board shall investigate the matter and make a determination in writing whether such view is actually blocked or substantially obscured. If the Board makes such a determination, the Owner of the offending tree, shrub, or other vegetation shall have ten (10) days from the date the Board made such determination to elect whether the offending tree, shrub, or other vegetation should be trimmed, topped, or entirely removed. In any case, the Owner shall bear sole responsibility for the entire cost of such trimming, topping, or removal and shall be solely responsible for obtaining any approvals from the City of Tigard, or other municipal jurisdiction having authority prior to proceeding with topping or removal.



9.8 Landscaping.

9.8.1 All front yard landscaping of each Lot, and of the street trees fronting each Lot if any, shall be the responsibility of the Home Owner's Association. Other landscaping planted by Declarant, and replacement of dead or diseased plants with plants of the same species, must be approved in advance by the Board. Except to the extent front yards are maintained by the Owner, all landscaping located on any Lot shall be properly maintained at all times by the Owner, and each Owner shall keep all shrubs, trees, grass, and plantings of every kind on his or her Lot and such street trees cultivated, pruned, free of trash, and other unsightly material. The Association is not responsible for keeping clear or maintaining the drainage systems of any Lot, and the responsibility for the same shall remain with the Owner of the Lot. Declarant, the Association, and the Board shall have the right at any reasonable time to enter upon any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings as deemed necessary, and to charge the cost thereof to the Owner as a Limited Assessment.

9.8.2 The City of Tigard shall be authorized to assess the Association and/or individual Owners for necessary maintenance of any landscaping at the Property that is within a public right-of-way, if not adequately maintained by the Homeowners Association. This Section 9.8.2 may not be amended or revised without consent by the City of Tigard.

9.8.3 Landscape of the Open Space and Common Areas will include but not be limited to the following: Between the months of May through September a landscape contractor will be hired to mow and eliminate weeds if needed, weekly. Through the off months of October through April, a landscape contractor shall be hired to maintain every other month the open space and common area as well as fertilize the lawn in the Open Space and Common Areas 4 (four) times per year or seasonally.

9.9 Fences and Walls. The Declarant has constructed a 4 foot high fence along the North property line of Lots 1-7 and along the West property line of Lot 7. Said fence shall be maintained by the Homeowner's Association. No fence, wall, or hedge shall extend into the front of any Unit beyond the front wall façade of the Unit. Owners who need to repair or replace a fence shall use the same or similar material in style as fencing in the areas near the Property. All such repairs must be approved in advance, in writing by the Board.

9.10 Temporary Structures. No structure of a temporary character, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding, and no prefabricated or relocated structure shall be used on any Lot at any time as a residence, either temporarily or permanently. This restriction shall not be interpreted to limit the right of Declarant to use trailers or outbuildings as sales offices, construction offices, material storage facilities, or sanitation facilities.

9.11 Signs. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven in the subdivision or carried by any person or by any other means displayed within the subdivision except as provided below:



9.11.1 "For Sale" Signs. An Owner may erect one (1) sign not exceeding two (2) feet by three (3) feet in dimension, fastened only to a stake in the ground and extending not more than five (5) feet above the surface of the ground advertising the property for sale.

9.11.2 "For Rent" Signs. An Owner may erect one (1) sign not exceeding three (3) square feet in area advertising the property for rent. Such signs shall be visible from the front of the Unit only, and shall be displayed from within the Unit. No such sign shall be erected within a lawn or landscape area on any Lot, or attached to the outside of the Unit.

9.11.3 Declarant's Signs. Signs or billboards may be erected by the Declarant and are exempt from the provisions of this Section 9.11.

9.11.4 Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and are removed within fifteen (15) days after the election.

9.11.5 Subdivision Identification Signs. Signs, monumentation or billboards may be erected by the Declarant or the Association to identify the subdivision, with approval from the local jurisdictional authority, if applicable.

