

# LANAI EAST CONDOMINIUM

LOTS 15 & 16, BLOCK 5, HOLLADAY PARK  
ADDITION, LOCATED IN THE N.E. 1/4 OF  
SECTION 35, T-1N, R-1E, W.M., CITY OF  
PORTLAND, MULTNOMAH COUNTY, OREGON

DATE: OCTOBER 5, 2007  
SURVEYED FOR:  
**SURVEYED BY:**  
TOM NELSON & ASSOCIATES, LLC BANTAM LLOYD PROPERTIES, LLC  
1829 S.W. JOSHUA STREET  
PORTLAND, OREGON 97214  
PHONE: 503-230-1932

**NARRATIVE:**

THE PURPOSE OF THIS SURVEY IS TO CREATE A CONDOMINIUM PLAT FROM THAT TRACT OF LAND DESCRIBED AS LOTS 15 AND 16 IN BLOCK 5, HOLLADAY PARK ADDITION, MULTNOMAH COUNTY SURVEY RECORDS. RESOLUTION ARE PER SN 61532, MULTNOMAH COUNTY SURVEY RECORDS. ELEVATIONS ARE BASED ON CITY OF PORTLAND BENCHMARK NUMBER 1468. A "M" INDICATES MEASURED DATA. NE CLACKAMAS STREET, ELEVATION EQUALS 159.63 FEET, CITY OF PORTLAND DATUM.

BUILDING TIES AND DIMENSIONS ARE TO THE CONCRETE FOUNDATION AT THE FIRST FLOOR.  
ALL EXTERIOR WALLS SHOWN ON THIS SHEET ARE 90 DEGREES AT THE CORNERS.

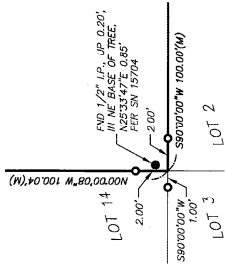
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- SHEET 2 FIRST AND SECOND FLOOR DETAILS, LEGEND, AND NOTES
- SHEET 3 BASEMENT DETAILS, ELEVATION DETAILS, LEGEND, AND NOTES
- SHEET 4 ACKNOWLEDGMENT, APPROVALS, DECLARATION, SURVEYOR'S BUILDING CERTIFICATE, NOTE, AND SURVEYOR'S CERTIFICATE

**LEGEND:**

- SET 5/8" X 30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "PLS 2351" ON OCTOBER 3, 2007.
- FOUND MONUMENT AS NOTED
- SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- NO. NUMBER
- FND FOUND
- I.R. IRON ROD
- I.P. IRON PIPE
- B.S. BRASS SCREW
- GCE GENERAL COMMON ELEMENT
- LCE LIMITED COMMON ELEMENT
- YPC YELLOW PLASTIC CAP
- (M) MEASURED DATA

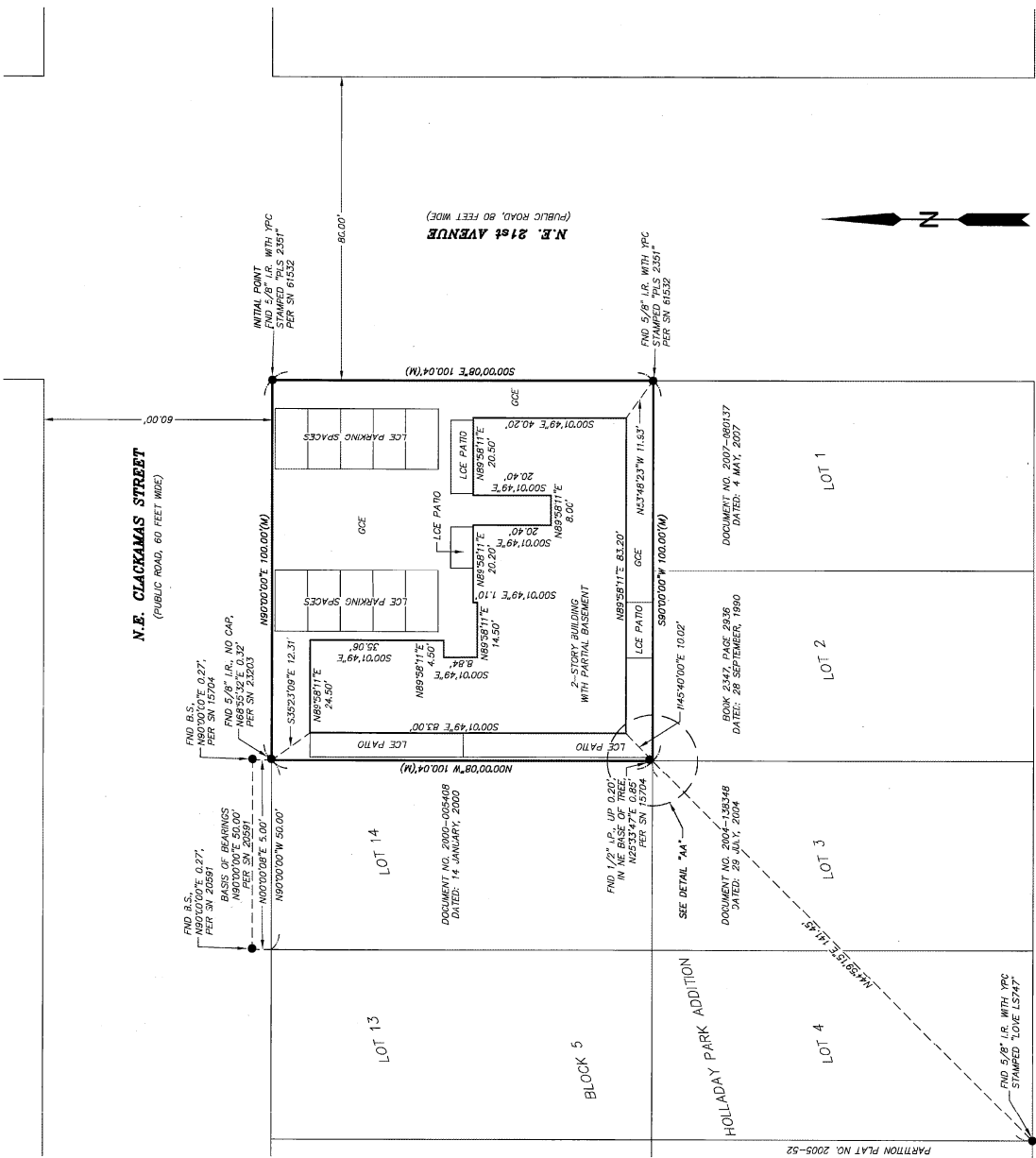
**DETAIL "AA":**



I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE ORIGINAL PLAT.

REGISTERED  
**PROFESSIONAL  
LAND SURVEYOR**  
*Thomas S. Nelson*  
G. R. E. G. O. N.  
2227 N. W. 19th, PORTLAND, OREGON  
THOMAS S. NELSON  
#2335

RENEWAL 12/31/08  
PROJECT NO.: 7111  
**SHEET 1 OF 4**



SCALE: 1" = 20'

PARTITION PLAT NO. 2005-52

DOCUMENT NO. 2005-065408 DATED: 14 JANUARY, 2000

DOCUMENT NO. 2005-065408 DATED: 28 SEPTEMBER, 1990

DOCUMENT NO. 2007-069137 DATED: 4 MAY, 2007

# LANAI EAST CONDOMINIUM

LOTS 15 & 16, BLOCK 5, HOLLADAY PARK  
 ADDITION, LOCATED IN THE N.E. 1/4 OF  
 SECTION 35, T.1N., R.1E., W.M., CITY OF  
 PORTLAND, MULTNOMAH COUNTY, OREGON

DATE: OCTOBER 5, 2007  
 SURVEYED FOR:  
 TOM NELSON & ASSOCIATES, LLC BANTAM LLOYD PROPERTIES, LLC  
 1601 S.W. 10TH AVENUE, SUITE 380  
 PORTLAND, OREGON 97214  
 PHONE: 503-230-1932

REGISTERED PROFESSIONAL LAND SURVEYOR  
 THOMAS G. NELSON  
 #2391

### NOTES:

- ALL EXTERIOR WALLS SHOWN ON THIS SHEET ARE 90 DEGREES AT THE CORNERS AND REFLECT THE OUTSIDE FACE OF THE FOUNDATION WALLS SHOWN ON SHEET 1. INTERIOR WALLS AND COMMON ELEMENTS SHOWN ON THIS SHEET ARE PARALLEL WITH THE EXTERIOR WALLS AND 90 DEGREES AT THE CORNERS.
- ELEVATIONS ARE BASED ON CITY OF PORTLAND BENCHMARK NUMBER 1485-A NE CLACKAMAS STREET. ELEVATION EQUALS 159.63 FEET, CITY OF PORTLAND DATUM.
- WALL THICKNESS IS 6.41", UNLESS OTHERWISE NOTED.
- ALL LCE'S SHOWN ON THIS SHEET ARE 90 DEGREES AT THE CORNERS.

### LEGEND:

- FF FINISHED FLOOR
- GCE GENERAL COMMON ELEMENT
- LCE LIMITED COMMON ELEMENT
- PS PARKING SPACE
- U.A. UNIT AREA

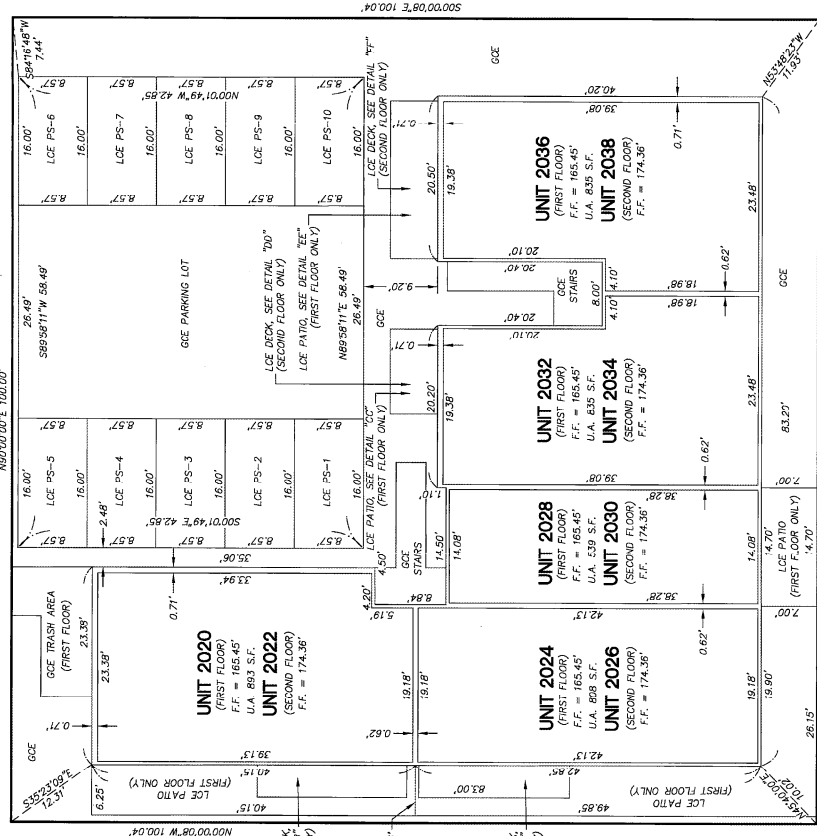
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL PLAN.

REGISTERED PROFESSIONAL LAND SURVEYOR  
 THOMAS G. NELSON  
 #2391

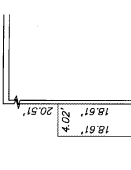
RENEWAL 12/31/08  
 PROJECT NO.: 7111  
 SHEET 2 OF 4

SCALE: 1" = 10'

## FIRST AND SECOND FLOOR



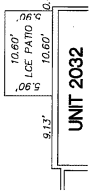
DETAIL "BB":



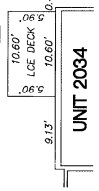
UNIT 2026



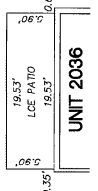
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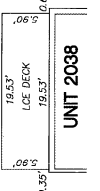
DETAIL "DD":



DETAIL "EE":



DETAIL "FF":



# LANAI EAST CONDOMINIUM

LOTS 15 & 16, BLOCK 5, HOLLADAY PARK  
 ADDITION, LOCATED IN THE N.E. 1/4 OF  
 SECTION 35 T.1N. R.1E. W.4. CITY OF  
 PORTLAND, MULTNOMAH COUNTY, OREGON

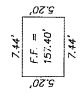
DATE: OCTOBER 5, 2007  
 SURVEYED FOR:  
 TOM NELSON & ASSOCIATES, LLC

1500 N. BROADWAY, SUITE 390  
 PORTLAND, OREGON 97214  
 PHONE: 503-230-1932

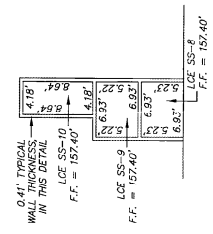
### NOTES:

- EXTERIOR WALLS SHOWN ON THIS SHEET ARE 90 DEGREES AT THE CORNER AND WITH THE CORNER OF THE COMMON WALLS SHOWN ON SHEET 1. INTERIOR WALLS AND COMMON ELEMENTS, EXCEPT WATER HEATER, SHOWN ON THIS SHEET ARE PARALLEL WITH THE EXTERIOR WALLS AND 90 DEGREES AT THE CORNERS.
- ELEVATIONS ARE BASED ON CITY OF PORTLAND BENCHMARK NUMBER 148A, A POINT ON CLACKAMAS STREET, ELEVATION EQUALS 158.63 FEET, CITY OF PORTLAND DATUM.
- WALL THICKNESS IS 0.41', UNLESS OTHERWISE NOTED.

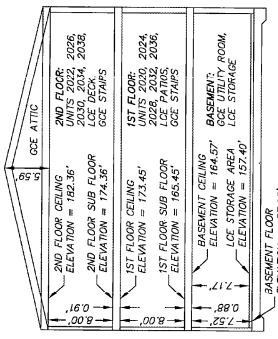
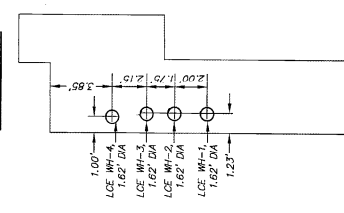
DETAIL "GG":



DETAIL "HH":

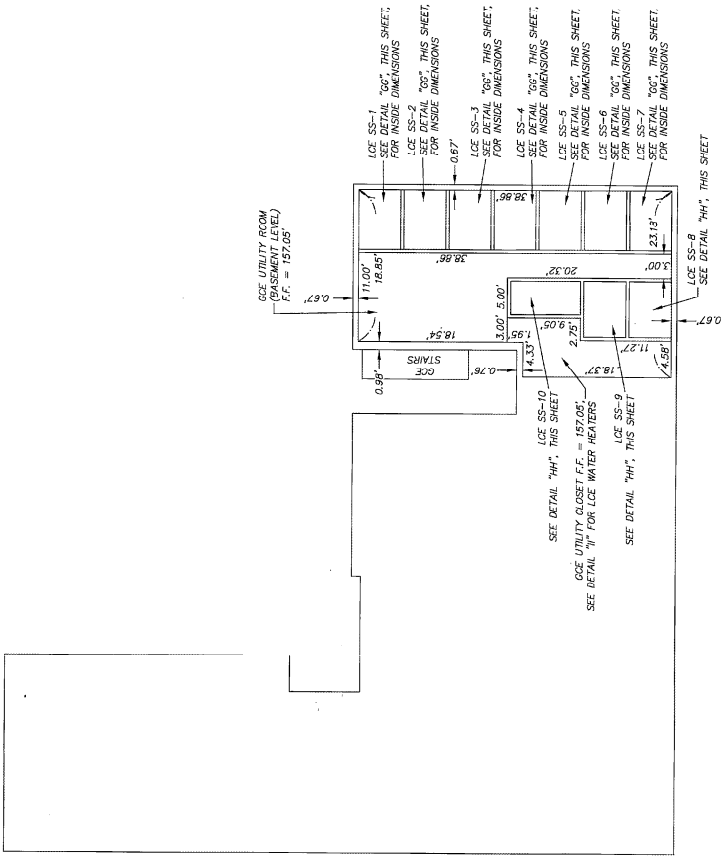


DETAIL "II":

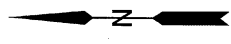


ELEVATION VIEW

## BASEMENT FLOOR



- LEGEND:
- F.F. FINISHED FLOOR
  - CCE GENERAL COMMON ELEMENT
  - LCE LIMITED COMMON ELEMENT
  - SS STORAGE SPACE
  - WH WATER HEATER
  - Ø DIA DIAMETER



SCALE: 1" = 10'

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL PLAN.

REGISTERED PROFESSIONAL LAND SURVEYOR

THOMAS G. NELSON  
 #2351

RENEWAL 12/31/08  
 PROJECT NO.: 7111

SHEET 3 OF 4

# LANAI EAST CONDOMINIUM

LOTS 15 & 16, BLOCK 5, HOLLADAY PARK  
ADDITION, LOCATED IN THE N.E. 1/4 OF  
SECTION 35, T.1N., R.1E., W.1/4, CITY OF  
PORTLAND, MULTNOMAH COUNTY, OREGON

DATE: OCTOBER 5, 2007

**SURVEYED BY:** **SURVEYED FOR:**  
TOM NELSON & ASSOCIATES, LLC BANTAM LLOYD PROPERTIES, LLC  
1000 SE WALTERS AVENUE SUITE 390  
PORTLAND, OREGON 97214  
PHONE: 503-239-1932

**DECLARATION:**  
KNOW ALL PEOPLE BY THESE PRESENTS THAT BANTAM LLOYD PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY, IS THE OWNER OF THE LAND DESCRIBED ON THE ATTACHED MAP AND TO THE ACCOMPANYING SURVEYOR'S CERTIFICATE, THEREOF, AND DOES HEREBY COMMIT SAID LAND TO THE OPERATION OF THE OREGON CONDOMINIUM ACT AS Laid Out In CHAPTER 100 OF THE OREGON STATUTES AND SUBJECT TO THE PROVISIONS OF OREGON REVISED STATUTES 100.005 TO 100.025.

*[Signature]*  
TIMOTHY J. COLEMAN, JR., MANAGING MEMBER  
BANTAM LLOYD PROPERTIES, LLC  
AN OREGON LIMITED LIABILITY COMPANY

**ACKNOWLEDGMENT:**  
STATE OF OREGON )  
COUNTY OF MULTNOMAH ) SS  
I, Elizabeth Derrigan, DOB 08/14/1970,  
THIS CERTIFICATE ON THIS 5 DAY OF October, 2007,  
OF BANTAM LLOYD PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY,  
WHO BEING DULY SWORN, DID SAY THAT THIS INSTRUMENT WAS SIGNED ON  
BEHALF OF SAID COMPANY AND THAT THE SIGNATURE TO ME THAT THE  
AFFIXED SIGNATURE IS OF HIS OWN FREE ACT AND DEED.

*[Signature]*  
ELIZABETH DERRIGAN  
ACTUARY SIGNATURE  
ACTUARY PUBLIC - OREGON  
COMMISSION NO. 4066344  
MY COMMISSION EXPIRES: July 16, 2010

**ACKNOWLEDGMENT:**  
STATE OF OREGON )  
COUNTY OF MULTNOMAH ) SS  
I, Elizabeth Derrigan, DOB 08/14/1970,  
THIS CERTIFICATE ON THIS 5 DAY OF October, 2007,  
OF BANTAM LLOYD PROPERTIES, LLC, AN OREGON LIMITED LIABILITY COMPANY, WHO  
BEING DULY SWORN, DID SAY THAT THIS INSTRUMENT WAS SIGNED ON BEHALF  
OF SAID COMPANY AND THAT THE SIGNATURE TO ME THAT THE AFFIXED  
SIGNATURE IS OF HIS OWN FREE ACT AND DEED.

*[Signature]*  
ELIZABETH DERRIGAN  
ACTUARY SIGNATURE  
ACTUARY PUBLIC - OREGON  
COMMISSION NO. 4066344  
MY COMMISSION EXPIRES: July 16, 2010

### SURVEYORS CERTIFICATE OF COMPLETION:

I, THOMAS G. NELSON, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT OF LANAI EAST CONDOMINIUM, FILED AND CORRECTED ALTHOUGH THE BOUNDARIES OF SAID CONDOMINIUM UNITS AND BUILDING AS DEPICTED ON SUCH PLAT HAS BEEN COMPLETED AS OF JUNE 27, 2007.

*[Signature]*  
THOMAS G. NELSON - OREGON PLS NO. 2351

**APPROVALS:**  
APPROVED THIS 17th DAY OF October, 2007  
BY Robert A. Hendon  
DIRECTOR,  
MULTNOMAH COUNTY, OREGON

ALL TAXES, FEES, ASSESSMENTS, OR OTHER CHARGES AS PROVIDED BY ORRS 100.110 HAVE BEEN PAID, 2007  
BY John G. Plehn  
DIRECTOR,  
MULTNOMAH COUNTY, OREGON

STATE OF OREGON )  
COUNTY OF MULTNOMAH ) SS  
I DO HEREBY CERTIFY THAT THE ATTACHED CONDOMINIUM  
DECLARATION WAS REVIEWED FOR RECORD AND RECORDED  
ON October 18, 2007 AT 12:21 P.M. IN  
ROOM 1889 ON PAGES 18-21  
BY M. J. Staal  
DEPUTY  
DOCUMENT NO. 2007-182806

**NOTE:**  
THIS PLAT IS SUBJECT TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR LANAI EAST CONDOMINIUM RECORDED AS DOCUMENT NUMBER 2007-182824, MULTNOMAH COUNTY DEED RECORDS.