9.12 Garbage and Refuse Disposal. No Lot, Tract, or Common Area shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept, or disposed of, on any Lot or Common Area except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

9.13 Antennae, Satellite Dishes and Solar Collectors. No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any Lot unless such apparatus is erected and maintained in such a way that it is screened from public view along the public street right of way directly in front (and side, in the case of a corner Lot) of the house erected on such Lot; and no such apparatus shall be erected without the prior written consent of the Board. No satellite dish with a diameter exceeding 24 inches will be permitted without express prior approval of the Board, which may be withheld in its discretion. The Board, as designated in this Declaration, shall have the absolute authority to determine whether an accessory is adequately screened from public view. The authority of the Board in this matter shall be subject to any regulations issued by the Federal Communications Commission ("FCC") or any other applicable governmental authority.

9.14 Clothes Hanging Devices. Clothes hanging devices exterior to a dwelling shall be temporary, unaffixed structures not exceed six (6) feet in height and shall not be placed nearer to any street abutting the Lot than the side yard setback line or the back of the Unit constructed on the Lot. Clothes hanging devices shall be screened from public view by a fence approved by the Board.

10. ARCHITECTURAL CONTROL

10.1 Majority Action. The affirmative vote of a majority of the members of the Board shall govern its actions under this Section 10 and constitute the act of the Association. A quorum of the Board shall consist of a majority of the Board's members. The Board may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

10.2 Approval of Plans by Board. No residence, building garage, structure, or improvement of any kind or nature, including, without limitation, landscaping, shall be commenced, erected, placed, or altered on any Lot until the construction plans and specifications, and a plan showing the nature, shape, height, materials, and colors, together with detailed plans showing the proposed location of the same on the particular building site and proposed landscaping has been submitted to and approved in writing by the Board. All such improvements and alterations shall be in conformance with all applicable governmental laws, ordinances, conditions of approval, rules and regulations and with any design guidelines described in Section 10.3. To the extent that applicable governmental laws, ordinances, rules and regulations may be in conflict with the Design Guidelines, the more restrictive standard shall apply. Complete plans and specifications for approval by the Board must include all material required by the rules of the Board. In no case shall any plans and specifications be accepted for approval that are inconsistent with the requirements of this Declaration. The Board may approve or disapprove plans and specifications as submitted or may approve such plans and specifications with specific conditions to such approval.

10.3 Additional Design Guidelines. The Board shall have the authority but not the obligation to promulgate and issue, and thereafter to amend from time to time, design guidelines (which are not inconsistent with this Declaration) supplementing and/or interpreting this Declaration. Such guidelines shall be supplied in writing to all Owners and occupants of the Property and shall be fully binding upon all parties as if set forth in this Declaration and shall be applied by the Board in reviewing and approving or denying proposed improvements or modifications. The Board shall take into account any proposed building site envelope in order to minimize any impact on neighboring Lots and shall have authority to establish and modify guidelines as necessary or convenient to further this purpose.

10.4 Review Procedures. In the event the Board fails to provide written approval or disapproval of plans and specifications within 30 days after such complete plans and specifications have been submitted, approval of the Board shall not be required and the related covenants shall be deemed to have been satisfied, unless within 20 days of receipt of the complete plans and specifications, the Board notifies the Owner of the Board's intention to extend the approval period by an additional 15 days to a total of 45 days after receipt of complete plans and specifications. The Board shall, from time to time, adopt application forms and rules specifying those requirements necessary to constitute a complete application.

10.5 Construction Activities. This Declaration shall not be construed so as to interfere with or prevent normal construction activities during the construction or remodeling of or



9.15 Window Treatment. No aluminum foil, reflective film or similar treatment shall be placed on windows or glass doors.

9.16 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other fluids may be maintained on any of the Lots above the surface of the ground.

9.17 Mailboxes. Mailboxes shall be erected and maintained upon areas determined by the U.S. Postal Service in accordance with the current postal authority standards. Street access to mail boxes shall be continuously maintained between 8:00 a.m. and 5:00 p.m.