**SURVEYOR'S CERTIFICATE:**  
I, THOMAS G. NELSON, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THE TITANUS CONDOMINIUM PLAT AND THE LAND REPRESENTED ON BLOCK 5, HOLLADAY PARK ADDITION, MULTNOMAH COUNTY PLAT RECORDS, SITUATED IN THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 1 NORTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE INITIAL POINT, BEING A 2 1/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "PLS 2351" AND BEING THE CORNER OF SAID LOT 15, THENCE NORTH 89°00'00" WEST ALONG THE WEST LINE OF SAID LOT 15, A DISTANCE OF 100.04 FEET TO THE SOUTHEAST CORNER OF SAID LOT 15, THENCE SOUTH 80°00'00" WEST ALONG THE WEST LINE OF SAID LOT 15, A DISTANCE OF 100.04 FEET TO THE NORTHWEST CORNER OF SAID LOT 15, THENCE NORTH 80°00'00" WEST ALONG THE WEST LINE OF SAID LOT 15, A DISTANCE OF 100.04 FEET TO THE NORTHWEST CORNER OF SAID LOT 15 AND THE SOUTH RIGHT-OF-WAY LINE OF NORTHEAST CLAGRAM'S STREET, THENCE NORTH 80°00'00" EAST ALONG THE NORTH LINE OF SAID LOT 15, A DISTANCE OF 100.04 FEET TO THE SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 100.00 FEET TO THE INITIAL POINT.  
CONTAINING 10,034 SQUARE FEET, OR 0.23 ACRES, MORE OR LESS.

I HEREBY CERTIFY THAT THIS IS THE ORIGINAL PLAT.  
**REGISTERED PROFESSIONAL LAND SURVEYOR**  
*[Signature]*  
THOMAS G. NELSON  
RENEWAL 12/31/08  
PROJECT NO.: 7111  
SHEET 4 OF 4

AFTER RECORDING, RETURN TO:

CHARLES J. HUBER  
COSGRAVE VERGEER KESTER LLP  
805 SW BROADWAY, 8<sup>TH</sup> FLOOR  
PORTLAND, OR 97205

Recorded in MULTNOMAH COUNTY, OREGON  
C. Swick, Deputy Clerk  
E41 64 ATMCS  
Total : 336.00

2007-182827 10/17/2007 03:28:46pm

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**DECLARATION SUBMITTING  
LANAI EAST CONDOMINIUM  
TO CONDOMINIUM OWNERSHIP**

Dated: October 8, 2007

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Declarant: Bantam Lloyd Properties, LLC,  
An Oregon Limited Liability Company

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**DECLARATION OF LANAI EAST CONDOMINIUM**  
**MADE PURSUANT TO THE OREGON CONDOMINIUM ACT**

This Declaration, to be effective upon its recording in Multnomah County, Oregon, pursuant to the provisions of the Oregon Condominium Act, is made and executed this 21<sup>st</sup> day of September, 2007, by Bantam Lloyd Properties, LLC, an Oregon limited liability company (“**Declarant**”).

Declarant proposes to create a residential condominium to be known as Lanai East Condominium, to be composed of not more than ten Units, located in Multnomah County, Oregon. The purpose of this Declaration is to submit certain land, improvements and structures, easements, and rights and appurtenances thereon and thereto, to be known as Lanai East Condominium, to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act.

**1. Definitions and Interpretation.**

**1.1 Definitions.** As used in this Declaration, the Articles of Incorporation of Lanai East Condominium Association, Inc., its Bylaws and its Rules and Regulations, and any exhibits hereto and thereto, unless the context shall otherwise require, the following definitions shall be applied:

**1.1.1 Act** shall mean the Oregon Condominium Act, currently ORS 100.005 to 100.990, as amended from time to time.

**1.1.2 Association** shall mean Lanai East Condominium Association, Inc., the nonprofit corporate entity responsible for the administration, management, and operation of the Condominium.

**1.1.3 Board** shall mean the Board of Directors of the Association.

**1.1.4 Building** shall mean the building on which the Property in which all of the Residential Units are located.

**1.1.4 Bylaws** shall mean the Bylaws of the Association, as amended from time to time.

**1.1.5 Common Elements** shall mean all those portions of the Condominium exclusive of the Units.

**1.1.6 Condominium** shall mean the Property that is hereby submitted to condominium ownership and all improvements thereon or to be located thereon and all easements and rights appurtenant thereto.

**1.1.7 Declaration** shall mean this Declaration of Lanai East Condominium and any amendments hereto.

**1.1.8 General Common Elements** shall mean those Common Elements designated as such pursuant to Section 6.

**1.1.9 Legal Requirements** shall mean any and all valid laws, orders, rules, and regulations of any governmental entity.

**1.1.10 Limited Common Elements** shall mean those Common Elements designated as such pursuant to Section 7.

**1.1.11 Mortgage** shall include a deed of trust and a contract for the sale of real estate.

**1.1.12 Mortgagee** shall include a deed of trust beneficiary and a vendor under a contract for the sale of real estate.

**1.1.13 Owner** shall mean the owner or owners (including an individual, co-owners, trust or entity) of a Unit, but does not include a Mortgagee unless in possession of a Unit.

**1.1.14 Parking Space** shall mean a parking space designated on the Plans as such and assigned to an Owner as a Limited Common Element.

**1.1.15 Plans** shall mean the plat for the Condominium which is being recorded in the deed records of Multnomah County, Oregon, concurrently with this Declaration.

**1.1.16 Property or Condominium Property** shall mean the property submitted to the provisions of the Act, as described more particularly in Section 2.

**1.1.17 Residential Units** shall mean those Units in which an Owner resides, and designated as such pursuant to Section 4; **Residential Unit** shall mean any one of the Residential Units.

**1.1.18 Rules and Regulations** shall mean those rules and regulations governing the use and enjoyment of the Condominium, as adopted from time to time by the Board pursuant to the Bylaws.

**1.1.19 Storage Space** shall mean a storage space designated on the Plans as such and assigned to each Owner as a Limited Common Element.

**1.1.20 Termination Date** shall mean the date described in Section 24.

**1.1.21 Turnover Meeting** shall mean the meeting at which Declarant relinquishes control of the administration of the Association pursuant to Section 100.210 of the Act.

**1.2 Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Condominium under the provisions of Oregon law. The terms used herein are intended to have the same meaning as may be given in the Act to such terms unless the context clearly requires otherwise or definition in this manner would have an unlawful consequence.

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

**1.4 Original Owner of Units.** Declarant is the original Owner of all Units and will continue to be deemed the Owner of such Units until a conveyance or other documents changing the ownership of such Units are filed of record.

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

**1.6 Miscellaneous.** All terms and words used in this Declaration, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. "And/or" when applied to two or more matters or things shall be construed to apply to any one or more or all thereof, as the circumstances then warrant. "Herein," "hereof," "hereunder," and words of similar import shall be construed to refer to this Declaration as a whole, and not to any particular section, unless expressly stated otherwise.

**2. Property Submitted.** The Property hereby submitted to the provisions of the Act is the land owned in fee simple by Declarant and legally described on the attached Exhibit A, together with all easements, rights, and appurtenances belonging thereto and all improvements now existing or hereafter constructed on such land.

**3. Name.** The name by which the Property is to be identified is "Lanai East Condominium".

**4. Units.**

**4.1 General Description of Building.** The Condominium consists of one two-story building and ten Residential Units, a basement consisting of ten Storage Spaces and a parking lot consisting of ten Parking Spaces. The building is situated on a generally level

site. On the exterior, the Residential Units are of cedar lap siding on the South, West and North faces, brick on the East face, and brick on 24 ½ feet of the North face. The roof of the building consists of a brand new 50 year architectural 80 Certainteid roof.

**4.2 General Description, Location, and Designation of Residential Units.** The area, dimensions, designation, and location of the Residential Units are shown on the Plans. The Residential Units are designated even numbers 2020 through 2038, inclusive.

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

In interpreting deeds, mortgages, deeds of trust, and other instruments, for any purpose whatsoever or in connection with any matter, the existing physical boundaries of the Unit or of a Unit reconstructed in substantial accordance with the original plans will be conclusively presumed to be the boundaries regardless of settling, rising, or lateral movement of the Building and regardless of variances between boundaries as shown on the Plat being recorded simultaneously with this Declaration and those of the actual Building.

**4.4 Residential Unit Designations and Areas of Residential Units.** The Residential Unit designation and the area of each Residential Unit in square feet is set forth on the attached Exhibit B and in the Plans.

**4.5 No Division.** A Unit may not be subdivided in any manner.

**4.6 Parking Spaces.** The Condominium has ten (10) Parking Spaces, all of which are located in the parking lot. The location and dimensions of each Parking Space is set forth in the Plans. Except as otherwise specifically provided in this Declaration, the cost of maintenance, repair and replacement of the Parking Spaces shall be a common expense allocated among the owners as set forth in Section 8.1, and the performance of such work shall be the responsibility of the Association, except that any damage caused by the negligence or intentional act of an owner or the owner's invitee, guest, tenant, or servant shall be repaired by the Association at such owner's sole cost and expense. No owner of a Parking Space shall have the right to improve or alter the Parking Space.

All Owners vehicles must be registered with the Board of Directors of the Association or its designee. Permitted vehicles in the Condominium are limited to cars, pickups, regular-size sport utility vehicles, and motorcycles.

**5. Owner's Interest in Common Elements.** Each Owner's percentage ownership in the Common Elements is set forth on the attached Exhibit B. The percentage ownership in the Common Elements allocated to the Residential Units was determined by dividing the area in square feet of each such Residential Unit by the area in square feet of all Residential Units.

**6. General Common Elements.** The General Common Elements consist of all portions of the Condominium that are not part of a Residential Unit or a Limited Common Element, including, but not limited to, the following:

**6.1** The land, outdoor sidewalks, the stairways leading to the second floor Residential Units, the stairway leading to the basement, and the portions of the basement not designated as Limited Common Elements.

**6.2** Pipes, ducts, flues, chutes, conduits, wires and other utility and communications installations to their outlets.

**6.3** Roofs, foundations, bearing and shear walls, perimeter walls, beams, supports, columns and girders to the interior surfaces thereof.

**6.4** The landscaping, outdoor lighting fixtures, parking lot (not including Parking Spaces), basement utility room, basement utility closet, and outdoor trash area.

**6.5** All other elements of the Condominium necessary or convenient to their existence, maintenance and safety, or normally in common use, except as may be expressly designated in this Declaration as part of a Unit or a Limited Common Element.

Except as otherwise specifically provided in this Declaration, the cost of maintenance, repair, and replacement of the general common elements shall be a common expense, and the performance of such work shall be the responsibility of the Association, except that any damage caused by the negligence or intentional act of an owner or the owner's invitee, guest, tenant, or servant shall be repaired by the Association at such owner's sole cost and expense.

The location of the General Common Elements are shown on the Plans.

**7. Limited Common Elements.** The following shall constitute Limited Common Elements, the use of which shall be restricted to the Residential Units to which each such Limited Common Element adjoins or pertains, as shown on the Plans, or to which each is assigned as shown on Exhibit B. The dimensions, designation, and location of the Limited Common Elements are shown on the Plans.

**7.1** The ten Storage Spaces in the basement, as shown in the Plans, the use of which is assigned on Exhibit B. Each Storage Space is constructed of wood framing and sheet

rock and each include a wooden door with an individual bolt lock access. The Storage Space area is heated. Each Owner shall use only the Storage Space so assigned, and may store therein only non-hazardous and non-flammable materials.

7.2 The outdoor west facing first-floor patio, the use of which is assigned to Residential Unit 2020 as designated on the Plans.

7.3 The outdoor west and south facing first-floor patio, the use of which is assigned to Residential Unit 2024 as designated on the Plans.

7.4 The outdoor south facing first-floor patio, the use of which is assigned to Residential Unit 2028 as designated on the Plans.

7.5 The outdoor north facing first-floor patios, the use of which is assigned to Residential Units 2032 and 2036 as designated on the Plans.

7.6 The outdoor west facing second-floor decks, the use of which is assigned to Residential Units 2022 and 2026 as designated on the Plans.