9.18 Garages. Lots must have an enclosed garage able to accommodate at least one (1) automobile. The openings of such garages must be situated within the setback lines set out in Section 9.19 below. Garages may be used as Declarant's sales offices before permanent occupancy of the main structure, however, sales offices must be converted to garages before permanent occupancy. With the exception of periods when garages are used by the Declarant as sales offices, a garage shall be maintained solely for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation, nor may any garage door be removed except when necessary to repair or replace a garage door with the same type of garage door. Residences constructed with garage space greater than two automobiles in size providing storage space and/or parking of a third automobile may be enclosed or otherwise used for habitation in all or part of this additional garage space only with the approval of the Board pursuant to Section 10. In no case shall a doorway, other than overhead garage door, be located in such space, which faces a front or street side yard.

9.19 Setback Lines. All buildings or other structures (including fences), permanent or temporary, habitable or uninhabitable, must be constructed, placed and maintained in conformity with setback standards imposed by the City of Tigard and Washington County or other municipal jurisdiction having authority.

9.20 Athletic and Recreational Facilities. Outdoor athletic and recreational facilities such as basketball goals, swing sets and sport courts of a permanent nature shall not be placed on any Lot in the subdivision between the street right-of-way and the front of a Unit; placement of these facilities in a permanent nature elsewhere on the Lot shall be approved by the Board pursuant to Section 10. Temporary facilities including outdoor athletic and recreational facilities such as basketball goals may be placed on any Lot between the street and front of a Unit, utilized and removed from view from the street during the course of a day. Temporary facilities including outdoor athletic and recreational facilities such as basketball goals, hockey goals, etc. shall not be placed within any street on the Property.

9.21 Security. The Association is not responsible for security of the neighborhood or any Unit and the Owners are exclusively responsible for security of their home and property.



9.22 Water and Sewage Systems. No individual water supply system or sewage disposal system shall be permitted on any Lot, including but not limited to water wells, cesspools or septic tanks.

9.23 Exterior Holiday Decorations. Lights or decorations may be erected on the exterior of Units in commemoration or celebration of publicly observed holidays provided that such lights or decorations do not unreasonably disturb the peaceful enjoyment of adjacent Owners by illuminating bedrooms, creating noise or attracting sight-seers. Holiday decorations or lights for any publicly observed holiday between December 1 and December 31 of any year, may not be displayed before November 15th of any year. For other holidays, decorations or lights may not be displayed more than two (2) weeks in advance of the holiday. All lights and decorations that are not permanent fixtures of the Unit which are part of the original construction or have been properly approved as permanent improvements by the Board shall be removed within thirty (30) days after the holiday has ended. The Board shall have the right, but not the obligation, upon thirty (30) days prior written notice to designate a party to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision.

9.24 Retaining Walls. No retaining wall may exceed four (4) feet in height unless otherwise approved by the Board. Retaining walls may extend into the required front, side or rear setback lines of a Lot. Any retaining wall which exceeds two (2) feet in height, shall be designed by a qualified Professional Engineer licensed to practice engineering in the State of Oregon. Retaining walls constructed by the Declarant shall be exempt from this Section 9.24.

9.25 Exterior Finish. All exterior walls of all dwellings, garages and approved accessory buildings shall be completely finished with wood, vinyl, stucco, brick, stone, paneling or other material acceptable to the Board. Notwithstanding the foregoing, the Board is empowered to waive this restriction if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design, or material, and the resulting structure will not detract from the general appearance of the neighborhood.

9.26 Prohibited Plants. Owners shall be prohibited from planting the following species of plants on the Lots:

- (a) Cystisus scoparius, commonly known as Scotch broom;
- (b) Hedera helix, commonly known as English ivy;
- (c) Lythrum salicaria, commonly known as purple loosestrife;
- (d) Phalaris arundinacea, commonly known as reed canarygrass; and
- (e) Rubus discolor, commonly known as Himalayan blackberry.

9.27 Water Service: All water supplied to Bonita Townhomes shall be shared and monitored through a private master water meter owned and maintained by the Homeowner's Association. Each Lot's individual water usage will be monitored and paid for by and through the Homeowner's Association specific to each Lot.



10. ARCHITECTURAL CONTROL

10.1 Majority Action. The affirmative vote of a majority of the members of the Board shall govern its actions under this Section 10 and constitute the act of the Association. A quorum of the Board shall consist of a majority of the Board's members. The Board may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

10.2 Approval of Plans by Board. No residence, building garage, structure, or improvement of any kind or nature, including, without limitation, landscaping, shall be commenced, erected, placed, or altered on any Lot until the construction plans and specifications, and a plan showing the nature, shape, height, materials, and colors, together with detailed plans showing the proposed location of the same on the particular building site and proposed landscaping has been submitted to and approved in writing by the Board. All such improvements and alterations shall be in conformance with all applicable governmental laws, ordinances, conditions of approval, rules and regulations and with any design guidelines described in Section 10.3. To the extent that applicable governmental laws, ordinances, rules and regulations may be in conflict with the Design Guidelines, the more restrictive standard shall apply. Complete plans and specifications for approval by the Board must include all material required by the rules of the Board. In no case shall any plans and specifications be accepted for approval that are inconsistent with the requirements of this Declaration. The Board may approve or disapprove plans and specifications as submitted or may approve such plans and specifications with specific conditions to such approval.

10.3 Additional Design Guidelines. The Board shall have the authority but not the obligation to promulgate and issue, and thereafter to amend from time to time, design guidelines (which are not inconsistent with this Declaration) supplementing and/or interpreting this Declaration. Such guidelines shall be supplied in writing to all Owners and occupants of the Property and shall be fully binding upon all parties as if set forth in this Declaration and shall be applied by the Board in reviewing and approving or denying proposed improvements or modifications. The Board shall take into account any proposed building site envelope in order to minimize any impact on neighboring Lots and shall have authority to establish and modify guidelines as necessary or convenient to further this purpose.

10.4 Review Procedures. In the event the Board fails to provide written approval or disapproval of plans and specifications within 30 days after such complete plans and specifications have been submitted, approval of the Board shall not be required and the related covenants shall be deemed to have been satisfied, unless within 20 days of receipt of the complete plans and specifications, the Board notifies the Owner of the Board's intention to extend the approval period by an additional 15 days to a total of 45 days after receipt of complete plans and specifications. The Board shall, from time to time, adopt application forms and rules specifying those requirements necessary to constitute a complete application.

10.5 Construction Activities. This Declaration shall not be construed so as to interfere with or prevent normal construction activities during the construction or remodeling of or

making of additions to improvements by a Lot Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the area. The Board shall have the right to promulgate reasonable rules and restrictions regulating such construction activities; provided that Declarant shall be exempt therefrom.

10.6 Damages Inadequate. Damages are hereby declared to be inadequate compensation for any breach of the covenants, conditions, and restrictions imposed by this Declaration. The Declarant, the Board, or any Owner may, by appropriate proceedings, enjoin, abate, and remedy any such breach and the continuance of the same.

10.7 Nuisance. The result of every act of omission or commission or the violation thereof, whether such covenants, conditions, and restrictions are violated in whole or in part, shall constitute a nuisance, and every remedy allowed by law or equity against such nuisance, either public or private, shall be applicable against every such result and may be exercised by Declarant, the Board, or by any Owner, and may be prohibited or enjoined.

10.8 Non-Waiver. The provisions contained in this Declaration shall inure to the benefit of and be enforceable by the Declarant, the Board, or any Owner, and each of their legal representatives, heirs, successors, and assigns. Failure by Declarant, the Board or any Owner or their legal representatives, heirs, successors, and assigns to enforce any of the provisions contained herein shall in no event be deemed a waiver of the right to do so thereafter.