7.7 The outdoor north facing second-floor decks, the use of which is assigned to Residential Units 2034 and 2038 as designated on the Plans.

7.8 The ten outdoor Parking Spaces located in the parking lot, the use of which is assigned on Exhibit B.

7.9 The four hot-water heaters located in the basement GCE utility closet, known as WH-1, WH-2, WH-3, WH-4, beginning along the west wall and running from south to north, the use of which is assigned to Residential Units 2034, 2032, 2038, and 2036, respectively, the use of which is assigned on Exhibit B.

## **8. Allocation of Common Profits and Expenses; Enforcement of Assessments.**

### **8.1 Method of Allocation.**

8.1.1 The common profits and common expenses of the Condominium shall be allocated based on each Owner's undivided percentage ownership interest in the Common Elements as determined in Section 5.

8.1.2 Assessments for common expenses shall commence upon closing of the first sale of a Unit, provided that Declarant may elect to defer the commencement of assessment of common expenses (other than assessments for reserves pursuant to the Bylaws). Assessments for reserves pursuant to the Bylaws shall commence upon closing of the first sale of a Unit. Declarant shall give not less than 10 days' written notice to all Owners of the commencement of all common expenses. Until the commencement of assessments for all common expenses, Declarant shall be

responsible for payment of all common expenses of the Association (other than assessments for reserves pursuant to the Bylaws).

**8.2 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 the Owner's Unit.

**9. Voting Rights.** Subject to the provisions of Section 20.2 of this Declaration, one vote shall be allocated to each Unit.

**10. Use.**

**10.1 General.** Subject to the restrictions, terms and conditions contained in this Declaration, the Bylaws and the Act, the Condominium shall be used only for residential purposes. Additional restrictions and regulations are set forth in the Bylaws and shall be set forth in the Rules and Regulations adopted pursuant to the provisions of the Bylaws.

**10.2 Rules and Regulations Promulgated by the Association.** The Board shall have the authority from time to time to promulgate such Rules and Regulations as the Board may deem in the best interests of the Association. No person shall use the Common Elements or any part thereof in any manner contrary to or inconsistent with such Rules and Regulations. Without in any manner intending to limit the generality of the foregoing, the Board shall have the right, but not the obligation, to promulgate Rules and Regulations limiting the use of the Common Elements to the members of the Association and their respective families, guests, invitees, and servants. Such use may be conditioned upon, among other things: (a) the payment by the Owner of assessments for common expenses and such other assessments or fees as may be established by the Association for the purpose of defraying the costs associated with the use of the Common Elements; and (b) the observance by the Owner, his or her guests, invitees, and servants, of the Declaration, Bylaws, and the Rules and Regulations.

**11. Service of Process.** The designated agent to receive service of process in cases described in Section 100.550(1) of the Act is named in the Condominium Information Report which will be filed in accordance with Section 100.250(1)(a) of the Act.

**12. Authority Regarding Easements and Other Property Rights.**

**12.1 General.** The Association has the authority, pursuant to Section 100.405(5) of the Act, to execute, acknowledge, deliver, and record on behalf of the Owners leases, easements, rights of way, licenses, and other similar interests affecting the Common Elements, which are reasonably necessary to the ongoing development and operation of the Condominium. The granting of any interest pursuant to this Section 12 (other than leases having a term of two years or less) shall first be approved by the Owners holding at least 80 percent of the voting power of the Association.

**12.2 Utility Easements; Dedications.** Anything in this Declaration to the contrary notwithstanding, Declarant shall have the right to execute, deliver, and record on behalf of the Association and the Owners such documents as may be required in order to grant easements, rights-of-way, and licenses over the Common Elements for the installation, maintenance, and repair of public utilities serving the Condominium or adjacent property. Declarant shall also have the right to execute, deliver and record on behalf of the Association and the Owners such deeds and other documents as may be required to convey, dedicate, or to grant such easements, rights-of-way, or licenses over Common Elements, as may be required by any government or governmental agency in order to complete development of the Condominium, or any adjacent property. In order to effect the intent of this Section 12.2, each Owner, by acceptance of a deed or contract to a Unit whether or not it shall be expressed in such deed or contract for the Owner and his or her successors in interest, irrevocably appoints Declarant or its nominee, as his or her lawful attorney-in-fact for the purpose of executing any and all documents required or permitted to be executed hereunder.

**13. No Restrictions on Alienation.** This Declaration and the Bylaws impose no restrictions on the alienation of any Unit.

**14. Rights of Access and Use.**

**14.1 In General.** Each Owner shall have a perpetual right of reasonable access and use to, through, over, and of each of the Limited Common Elements adjoining such Owner's Unit as may be required for ingress to and egress from such Owner's Unit; for the support of such Owner's Unit; and for the installation, operation, repair, maintenance, and replacement of utilities and other systems serving such Owner's Unit, including, but not limited to, water, air conditioning, cable television, electrical power and wiring, light, or plumbing.

Each Owner shall also have a perpetual right of pedestrian ingress and egress across a Parking Space in the immediate vicinity of, and for the purpose of accessing, the trash area; provided, however, that (1) such ingress and egress right shall be subject and subordinate to, and shall not interfere in any manner whatsoever with, the use of the Parking Space by the Owner to whom such space has been assigned, and (2) any damage caused to a vehicle in such space as a result of the exercise of such ingress and egress right shall be borne by the Owner, or their guests, causing the damage.

The specific reference to or reservation of any rights of access and use in this Declaration does not limit or negate the general easement for Common Elements created by the Act.

**14.2 Additional Rights Created by Association.** The Association, upon prior approval of the Owners holding at least 80 percent of the voting power of the Association, may create on behalf of the Owners additional rights of access and use with respect to the Common Elements. No such right may be granted with respect to a Common Element unless the Owners and Mortgagees of the Units have the right to use such Common



Elements consent to the creation of such a right. Nothing in this Section 14.2 shall be construed to enable the Association to revoke, alter, modify, or terminate any easements, rights of way, licenses, or similar interests of record on the date this Declaration is recorded.

**14.3 Right of Entry.** The Board, acting on behalf of the Association, or a managing agent, manager, or any other person authorized by the Board, shall have the right to enter any Unit or the associated Limited Common Elements in the case of any emergency originating in or threatening the Common Elements or other Units to protect public safety, whether or not the Owner is present at the time. Each Owner shall also permit such persons to enter the Owner's Unit or the associated Limited Common Elements for the purpose of performing installations, alterations, or repairs to any Unit or Common Element, preventing damage to the Common Elements or another Unit, or inspecting the Unit to verify that the Owner is complying with the restrictions and requirements described in this Declaration, the Bylaws, and/or the Rules and Regulations, provided that requests for entry to a Unit or Limited Common Elements are made in advance and that such entry is at a time reasonably convenient to the Owner.

**14.4 Right of Access and Use for Declarant.** Declarant and Declarant's agents, successors, and assigns shall have a right of access and use to, through, over, and of the Common Elements for the purpose of (i) planning, designing, developing, constructing, maintaining, or repairing structures on the Property; and (ii) carrying out sales activities reasonably necessary for the sale of Units, including, without limitation, the right to use the Units owned by Declarant as sales offices or model units, until all Units have been conveyed to persons other than Declarant.

**15. Easements; Encroachments.**

**15.1** Each Unit shall have an easement over all Common Elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or other movement of any portion of the Property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be a valid easement for the maintenance of the encroaching Units so long as the encroachment shall exist and, except as otherwise provided in Section 15.2, the rights and obligations of Owners shall not be altered in any way by the encroachment.

**15.2** The easement described in Section 15.1 does not relieve an Owner of liability in case of willful misconduct of an Owner or relieve the Declarant or any contractor, subcontractor, or materialman of liability for failure to adhere to the Plans.

**15.3** The encroachments described in Section 15.1 shall not be construed to be encumbrances affecting the marketability of title to any Unit.

**16. Notices to Mortgagees.** The Association shall provide timely written notice of the following matters to any Mortgagee of a Unit, or any insurer or guarantor of a Mortgage on a Unit, who makes a written request therefor to the Association:

**16.1** Any condemnation or casualty loss that affects either a material portion of the Condominium or a Unit in which it holds an interest;

**16.2** Any delinquency of 10 days in the payment of common expenses assessed to a Unit in which it holds an interest;

**16.3** A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

**16.4** Any proposed action that requires the consent of a specified percentage of Mortgagees under this Declaration or the Bylaws.

**17. Operating Entity.** Lanai East Condominium Association, Inc., an Oregon nonprofit corporation, has been organized to administer the operation and management of the Condominium and to undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and the Bylaws. A copy of the Bylaws, which have been adopted by the Declarant as required by Section 100.410(1) of the Act, are attached hereto as Exhibit C. The Owner of each Unit shall automatically become a member of the Association upon such Owner's acquisition of an ownership interest in any Unit and the membership of an Owner shall terminate automatically upon such Owner's being divested of all such Owner's ownership interest in the Units, regardless of the means by which such ownership interest is divested. Each Owner shall be entitled to vote in the manner prescribed in the Articles of Incorporation of the Association and the Bylaws. Until the Turnover Meeting, the members of the Board need not be Owners. No person or entity holding any Mortgage, lien, or other encumbrance on any Unit shall be entitled, by virtue of such Mortgage, lien, or other encumbrance, to membership in the Association or to any of the rights or privileges of such membership, except as specifically described in this Declaration. In the administration of the operation and management of the Condominium, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments, and to adopt, promulgate, and enforce Rules and Regulations in the manner provided herein and in the Bylaws. Acquisition of any ownership interest in a Unit by an Owner shall constitute appointment of the Association as that Owner's attorney-in-fact in connection with proceedings, negotiations, settlements, and agreements arising from condemnation, destruction, liquidation, or termination of the Condominium, subject to the rights of the Owners described in the Bylaws.

**18. Managing Agent.** Subject to the rights of the Association to terminate such agreement without penalty or cause upon not less than 30 days written notice given not later than 60 days after the Turnover Meeting, the Board shall have the authority, on behalf of the Association, to enter into a management agreement with respect to the Condominium prior to the Turnover Meeting for a term not to exceed two years. On behalf of the Association, the Board may, after the Turnover Meeting, employ or contract for a managing agent or manager in accordance with the Bylaws at a compensation to be established by the Board. The Board may delegate to the managing agent or manager such duties and powers as the Board may authorize. In the absence of such appointment, the Board shall act as manager of the Condominium.

**19. Taxation of Units.** Each Unit, together with the undivided percentage interest in the Common Elements, shall be considered a parcel of real property subject to separate assessment and taxation by any taxing authority in a manner comparable to the taxation of other parcels of real property. The Common Elements shall not be considered a separate parcel for purposes of taxation.

**20. Administrative Control.** Except as otherwise provided in this Declaration or in the Bylaws, until the earlier to occur of the date that is three years after the date on which the first Unit is conveyed or the date at which eight (8) Units (representing 80% of the maximum of ten (10) Units planned for the Condominium in this Declaration) have been conveyed to persons other than the Declarant:

**20.1** Declarant may appoint and remove officers and members of the Board;

**20.2** Declarant shall have one vote with respect to each Unit owned by it;

**20.3** Declarant shall have the right to exercise all powers of the Association, the Board, or the Association officers under this Declaration, the Bylaws, and the Act, except that Declarant may not bind the Association to any management agreement, service contract or employment contract, or contract or lease to which Declarant is a party, which is made prior to the Turnover Meeting, unless the Association or the Board is granted therein a right of termination thereof which is exercisable without cause or penalty upon not less than 30 days' written notice given to the other party thereto not later than 60 days after the Turnover Meeting; and

**20.4** Declarant shall have the right to approve or not approve amendments proposed by the Owners to this Declaration, the Bylaws, the Plans, and the Rules and Regulations.

**21. Condemnation.**

**21.1 Total Condemnation.** In the event of condemnation of the whole of the Condominium, the compensation to be paid to Owners of Units shall be negotiated and finalized, including, if required, by representation in any proceeding, by the Association, subject to ratification of such compensation by the Owners of at least 80% of the Units at a special meeting called for that purpose, whether or not proceedings are necessary, and compensation, less expenses involved, if any, in obtaining the compensation

shall be paid to the Association and then distributed among the Owners of Units in equitable proportions and payable to any Mortgagee to the extent required to obtain a discharge of Mortgage. Notwithstanding the award for the condemnation of the whole Condominium, the rights of each Owner of a Unit shall be separate to negotiate and finalize his personal compensation for improvements made to the Unit, cost of moving, and other similar items personal to each Owner.

**21.2 Partial Condemnation.** In the event of a partial condemnation of the Condominium which includes some Units and portions of the Limited Common Elements, each Owner whose Unit or associated Limited Common Elements are condemned shall deal with the condemning authority with regard to compensation therefor, and the compensation for such Unit or Limited Common Elements shall be paid to such Owner (or the Mortgagee of that Owner's Unit). The Association shall negotiate compensation relating to any General Common Elements. The cost, if any, of restoring the balance of the Condominium so that it may be used shall be determined by the Association, and the Association shall negotiate with the condemning authority with regard to compensation for this expenditure and shall, unless the Condominium is terminated within 30 days after the receipt of such compensation in accordance with the Act, reconstruct the Condominium, using the funds received for such reconstruction. Any monies received by the Association for any such reconstruction shall be held in trust by the Association for the purpose of such reconstruction.

**22. Fidelity Bond.** The Board shall require that any person or entity, including, but not limited to, employees of any professional manager, who handles or is responsible for Association funds, whether or not such person or entity receives compensation for services, shall furnish a fidelity bond as the Board deems adequate under this Section 22. Such bond shall name the Association as the obligee and shall cover the maximum funds that may be in the custody of the Association or any manager at any time while such bonds are in force but, in any event, not less than the sum of three months of common expense assessments on all Units. Any such bond shall include a provision requiring not less than thirty days written notice to the Association and any Mortgagee of a Unit requesting a copy thereof before cancellation or substantial modification of the bond for any reason. The premium on such bond shall be paid by the Association.

**23. Amendment.**

**23.1 Approval by Owners.** Except as may otherwise be provided in this Declaration or by the Act, this Declaration may be amended if such amendment is approved by the Owners holding at least 80% of the voting power of the Association. The unanimous consent of all Owners shall be required for amendment of Sections 16 of this Declaration. Except as otherwise provided in the Act, no amendment may change the size, location, or rights to a Unit or Common Element or method for determining liability for common expenses, right to common profits, or voting rights of or with respect to any Unit, as applicable, unless such amendment has been approved by the Owners of the affected Units. For as long as Declarant remains the Owner of one or more Units, the

Bylaws, the Rules and Regulations, and this Declaration may not be modified, added to, amended, or repealed so as to eliminate, change, or impair any rights, privileges, easements, licenses, or exemptions granted therein or herein to Declarant or its designee, or otherwise so as adversely to affect Declarant or such designee, without Declarant's or such designee's prior written consent in each instance.

**23.2 Approval by Mortgagees.** Amendment of any of the following provisions of this Declaration shall require the prior written approval of at least 80% of those holders of first Mortgages on Units (based upon one vote for each first Mortgage held) who have given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of eligible Mortgagees:

- 23.2.1** Section 4.3, which addresses Unit boundaries;
- 23.2.2** Section 7, which addresses the Limited Common Elements;
- 23.2.3** Section 8.1, which addresses the allocation of common profits and expenses and related matters;
- 23.2.4** Section 9, which addresses voting rights;
- 23.2.5** Section 13, which addresses restrictions on alienation of Units;
- 23.2.6** Section 14, which addresses use of and access to Units and Common Elements;
- 23.2.7** Section 16, which addresses notices to Mortgagees;
- 23.2.8** Section 21, which addresses condemnation;
- 23.2.9** Section 22, which addresses fidelity bonds;
- 23.2.10** This Section 23;
- 23.2.11** Section 24, which addresses termination of the Condominium; and
- 23.2.12** Any other provision of this Declaration which expressly benefits Mortgagees of a Unit or insurers or guarantors of a Mortgage on a Unit.

In addition, except as otherwise provided in the Act, no amendment to this Declaration may change the size, location, attribution of rights in the Limited Common Elements, method for determining liability for common expenses, right to common profits, or voting rights of or with respect to any Unit unless such amendment has been approved by the holders of any Mortgages on the affected Units. Any approval of a Mortgagee required under this Section 23.2 may be presumed by the Association if such Mortgagee fails to submit a

response to a written proposal for an amendment to this Declaration within 30 days after it receives notice of such proposal by certified or registered mail, return receipt requested.

**23.3 Approval by Governmental Authorities.** The Association shall use reasonable efforts to obtain the approval of an amendment to this Declaration by a governmental authority engaged in the guaranty of, or the issuance of insurance with respect to, Mortgages, if required by such authority.

**23.4 Recordation.** Amendments to this Declaration shall be effective upon recordation of the Declaration as amended, or of the amendment thereto, certified by the chairman and secretary of the Association and approved by the county assessor and the Oregon Real Estate Commissioner, if required by law, in the deed records of Multnomah County, Oregon.

**24. Termination.** Termination of the Condominium shall be effected in accordance with Section 100.600 and any other applicable provision of the Act, but in no event shall be consummated, other than in connection with the substantial destruction or condemnation of the Property, without the prior written consent of at least 80% of those holders of first Mortgages on Units (based upon one vote for each first Mortgage held) who have given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of eligible Mortgagees. The common profits and expenses of the Property following termination of the Condominium shall be allocated in accordance with the Act.

**25. Declarant's Special Rights.**

**25.1 "For Sale" Signs.** Declarant may maintain "For Sale" signs on the Property.

**25.2 No Capital Assessments Without Consent.** Neither the Association nor the Board shall make any assessments for new construction, acquisition, or otherwise without the prior written consent of Declarant, or as long as Declarant remains the Owner of one or more Units. Nothing contained in this Section 25.2 shall be construed as a limitation on Declarant's obligation to pay assessments for common expenses on Units owned by Declarant pursuant to requirements of the Act.

**25.3 Common Element Maintenance by the Association.** The Association shall maintain all Common Elements in a clean and attractive manner. Should the Association fail to do so, Declarant may perform such maintenance at the expense of the Association.

**25.4 Declarant's Easements.** Declarant, its agents, and employees shall have an easement on and over the Common Elements for the completion of any portion of the Condominium, including, but not limited to, the right to store materials on the Common Elements at reasonable places and for reasonable lengths of time.

**25.5 Other Declarant Rights.** The rights reserved to Declarant in this Section 25 shall in no way limit any other special declarant rights that Declarant may have, whether

pursuant to the Act or otherwise. Upon the expiration of any or all special declarant rights, Declarant will have the same rights as any other Owner with respect to such ownership.

**25.6 Assignment of Declarant's Rights.** Declarant shall have the right to assign any and all of its rights, including without limitation Declarant's special rights as set forth in this Section 25, or to share such rights with one or more other persons exclusively, simultaneously, or consecutively.

**25.7 Expiration of Declarant's Special Rights.** Unless otherwise provided, Declarant's special rights reserved in this Section 25 shall expire upon the conveyance by Declarant of the last Unit owned by Declarant or seven years after conveyance of the first Unit, whichever is earlier.

**26. General Provisions.**

**26.1 Interpretation Jurisdiction.** The rights and obligations of all members of the Association and any person dealing with the Association or any of its members in respect to matters pertaining to the Declaration and the Bylaws shall be interpreted and governed by the laws of the State of Oregon with jurisdiction of any dispute in the Circuit Court of the State of Oregon, County of Multnomah.

**26.2 Severability.** Each provision of the Declaration and the Bylaws is independent and severable. The invalidity or partial invalidity of any Section thereof shall not affect any of the remaining portions of that or any other provision of this Declaration or the Bylaws.

**26.3 Waiver of Rights.** The failure of the Association, Board, an officer, or an Owner to enforce any right, provision, covenant, or condition of the Declaration and Bylaws shall not constitute a waiver of the right of any such party to enforce such right, provision, covenant, or condition in the future.

**26.4 Legal Proceedings.** Failure to comply with any of the terms of the Declaration, the Bylaws, and any Rules or Regulations adopted thereunder shall be grounds for relief which may include, without intending to limit the same, an action to recover money due, damages, or a suit for injunctive relief, to foreclose a lien, or any combination thereof. Relief may be sought by the Association, Board, an officer, a professional manager or management firm, or, if appropriate, by an aggrieved Owner.

**26.5 Costs and Attorneys' Fees.** In the event of any litigation to enforce any of the terms and provisions of this Declaration, the Bylaws, Rules and Regulations of the Association, or any provisions of the Act, the prevailing party shall be entitled to recover the cost of the proceedings and such reasonable attorney fees as may be determined by the trial court in any trial or by the appellate court in any appeal thereof. In addition, the Association shall be entitled to recover costs and attorneys' fees incurred by it to collect delinquent assessments whether or not any collection or foreclosure action or suit is filed.

**26.6 Compliance.** Each Owner shall comply with the Declaration, and the Bylaws, and with the Rules and Regulations adopted thereunder, any amendments or supplements to the foregoing, and with all other applicable covenants, conditions, and restrictions of record. Failure to comply therewith shall be grounds for suit or action maintainable by the Association or any Owner in addition to other sanctions that may be provided by the Bylaws or by any existing administrative rules and regulations.

**26.7 Conflicting Provisions.** In the event of a conflict between or among the Declaration, Bylaws, and any Rules and Regulations, the provisions of the Declaration shall be paramount to the Bylaws and the Rules and Regulations, and the Bylaws shall be paramount to the Rules and Regulations.

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IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed this 8<sup>th</sup> day of October, 2007.

**DECLARANT:**

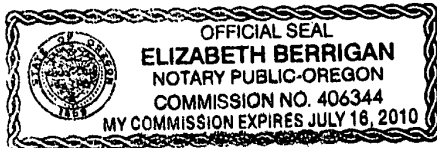
**BANTAM LLOYD PROPERTIES, LLC**

By: [Signature]  
Timothy J. Coleman, Member

By: [Signature]  
Kenneth J. Abere, Jr., Member

STATE OF OREGON     )  
                                  ) ss.  
County of Multnomah     )

The foregoing instrument was acknowledged before me on this 8 day of October, 2007, by Timothy J. Coleman who is a Member of Bantam Lloyd Properties, LLC, on behalf of the limited liability company.



Elizabeth Berrigan  
Notary Public for Oregon  
My Commission expires: July 16, 2010

STATE OF OREGON     )  
                                  ) ss.  
County of Multnomah     )

The foregoing instrument was acknowledged before me on this 8 day of October, 2007, by Kenneth J. Abere, Jr. who is a Member of Bantam Lloyd Properties, LLC, on behalf of the limited liability company.