10.9 Costs and Attorneys Fees. At the time when the award and decision are issued, the arbitrator shall identify the prevailing and the losing parties and shall include a statement within such award and decision that the prevailing party shall bear no cost, and the losing party shall pay all costs, including, but not limited to the costs of arbitration, reasonable attorneys fees, the cost of a title search, and the costs of any expert witnesses.

10.10 Enforcement. Any award of money damages shall constitute a lien on the property of the losing party. It shall be enforceable in the same manner as any other judgment under Oregon law, including, but not limited to, attachment and garnishment. In the event that foreclosure is required to collect the arbitration award, the prevailing party shall proceed in accordance with ORS Chapter 88 and shall be entitled to reasonable attorneys fees and any and all other costs, including the costs of a title search, incurred in the prosecution of the foreclosure suit. In the event the award is in the form of an injunction, and the losing party refuses or neglects to comply with the terms of the injunction, the prevailing party may file the award with a court of competent jurisdiction and seek a court order to obtain its enforcement. The prevailing party is entitled to recover its reasonable attorneys fees and any and all costs of securing compliance with the arbitration award in the event that enforcement is instituted. Any such award shall constitute a lien on the losing party's Lot(s) and shall be subject to collection and/or foreclosure.

10.11 Estoppel Certificate. Within 15 working days after an Owner delivers written request to the Board, the Board shall provide such Owner with an estoppel certificate executed by



a member of the Board. The estoppel certificate shall certify that, with respect to any Lot owned by such Owner, as of the date thereof, either: (i) all improvements made to such Lot by the Owner comply with the provisions of this Declaration; or (ii) such improvements do not comply. In the case of the latter, the certificate shall also identify the noncomplying improvements and set forth with particularity the nature of such noncompliance. Any purchaser in due course from the Owner, and any mortgagee, beneficiary, or secured party having any interest in the Lot and any associated improvements, shall be entitled to rely on such certificate with respect to the matters set forth therein, and such certificate shall be conclusive as between the Board, all Owners, and such purchaser, mortgagee, beneficiary, or secured party.

10.12 Defenses. The issuance of an estoppel certificate as described in Section 10.11 shall constitute an absolute defense to claims brought against an Owner pursuant to this Section 10 in respect to matters within the purview of the Board, where the improvement at issue was in existence at the time of the issuance of such estoppel certificate.

10.13 Liability. The Board shall use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Board nor any individual Board member shall be liable to any person for any official act of the Board in connection with submitted plans and specifications except to the extent the Board or any individual Board member acted with malice or wrongful intent. Approval by the Board does not necessarily assure approval by any governmental authority. Notwithstanding that the Board has approved plans and specifications, neither the Board nor any of its members shall be responsible or liable to any Owner, occupant, builder, developer, or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval. Review or analysis of structural, geophysical, engineering, or other similar considerations shall be outside the scope of the Board's review. Neither the Board, its members, or any agent thereof, nor Declarant or any of its members, managers, employees, agents, or consultants, shall be responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications.

10.14 Activities of Declarant. This Section 10 shall not apply to the activities of Declarant or its affiliates. Any Units constructed by Declarant shall be deemed to be in compliance with the design and construction requirements of this Declaration, the Bylaws, and any rules and regulations of the Association.