Elizabeth Berrigan  
Notary Public for Oregon  
My Commission expires: July 16, 2010

County Assessor, Multnomah County


By: [Signature] October 16, 2007

County Tax Collector, Multnomah County

By: [Signature]

The foregoing Declaration is approved pursuant to ORS 100.110 this 15<sup>th</sup> day of October, 2007, and in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two (2) years from this date.

Oregon Real Estate Commissioner

By: 

**EXHIBIT A**

**CONDOMINIUM DECLARATION**

**LANAI EAST CONDOMINIUM**

**Legal Description of Condominium Property**

LOTS 15 AND 16, BLOCK 5, HOLLADAY PARK ADDITION, MULTNOMAH COUNTY PLAT RECORDS, SITUATED IN THE NORTHEAST ONE-QUARTER OF SECTION 35, TOWNSHIP 1 NORTH, RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INITIAL POINT, BEING A 5/8" IRON ROD, WITH A YELLOW PLASTIC CAP STAMPED "PLS 2351", FOUND AT THE NORTHEAST CORNER OF SAID LOT 16; THENCE SOUTH 00°00'08" EAST ALONG THE EAST LINE OF SAID BLOCK 5, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF NORTHEAST 21ST AVENUE, A DISTANCE OF 100.04 FEET TO THE SOUTHEAST CORNER OF SAID LOT 16; THENCE SOUTH 90°00'00" WEST ALONG THE SOUTH LINE OF SAID LOTS 16 AND 15, A DISTANCE OF 100.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15; THENCE NORTH 00°00'08" WEST ALONG THE WEST LINE OF SAID LOT 15, A DISTANCE OF 100.04 FEET TO THE NORTHWEST CORNER OF SAID LOT 15 AND THE SOUTH RIGHT-OF-WAY LINE OF NORTHEAST CLACKAMAS STREET; THENCE, NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID LOTS 15 AND 16, ALSO BEING SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 100.00 FEET TO THE INITIAL POINT.

CONTAINING 10,004 SQUARE FEET, OR 0.23 ACRES, MORE OR LESS.

**EXHIBIT B**

**CONDOMINIUM DECLARATION**

**LANAI EAST CONDOMINIUM**

**Residential Unit Designation, Area in Square Feet,  
and Undivided Interests in Common Elements**

Unit	Area in Square Feet	Percentage of Ownership in Common Elements	Parking Space Assignment	Storage Space Assignment	Water Heater Assignment
2020	893	11.42%	PS-1	SS-1	
2022	893	11.42%	PS-2	SS-2	
2024	808	10.33%	PS-3	SS-3	
2026	808	10.33%	PS-4	SS-4	
2028	539	6.89%	PS-5	SS-5	
2030	539	6.89%	PS-6	SS-10	
2032	835	10.68%	PS-7	SS-7	WH-2
2034	835	10.68%	PS-8	SS-8	WH-1
2036	835	10.68%	PS-9	SS-9	WH-4
2038	835	10.68%	PS-10	SS-6	WH-3
TOTALS	7820	100%			

**EXHIBIT C**

**CONDOMINIUM DECLARATION**

**LANAI EAST CONDOMINIUM**

**Bylaws of Lanai East Condominium Association, Inc.**

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**BYLAWS OF  
LANAI EAST CONDOMINIUM ASSOCIATION, INC.**

Dated: September 21, 2007

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**BYLAWS**  
**OF**  
**LANAI EAST CONDOMINIUM ASSOCIATION, INC.**

**1. GENERAL PROVISIONS.**

**1.1 Identity.** Lanai East Condominium Association, Inc., a nonprofit corporation organized under the laws of the State of Oregon, the Articles of Incorporation of which were filed in the Office of the Secretary of the State of Oregon on the 4<sup>th</sup> day of June, 2007 (the "**Association**"), has been organized for the purpose of administering the operation and management of the Lanai East Condominium (the "**Condominium**"), in accordance with the terms of these Bylaws. The Condominium was established by Bantam Lloyd Properties, LLC, an Oregon limited liability company (the "**Declarant**"), in accordance with the provisions of ORS Chapter 100 (the "**Act**"). The Condominium is located upon property in Multnomah County, Oregon, as more particularly described in the Declaration of Lanai East Condominium (the "**Declaration**"), which is being recorded simultaneously herewith in the records of Multnomah County, Oregon.

**1.2 Bylaws Subject to Other Documents.** The provisions of these Bylaws are applicable to the Condominium and are expressly subject to the terms, provisions, and conditions contained in the Articles of Incorporation of the Association (the "**Articles**") and in the Declaration.

**1.3 Capitalized Terms.** All capitalized terms used in these Bylaws and not specifically defined herein shall have the meaning given such terms in the Declaration, and, unless the context clearly indicates otherwise, where appropriate the singular shall include the plural and the masculine shall include the feminine or neuter, and vice versa, to the extent necessary to give the terms defined in this section or the terms otherwise used in these Bylaws their proper meanings.

**1.4 Applicability.** All owners of Units ("**Owners**"), tenants and occupants of any Unit, and their respective agents, servants, invitees, and employees that use the Condominium, or any part thereof, are subject to these Bylaws, and all rules and regulations thereunder as promulgated from time to time.

**1.5 Office.** The office of the Association shall be at 2020 NE Clackamas, Portland, Oregon, or at any other place within Portland, Oregon, designated by the Association.

**2. MEETINGS OF OWNERS.**

**2.1 Administrative Control.** Notwithstanding any other provisions of these Bylaws, until the Turnover Meeting, the Declarant shall have the powers and authorities reserved to the Declarant in Section 20 of the Declaration.

**2.2 Organizational and Turnover Meeting.** Within three years after the date of conveyance of the first unit to a person other than the Declarant, or within 90 days after Declarant has sold and conveyed 80% or more of the Units in the Condominium, whichever is earlier, the Declarant shall call the Turnover Meeting of the Owners to organize the Association and to elect three Directors. Notice of such meeting shall be given to all Owners as provided in Section 2.6. If Declarant fails to call the meeting, the meeting may be called and notice given by any Owner or Mortgagee of a Unit. The expense of giving notice shall be paid or reimbursed by the Association. At the meeting, control of administration of the Association shall be turned over by Declarant to the Owners and Declarant shall deliver to the Association such information and documents as may be required by the Act. Nothing in this Section shall be construed as preventing the Declarant from calling the organizational and turnover meeting prior to such date, or from calling informal, informational meetings of the Owners.

**2.3 Annual Meetings.** In the first calendar month following the month in which the Turnover Meeting is held, the first annual meeting of Owners shall be held. At such meeting, the three incumbent directors of the Association (any director of the Association, a "**Director**") elected at the Turnover Meeting shall resign and no less than three and no more than five directors (who may have previously served as Directors) shall be elected by the Owners in accordance with these Bylaws. Thereafter, annual meetings shall be held each year, at a date to be determined by the Board of Directors, at such hour as the Chair of the Association may designate. At such meetings, the Owners shall elect Directors to fill vacancies or to succeed retiring Directors as provided in Section 3 of these Bylaws and shall also transact such other business of the Association as may properly come before the meeting.

**2.4 Place of Meetings.** Meetings of the Owners shall be held at the principal office of the Association or at such other suitable and convenient place within Portland, Oregon, as may be designated by the Board.

**2.5 Special Meetings.** It shall be the duty of the Chair to call a special meeting of the Association if so directed by resolution of the Board or upon a petition signed and presented to the secretary of the Association (the "**Secretary**") by the Owners of at least 50% of the Units stating the purpose of the meeting. The notice of any special meeting shall state the purpose, time, and place of such meeting. No business shall be transacted at a special meeting except as stated in the notice.

**2.6 Notice.** The Chair or Secretary shall give written notice of each meeting of the Association at least ten days, but not more than 50 days, prior to the date set for such meeting, stating the purpose, time, and place of the meeting, to each Owner of record (and to any first Mortgagee of record requesting such notice), at the address of such Owner as listed on the books of the Association, or at such other address as such Owner shall have designated by notice in writing to the Chair or Secretary at least ten days prior to the giving of such notice by the Chair or Secretary. The giving of a notice in the manner provided in these Bylaws shall be considered notice properly served. Proof of the giving of such notice, whether by mail or personal delivery, shall be given by the affidavit of the person giving the notice. Notice of a meeting may be waived by any Owner before or after a meeting. When a meeting is adjourned for less than 30

days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

Any action that may be taken at any annual, regular or special meeting of the Association of Owners may be taken without a meeting if the Association delivers a written ballot to every Owner that is entitled to vote on the matter. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

**2.7 Voting.** The total number of votes of all Owners shall be equal to the total number of Units in the Condominium and each Owner shall be entitled, subject to the provisions of Section 20.2 of the Declaration (which grants the Declarant one vote for each Unit owned by it prior to the Turnover Meeting) and to Section 3.1 of these Bylaws regarding the election of Directors, to a number of votes equal to the number of Units owned by such Owner. The Declarant shall be entitled to vote as the Owner of any Units retained by the Declarant, and the Board shall be entitled to vote on behalf of any Unit which has been acquired by or on behalf of the Association; provided, however, that the Board shall not be entitled to vote such Units in any election of Directors.

**2.8 Proxies.** A vote may be cast in person or by proxy. A proxy given by an Owner to any person who represents such Owner at meetings of the Association shall be in writing, signed by such Owner, may be given to any person or persons of legal age, and shall be filed with the Secretary. No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy, and every proxy shall automatically cease upon sale of a Unit by its Owner. An Owner may pledge or assign such Owners' voting rights to a Mortgagee. In such case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled hereunder and to exercise the Owner's voting rights from and after the date that the Mortgagee shall give written notice of such pledge or assignment to the Board of Directors. Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

**2.9 Fiduciary, Corporate and Joint Owners.** An executor, administrator, conservator, guardian or trustee may vote, in person or by proxy, at any meeting of the Owners with respect to any Unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name; provided, however, that he shall satisfy the Secretary that he is the executor, administrator, conservator, guardian or trustee holding such Unit in such capacity. Any person voting on behalf of a Unit owned by a corporation or other entity shall provide the Secretary with written evidence, satisfactory to the Secretary, that such person is the duly constituted representative thereof. Whenever any Unit is owned by two or more persons jointly, according to the records of the Association, the vote of such Unit may be exercised by any of the Owners then present, in the absence of protest by a co-Owner, unless a valid court order establishes the authority of a co-Owner to vote. In the event of disagreement among the co-Owners, the vote of such Unit shall be disregarded completely in determining the proportion of votes given with respect to the matter voted upon.

**2.10 Quorum.** At any meeting of the Association, the presence, in person or by proxy, of a number of Owners holding 60% or more of the voting power of the Association shall constitute

a quorum. The subsequent joinder of an Owner in the action taken at a meeting, evidenced by that Owner signing and concurring in the minutes thereof, shall constitute the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of an Owner or Owners. If any meeting of the Association cannot be organized because of lack of a quorum, the Owners who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present; provided, however, that a quorum shall not be necessary to proceed with and hold a binding Turnover Meeting

**2.11 Binding Vote.** Unless otherwise specified herein, the vote of more than 50 percent of the voting power of the Association, present in person or by proxy, at a meeting at which a quorum is constituted, shall be binding upon with respect to the matter voted on all Owners for all purposes except where a higher percentage vote is required by law, the Declaration or these Bylaws.