11. CASUALTY AND CONDEMNATION

11.1 Casualty. In the event of damage to or destruction of a Unit, the Owner of the Unit shall repair, reconstruct, and rebuild the damaged or destroyed portions of the Unit to substantially the same condition that existed prior to the damage or destruction. In the event of damage to or destruction of the Common Area, the Association shall repair and restore the damaged portion of the Common Area, unless holders of at least 75% of the Class A voting power of the Association and the Class B member, if any, agree that the damaged or destroyed portions shall not be repaired or restored; provided, however, that repair and restoration of the Private Streets shall not be subject to foregoing exception. All repair, reconstruction, rebuilding, or restoration shall begin within six months following the damage or destruction and shall be



diligently pursued to completion within 12 months following the damage or destruction, unless work is delayed by causes beyond the reasonable control of the Owner or the Association, as the case may be. If the proceeds of the insurance policies held by the Association are insufficient to fund the full cost of repair and/or restoration of the Common Area, the difference between the amount of such proceeds and such cost shall be charged to all Owners by means of a Special Assessment.

11.2 Condemnation. If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain (or shall be sold under threat of condemnation), each Owner shall be entitled to notice of such event. The Association shall represent the Owners in negotiations with the condemning authority. The condemnation award shall be applied first to restoration of the Common Area not so taken (unless holders of at least 75% of the Class A voting power of the Association and the Class B member, if any, agree that the remaining Common Area shall not be restored) and then to such other purposes as the Board may determine in its discretion (including payment to the Owners).

12. SPECIAL DECLARANT RIGHTS

12.1 Declarant shall have the following Special Declarant Rights:

12.1.1 Responsibility and control of the Association until the turnover meeting described in Section 3.6.

12.1.2 The right to maintain a sales and management office on the Property.

12.1.3 The right to reserve easement and access rights across the Common Area for use of future development.

12.1.4 The right to reconstruct additional improvements at Declarant's sole expense in the Common Area as required to fulfill its commitments herein.

12.1.5 The right to approve amendments to the Declaration and Bylaws.

12.1.6 The right to approve special assessments for capital improvements or addition

12.1.7 The easement rights described herein.

12.1.8 The rights provided under the Planned Community Act.

13. ANNEXATION

13.1 Annexation of Additional Property. Declarant may from time to time and in its sole discretion annex to the Property any adjacent real property now owned or hereafter acquired by it, and may also from time to time and in its sole discretion permit other holders of adjacent real property to annex the adjacent real property owned by them to the Property. The annexation of such adjacent real property shall be accomplished as follows:



13.1.1 Declaration of Annexation. The owner or owners of such real property shall record a declaration which shall be executed by or bear the approval of Declarant and shall, among other things, describe the real property to be annexed, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration.

13.1.2 Provisions of Declaration of Annexation. Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed property may:

- (a) establish such new land classifications and such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property.
- (b) with respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of such annexed property.

13.1.3 Effect of Annexation. The property included in any such annexation shall thereby become a part of the Property and subject to this Declaration, and Declarant and the Association shall have and shall accept and exercise administration pursuant to this Declaration with respect to such property.

13.1.4 Limitation on Annexation. There is no limitation on the number of Lots which Declarant may create or annex to the Property, except as may be established by applicable ordinances, agreements, or land use approvals. Similarly, there is no limitation on the right of Declarant to annex common property.

13.1.5 Voting Rights. Upon annexation, additional Building Lots so annexed shall be entitled to voting rights as set forth in Section 3.

13.1.6 Adjustment of Association Expenses. When additional property is annexed to or withdrawn from the Property, the Association shall, within 60 days after the annexation, recompute the budget based upon the additional or withdrawn Lots and Common Areas and recompute all applicable assessments for each Lot. Newly annexed Lots shall be subject to assessment from the time of annexation of such Lots to the Property. The Association shall send notice of any applicable assessment to the Owners of newly annexed Lots not later than 60 days after the annexation or with the next occurring annual assessment, whichever is sooner. Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than 30 days after the date the notice is mailed or at such other time or times as the Association may specify in the notice in accordance with this Declaration or the Bylaws. If additional property is annexed to the Property during the Association's fiscal year, the Association shall send notice of and shall collect adjustments to assessments for Lots which were within the Property prior to the annexation. Notice of the adjustment in the assessments shall be sent to such Owners not later than 60 days after the annexation or with the next occurring annual assessment, whichever is sooner. To the extent that any adjustment results in a credit with



respect to assessments payable by an Owner, such credit shall be applied toward the next occurring payment or payments of the applicable assessment.

13.2 Withdrawal of Property. Declarant may withdraw property from the Property only by a duly-adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of any property annexed pursuant to a declaration described in Section 13.1 at any time prior to the sale of the first Lot in the property annexed by the declaration of annexation. Such withdrawal shall be effected by a declaration executed by Declarant and recorded in the deed records of the county in which the property being withdrawn is located. If a portion of the Property is so withdrawn, all voting rights otherwise allocated to Lots being withdrawn shall be eliminated, and the common expenses shall be reallocated as provided in Section 13.1.6.

14. MISCELLANEOUS

14.1 Term. The covenants, conditions and restrictions of this Declaration shall run until December 31, 2034, unless amended as herein provided. After December 31, 2034, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by members holding at least 75% of the voting power of the Association.

14.2 Amendment and Repeal.

14.2.1 Subject to any applicable limits of the Planned Community Act, this Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of the Class B member, if any, and of Owners holding not less than 75% of the voting power of the Association.

14.2.2 Any such amendment or repeal shall become effective only upon recordation in the deed records of Washington County of an acknowledged certificate of the president or secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that said amendment, amendments or repeal have been approved in the manner required by this Declaration and ORS 94.590.

14.2.3 In no event shall an amendment under this Section create, limit or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment.

14.3 Regulatory Amendments. Notwithstanding the provisions of Section 14.2, until the turnover meeting described in Section 3.6, Declarant shall have the right to amend this Declaration or the Bylaws in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the

United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community.

14.4 HUD/VA Approval. So long as there is a Class B membership, Declarant shall submit a written request for approval of any annexation of additional properties, dedication of Common Areas, or amendment of this Declaration to HUD/VA. If HUD/VA fails to give written notice to Declarant of objections to the request within fifteen (15) days of the date of Declarant's request for approval, such HUD/VA approval shall be deemed to have been granted. A statement in the applicable document that all requisite approvals have been granted shall be sufficient to evidence of record any HUD/VA approvals required under this Declaration or the Bylaws.

14.5 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

14.6 Right of Enforcement.

14.6.1 Except as otherwise provided herein, any Owner of any Lot covered by this Declaration shall have the right to enforce any or all of the provisions hereof against any property covered by this Declaration and the Owners thereof.

14.6.2 The Association shall not file or maintain any litigation or other action against Declarant for damages in excess of \$5000 unless first approved by at least sixty-six percent (66%) of the outstanding votes of the Owners, and Declarant shall have the right to cause any such litigation or action filed without such prior approval to be dismissed with prejudice.

14.7 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

14.8 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

14.9 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of



the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

14.10 Non-Waiver. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the rights to enforce any such provision or any other provision of said restrictions.

14.11 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the general plan and scheme of the Property.

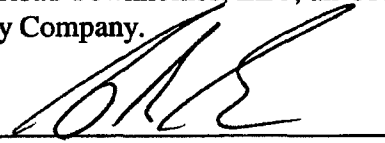
14.12 Restrictions Severable. Each of the provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

14.13 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

14.14 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

IN WITNESS WHEREOF, the undersigned, as Declarant, has hereunto set its hand and seal this 9th day of September, 2004.

Bonita Road Townhomes, LLC, an Oregon Limited Liability Company.

By: 
Member



2004-112649

STATE OF Oregon)
County of Clackamas)ss.

The foregoing instrument was acknowledged before me on this 9th day of September, 2004, by Derek L. Brown, Member, Bonita Road Townhomes, LLC, an Oregon Limited Liability Company, on behalf of the Membership.