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

- 2.12.1 Calling of the roll and certifying of proxies;
- 2.12.2 Proof of notice of meeting or waiver of notice;
- 2.12.3 Reading of minutes of preceding meeting;
- 2.12.4 Reports of officers;
- 2.12.5 Reports of committees, if any;
- 2.12.6 Election of directors;
- 2.12.7 Unfinished business;
- 2.12.8 New business; and
- 2.12.9 Adjournment.

**2.13 Rules of Order.** Subject to Section 2.12, meetings of the Association shall be conducted according to the latest edition of Robert's Rules of Order published by the Robert's Rules Association. A decision of the Association may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied. A decision of the Association is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

**2.14 Ballot Meetings.** At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner who is entitled to vote on the matter; provided, however, that a ballot meeting may not substitute for the organizational and Turnover Meeting described in Section 2.2 or, if a majority of the Units are the principal residences of the occupants, for the annual meetings of the Association. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

The Board of Directors shall provide Owners with at least 10 days' notice before written ballots are mailed or otherwise delivered. If, at least three days before written ballots are scheduled to be mailed or otherwise distributed, Owners of at least 50% of the Units petition the Board of Directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner and instructions for marking and returning the ballot. The notice shall state the general subject matter of the vote, the right of the Owners to request secrecy procedures, the date after which ballots may be distributed, the date and time by which any petition must be received by the Board requesting secrecy procedures and the address where any petition must be received. Notwithstanding the applicable provisions of the next paragraph of this Section, written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

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

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

### **3. BOARD OF DIRECTORS.**

**3.1 Number, Term and Qualification.** The affairs of the Association shall be governed by the Board of Directors, which shall consist of at least three, but no more than five, persons all of whom shall be Owners or a co-Owner of a Unit. Until the Turnover Meeting shall have been held, the Board of Directors shall consist of the three Directors subject to the appointment and removal powers of the Declarant described in Section 20 of the Declaration.

At the Turnover Meeting, the Board of Directors shall appoint three Owners as Directors. At the expiration of the initial term of office of these Directors, and commencing with the first annual meeting as set forth in Section 2.3, his or her successor must be elected to serve a term of one year. The Directors must hold office until their successors have been elected. There shall be no limit on the number of successive terms a Director may serve on the Board of Directors, if elected or appointed as herein provided.

All Directors shall be Owners and no Director shall continue to serve on the Board of Directors after he ceases to be an Owner, in which case the new Owner becomes a Director. For purposes of this Section 3.1, the officers of any corporation, the trustee of any trust, the partners of any partnership, or the members or managers of any limited liability company which owns a Unit may serve on the Board of Directors.

**3.2 Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all acts in furtherance of and pursuant to such powers and duties, except acts which by or under law, the Declaration or these Bylaws may not be performed by the Board of Directors or delegated to the Board of Directors by the Owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein), the following:

**3.2.1** Operation, care, upkeep, repair, replacement and maintenance of the Common Elements (but subject to the Owners' obligations set forth in Section 8.2).

**3.2.2** Determination of the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

**3.2.3** Collection of the common expenses from the Owners.

**3.2.4** Provision for the designation, hiring and removal of employees and other personnel, including lawyers and accountants and personnel necessary for the maintenance, upkeep and repair of the Units and the Common Elements; engagement of or contracting for the services of others; and making purchases for the maintenance, repair, replacement, administration, management and operation of the Condominium and delegating any such powers to the manager or managing agent (and any such employees or other personnel as may be employees of the managing agent); provided, however, that any agreement for management services entered into before the Turnover Meeting on behalf of the Association must be terminable by the Association for cause upon not more than 30 days'



notice, must have a reasonable term not exceeding two years, and must be renewable with the consent of the Association and the manager.

**3.2.5** Adoption and amendment of reasonable rules and regulations of the condominium pursuant to Section 7.15 hereof.

**3.2.6** Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.

**3.2.7** Purchasing, leasing or otherwise acquiring, in the name of the Association or its designee, corporate or otherwise, on behalf of the Owners, Units offered for sale or lease or surrendered by their Owners to the Association.

**3.2.8** Purchasing Units at foreclosure sales (judicial or non-judicial) or other judicial or execution sales, in the name of the Association or its designee, corporate or otherwise, on behalf of all Owners upon the consent or approval of the Owners of at least 80% of the Units.

**3.2.9** Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of Directors), or otherwise dealing with Units acquired by the Association or its designee on behalf of all the Owners.

**3.2.10** Organizing corporations to act as designees of the Association in acquiring title to or leasing Units by the Association on behalf of all Owners.

**3.2.11** Obtaining and reviewing bonds and insurance, including directors' liability insurance, for the Association and the Condominium, including the Units, pursuant to the provisions of these Bylaws.

**3.2.12** Making repairs, additions and improvements to, or alterations of, the Condominium and repairs to and restoration of the Condominium in accordance with these Bylaws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or settlement under the threat thereof.

**3.2.13** Making additions and improvements to, or alterations of, the Common Elements.

**3.2.14** Levying fees, late charges, fines and/or interest against the Owners for violations of the Declaration, Bylaws, and/or Rules and Regulations; provided, that for any offense for which a fine is levied, the minimum fine shall be Seventy-Five Dollars (\$75) for the first offense, One Hundred Dollars (\$100) for the second offense and Two Hundred Fifty Dollars (\$250) for the third or any later offenses of the same nature, and that the maximum fine for any single offense shall in no event exceed Two Hundred Fifty Dollars (\$250) per occurrence.

**3.2.15** Adjusting and settling claims under insurance policies and executing and delivering releases on settlement of such claims on behalf of all Owners, all holders of Mortgages or other liens on the Units, and all Owners of any other interest in the Condominium.

**3.2.16** Bidding for and purchasing any Unit at a sale pursuant to a foreclosure of the lien for common expenses under the Act, or at a sale pursuant to an order or direction of a court, or other involuntary sale.

**3.2.17** Filing all appropriate income tax returns.

**3.2.18** Filing of the Annual Report described in Section 100.260 of the Act with the Real Estate Agency pursuant to Section 100.250 of the Act, and any amendments thereto.

**3.2.19** Enforcement by legal means of the provisions of the Act, the Declaration, these Bylaws and any Rules and Regulations adopted hereunder.

**3.3 Limitation.** The powers of the Board of Directors enumerated in these Bylaws shall be limited in that the Board of Directors shall have no authority to (i) acquire and pay for out of the maintenance fund of the Association any structural alterations or capital improvements of, or capital additions to, the Common Elements (other than for purposes of repairing, replacing or restoring portions of the Common Elements, subject to all the provisions of these Bylaws) requiring an expenditure in excess of an amount or amounts, aggregated for the calendar year in question, exceeding five percent of the estimated total budget of the Association for such calendar year, or (ii) enter into agreements having a term in excess of three years, except agreements specifically authorized in these Bylaws, without, in each case, the prior approval of the Owners of at least 80% of the Units.

**3.4 Organizational Meeting.** Within 30 days following the annual meeting of the Association or following any meeting at which an election of Directors has been held, the Board of Directors shall hold a meeting at such place and time as shall have been fixed by the Directors at the meeting at which the election was held.

**3.5 Regular and Special Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Special meetings of the Board of Directors may be called by the Chair and must be called by the Secretary at the written request of at least two Directors. Notice of any special meeting shall be given to each Director, personally or by mail, telephone, or telecopy at least seven days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. All meetings of the Board of Directors shall be open to the Owners except that, in the discretion of the Board, the following matters may be considered in executive session: (a) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (b) personnel matters, including salary negotiations and employee discipline; and (c) the negotiation of contracts with third parties. Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board of Directors votes to meet in executive

session, the presiding officer of the Board of Directors shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. Meetings of the Board of Directors may be conducted by telephonic communication, except that if a majority of the Units are principal residences of the occupants, then: (i) for other than emergency meetings, notice of each meeting of the Board of Directors shall be posted at a place or places on the Property at least three days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Owners of such meeting; and (ii) only emergency meetings of the Board of Directors may be conducted by telephonic communication.

Meetings of the Directors shall be conducted in accordance with the same rules of order as meetings of the Association, as provided in Section 2.13.

**3.6 Waiver of Notice.** Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board of Directors shall constitute a waiver of notice of the time and place thereof, except where a Director attends the meeting for the sole purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all the members of the Board of Directors are present at any meeting of the Board of Directors, however, no notice to Directors shall be required and any business may be transacted at such meeting.

**3.7 Quorum.** At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at a meeting at which a quorum is present shall constitute the act of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the Owners may adjourn the meeting from time to time until a quorum is present. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**3.8 Removal.** A Director may be removed at any time, with or without cause, by the Owner of the unit that the Director represents. If a Director is removed pursuant to this Section 3.8, the resulting vacancy shall be filled in accordance with Section 3.1 of these Bylaws.

**3.9 Vacancies.** In the event of vacancies in the Board of Directors, the Owner of the unit that the departed Director represented shall be entitled to appoint a Director to fill the vacancy. If such Owner does not fill the vacancy, the vacancy shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum, or by a sole remaining Director. Each person so appointed shall be a Director until a successor is appointed by such Owner. Vacancies in interim Directors shall be filled by Declarant.

**3.10 Compensation.** No Director shall receive any compensation from the Association for acting in such capacity.

**3.11 Insurance.** The Board of Directors shall comply with the insurance requirements contained in Section 9 of these Bylaws. In addition, the Board of Directors, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association, the Board of Directors or the Owners.

#### **4. OFFICERS.**

**4.1 Designation.** The principal officers of the Association shall be the Chair, the Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Chair must be a member of the Board of Directors, but none of the other officers need be Owners.

**4.2 Election.** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors and until their successors are elected and qualified. If any office shall become vacant, the Board of Directors shall elect a successor to fill the unexpired term at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

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

**4.4 Chair.** The Chair shall be the chief executive officer of the Association. He shall preside at all meetings of the Owners and of the Board of Directors. He shall have all of the general powers and duties which are usually incident to the office of the chief executive officer of an association, including, but not limited to, the power to appoint committees from among the Owners from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Association.

**4.5 Secretary.** The Secretary shall keep the minutes of all proceedings of the Board of Directors and the minutes of all meetings of the Association. He shall attend to the giving and serving of all notices to the Owners and Directors and other notices required by law. He shall keep the records of the Association, except for those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association and as may be required by the Directors or the Chair. In addition, the Secretary shall act as Vice-Chair, taking the place of the Vice-Chair and performing his duties whenever the Vice-Chair is absent or unable to act, unless the Directors have appointed another Vice-Chair.

**4.6 Treasurer.** The Treasurer shall be responsible for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements necessary for the preparation of all required financial data. He shall be responsible for the deposit of all funds and other valuable effects in such depositories as may from time to time be designated by the Board of Directors, and he shall disburse funds of the Association upon properly authorized vouchers. He shall in general

perform all other duties incident to the office of Treasurer of an association and such other duties as may be assigned to him by the Board of Directors.

**4.7 Execution of Instruments.** All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the Board of Directors and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the Chair.

**4.8 Compensation of Officers.** No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the Owners. The Board of Directors may fix any reasonable compensation to be paid to the Secretary and Treasurer.