Jill Warren
Notary Public for Oregon
My Commission Expires: May 7, 2007

EXHIBIT A

Property

Legal Description

Bonita Townhomes, located in the City of Tigard, County of Washington, Oregon, according to the plat thereof recorded in Plat Book ---, at Pages ----- of the Plat Records of Washington County, Oregon, under Recorder's Document No. 2004112648

[NOTE: IF RECORDED BEFORE THE PLAT IS RECORDED, USE THE METES AND BOUNDS ATTACHED TO THE SUBDIVISION GUARANTY]



01318964200900020910030031

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

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



After Recording, Return to:
Bonita Townhomes Homeowner's Assn., Inc.
c/o Northwest Community Management Co.
P.O. Box 23099
Tigard, OR 97281

**FIRST AMENDMENT OF DECLARATION
OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BONITA TOWNHOMES**

THIS FIRST AMENDMENT OF THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR BONITA TOWNHOMES, COUNTY OF WASHINGTON AND STATE OF OREGON originally recorded September 28, 2004 as Document No. 2004-112649, is hereby made this 9th day of December 2008, by the Bonita Townhomes Homeowner's Association, Inc. Board of Directors.

- Article 1, Section 1.6 shall be **deleted** and the following new wording **added** in its place so that it now reads as follows:

1.6 Common Area. "Common Area" shall mean those portions of the Property designed as "Open Space", inclusive in the final plat of Bonita Townhomes (the "Plat"), as such shall be owned and maintained by the Association, and areas outlined herein as the maintenance responsibility of the Association."
- The fourth (4th) line of Article 3, Section 3.9, shall be **amended** to read as follows by **adding** the following italicized words:

3.9 "...maintenance and repair of all Common Areas, *exterior siding, structural components of decks to include posts, footings & studs; trim, gutters and roofs of Units,* and Private Streets."

- After the fourth (4th) line of Article 3, Section 3.9, the following sentence shall be **added**:

“The exterior siding, trim, structural components of decks to include posts, footings and studs; downspouts, gutters and roof areas of Units shall be painted, cleaned and maintained by the Association, and any replacement of said materials shall be the responsibility of the Association for which they shall maintain reserves as part of the annual budget, as set forth in the Declaration of Covenants, Conditions and Restrictions for Bonita Townhomes.”

- Article 5, Section 5.2.2(a), **add** to line 2 the following italicized words:

5.2.2(a) *“...Streets Lights, exterior siding, trim, structural integrity of decks, downspouts, gutters and roofs of Units and the Common Areas;”*

- Article 6, Section 6.1, **add** to line 4 the following italicized words:

6.1 *“...Lawns, and exterior siding, trim, structural integrity of decks, gutters and roofs of the Units, for which the Association is responsible....”*

IN WITNESS WHEREOF, the undersigned Board of Directors, after a vote of the Owners by which no less than seventy-five (75%) percent of the Owners approved this amendment and instructed the Board of Directors to sign and record this FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR BONITA TOWNHOMES, the President and Secretary of the corporation have duly executed this amendment the 9th day of December, 2008.

BONITA TOWNHOMES HOMEOWNER'S ASSOCIATION, INC.

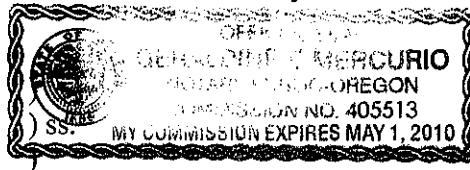
An Oregon non-profit, mutual benefit corporation

Kristy Strong
By: Kristy Strong
Title: President

Charlotte Corelle
By: Charlotte Corelle
Title: Secretary

STATE OF OREGON

County of Washington



The foregoing instrument was acknowledged before me this 9th day of December, 2008, by Kristy Strong, the President, and Charlotte Corelle, the Secretary for the Bonita Townhomes Homeowner's Association, Inc.

Geraldine E. Mercurio
NOTARY PUBLIC FOR OREGON
My commission expires: 5/01/10