**5. ASSESSMENTS, EXPENSES, BUDGET, AND DEFAULT.**

**5.1 Assessment of Common Expenses.** All Owners shall be obliged to pay in advance common expenses assessed to them by the Board of Directors on behalf of the Association pursuant to these Bylaws and the Declaration, including amounts applicable to the reserve funds described in Section 5.3. Assessments may be made payable semiannually, quarterly, or monthly, in the discretion of the Board of Directors. Assessments may not be waived due to limited use or nonuse of Common Elements. The Declarant shall be assessed as the Owner of any unsold Unit, but such assessment shall be prorated to the date of sale of the Unit. Assessments shall commence in accordance with Section 8.1.2 of the Declaration. The Board of Directors, on behalf of the Association, shall take prompt action to collect from an Owner any common expense due which remains unpaid by him for more than 30 days from the due date for its payment (except as provided above for the Declarant).

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

**5.2.1** Expenses of administration.

**5.2.2** Cost of insurance or bonds obtained in accordance with these Bylaws.

**5.2.3** A general operating reserve, sufficient to pay the amount of the deductible on any insurance policy held by the Association under Section 9.1.1.

**5.2.4** Reserve for replacements and deferred maintenance, as set forth in Section 5.3.

**5.2.5** Any deficit in common expenses for any prior period, and any accrued interest or late charges thereon.

**5.2.6** Utilities and services for the Common Elements and other utilities and services with a common meter or commonly billed, such as trash collection, water and sewer. If the Board of Directors determines that a particular unit's use of such services is greater than

the average of other Owners, the Board may assess to such Owner the cost attributable to such extra use.

**5.2.7** Services of any person or firm to act on behalf of the Owners in connection with any other matter where the respective interests of the Owners are deemed by the Board of Directors to be similar and nonadverse to each other.

**5.2.8** Professional management services, gardening, landscaping, snow removal, waste removal, cleaning, decorating, and maintenance, repair and replacement of the Units and the Common Elements as the Board of Directors shall determine are necessary and proper.

**5.2.9** Any other items properly chargeable as an expense of the Association.

### **5.3 Reserve Items.**

**5.3.1 Reserve Account and Study.** A reserve account in the name of the Association must be established for the purpose of effecting replacements of structural elements, mechanical equipment, and other Common Elements that will normally require replacement in more than three years and less than 30 years. Payment into this account is deemed a contribution to capital improvement as and when made. Pursuant to provisions of the Act, Declarant has established a reserve account for replacement of such Common Elements. The reserve accounts for replacement must be funded by assessment against the same Units that are assessed for the maintenance of the items for which the reserve account is established. Accordingly, the reserve account for replacement of those General Common Elements and Limited Common Elements, the maintenance of which is provided by assessment against all Owners, must be created by assessment against all Owners.

The Board of Directors must prepare a schedule of the Common Elements having a remaining useful life of more than three and less than 30 years, together with the current replacement cost of such Common Elements. The amount of the periodic payments to the reserve account must be adjusted at regular intervals to recognize changes in remaining useful lives and replacement costs over time. Except as otherwise provided in the Act, the reserve account must be used only for replacement of Common Elements and must be kept separate from accounts for maintenance.

The Board of Directors shall annually conduct a reserve study or review and update an existing study to determine the reserve account requirements and may adjust the amount of payments in accordance with the study or review and provide for other reserve items that the Board of Directors, in its discretion, may deem appropriate. The reserve study shall include identification of all items for which reserves are to be established, the estimated remaining useful life of each item as of the date of the reserve study, an estimated cost of maintenance, repair or replacement of each item at the end of its useful life, and a 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

After the Turnover Meeting, the Board of Directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses which will later be paid from assessments if the Board of Directors has adopted a resolution, which may be a continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board of Directors shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

Assessments paid into the reserve account for replacements are the property of the Association and are not refundable to sellers of Units.

The Association may, on an annual basis, elect not to fund the reserve account by unanimous vote of the Owners; or elect to reduce or increase future assessments for the reserve account by an affirmative vote of the Owners of at least 80% of the Units.

**5.3.2 General Operating Reserve.** The Board of Directors must create and maintain a general operating reserve account by allocation and payment thereto monthly of an amount determined by the Board of Directors. This account must be used to pay expenses that exceed budgeted amounts.

**5.3.3 Special Reserves.** Such other special reserve funds may be set up by the Directors by special assessments of the Owners who benefit thereby as may be required by the Declaration or otherwise determined by the Association to be appropriate.

Each reserve account must be kept in an account with a safe and responsible depository, must be accounted for separately and, if invested, the obligation or security must be fully guaranteed as to principal by the United States of America or one of its agencies. Assessments paid into the special reserve accounts are the property of the Association and are not refundable to sellers of Units. However, nothing contained herein prevents sellers of Units from treating their outstanding allocable share of reserve accounts as a separate or reimbursable item in a sales agreement. No Owner has any individual rights in any of these reserves, although it is understood that the value of their respective Units may increase in proportion to each Unit's right to receive repair, maintenance, and replacement therefrom.

**5.4 Initial Assessment.** The amount of the initial assessment due from Owners other than Declarant must be determined by Declarant. The amount of the annual assessment thereafter must be subject to review and modification by the Board of Directors. Except as otherwise provided below, the assessment for all Units must be payable from the date on which the Declaration is recorded.

**5.4.1 Contribution to Working Capital.** At closing, each purchaser must contribute to the Association a sum equal to one-sixth of the annual assessments, with respect to the Unit being purchased, as a one-time contribution to the working capital of the Association. Within 60 days after the first conveyance by Declarant of the first Unit in the Condominium, Declarant must make such contribution with respect to all Units in the

Condominium that have not yet been conveyed to a purchaser. If Declarant has made such contribution, no further contribution must be required to the Association, but each purchaser must reimburse Declarant at closing for the amount of the contribution made by Declarant with respect to the Unit conveyed to the purchaser. The working capital contribution must be allocated to the general operating reserve provided in Section 5.3.2. The working capital contribution is in addition to regular assessments and must not be used as a prepayment of assessments by any Owner. Declarant may not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficits while Declarant is in control of the Association. All working capital contributions must be disbursed to the Association at or before the Turnover Meeting and must be credited to the operating reserve account.

**5.4.2 Reserve Procedures.** If Declarant or any other person pays all the operating expenses of the Condominium or subsidizes the expenses, the assessment must be reduced by that amount, but must not be reduced to a sum less than the total amount of the replacement reserve items.

With respect to Units not yet conveyed by Declarant, Declarant may accrue the replacement reserve items. At the time of conveyance of the Unit for which the replacement reserve has been accrued, the accrued reserves must be paid to the Association by Declarant.

Declarant, or such other person paying all operating expenses or subsidizing such expenses, shall give 10 days' written notice to Owners before their obligation to pay the full assessment begins. Thereafter, each Owner, including Declarant, must pay the assessments to the Association. If Declarant has collected initial assessments from Unit purchasers at closing and thereafter elects to pay or subsidize the operating expenses, thereby causing the amount of the assessment to be reduced, the one-time initial contribution collected from Unit purchasers must be held by Declarant in a separate Association account. On the date that Owners are required to pay full assessments, the aggregate sums held in such separate account must be deposited to the Association's general account to be used as working capital.

**5.4.3 Temporary Reduction of Assessment Amount.** At any time prior to the Turnover Meeting, if the Association expenses are temporarily less than projected by Declarant because some or most of the Units are not yet sold or occupied, Declarant has the authority to reduce temporarily the amount of the assessment to reflect the lower expenses of the project.

**5.5 Special Assessments.** The Board of Directors has the power to levy special assessments against an Owner or all Owners for the following purposes and in the following manner:

- (a) To correct a deficit in the operating budget;



(b) To collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Declaration, these Bylaws, or the Rules and Regulations; or

(c) To make repairs or renovations to the Common Elements if sufficient funds are not available from the operating budget or replacement reserve accounts.

**5.6 Payment of Assessments.** Subject to the provisions of Sections 5.2 and 5.3, Declarant must:

(a) Pay assessments due for operating expenses on all unsold Units from the date of conveyance of the first Unit; and

(b) Pay assessments due for reserves on all unsold Units from the date of conveyance of the first Unit, or, at Declarant's option, pay or require the Owner to pay all accrued reserve assessments against the Unit at the time of the initial sale to the Owner. However, such reserve accrual must not be for a period beyond the date of the Turnover Meeting as provided in Section 2.2. The books and records of the Association shall reflect the amount the Declarant owes for all reserve account assessments.

**5.7 Budget.**

**5.7.1 Adoption of Budget.** At least 60 days before the beginning of each fiscal year, the Board of Directors must adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair, and replacement of the Common Elements and those parts of the Units for which the Association is responsible for maintaining, repairing, and replacing, and the cost of wages, materials, insurance premiums, services, supplies, and other expenses that may be declared to be common expenses pursuant to the Act.

The budget also must include such reasonable amounts as the Board of Directors considers necessary to provide working capital and such general operating reserve accounts, contingency, and other reserve accounts as the Board determines. The amount designated for replacement reserves must be adjusted annually to reflect current replacement cost and remaining useful life. At least 30 days before the beginning of each fiscal year, the Board of Directors must send to each Owner a copy of the budget in a reasonably itemized form that sets forth the amount of the common expenses and any special assessment payable by each Owner. The budget must constitute the basis for determining each Owner's assessment for the common expenses of the Condominium.

**5.7.2 Failure to Prepare Budget.** The failure of the Board of Directors to timely prepare and/or to present a budget to the Owners is not cause for any Owner to fail or refuse to pay assessments. Assessments must continue, based on the last adopted or accepted budget, until a new budget is created and announced. Retroactive increases and/or special assessments may be made by the Board of Directors to make up for any deficiency.

**5.7.3 Failure to Adopt Budget.** If the Board of Directors fails to adopt, in a timely manner, a budget for a new fiscal year, Owners holding a majority of the votes of the entire Association, at any general or specially called meeting, may adopt such a budget, announce it to the Owners and immediately commence assessments based on the newly adopted budget. Additionally, at any general or specially called meeting, Owners holding a majority of the votes of the entire Association may amend any budget adopted by the Board of Directors. Thereafter, the amount of assessments due from Owners must be based on the budget as so amended until a new budget is adopted in accordance with this Section 5.7.

**5.7.4 Determination of Fiscal Year.** The fiscal year of the Association must be the calendar year unless otherwise determined by the Board of Directors.

**5.7.5 Filing of Income Tax Returns.** The Board of Directors, in its sole discretion, must determine the manner in which all necessary income tax returns are filed and of selecting any and all persons to prepare such tax returns.

## **5.8 Default by Owners.**

**5.8.1 Payment of Assessments.** The failure of an Owner to pay any assessment of the Association is a default by that Owner of his or her obligations pursuant to these Bylaws and the Act and, in addition to the Association's other remedies provided in the Declaration, these Bylaws entitle the Association to declare the balance of the Owner's annual assessment otherwise being paid in installments to be immediately due and payable in full. Interest must be charged on delinquent assessments at the rate set by the Board of Directors from time to time, not to exceed the lower of 18% per annum or the highest rate permitted by applicable law. Before the imposition of or a change in the interest rate charged on delinquent assessments, the Board of Directors must give 30 days' written notice to all Owners.

In addition, the Board of Directors, at its option, may impose a late-charge penalty on any assessment that is delinquent for 10 or more days. The penalty must not exceed the sum of 25% of the delinquent assessment and must be imposed only once on each regular or special assessment or installment of such assessments.

Within ten business days of receipt of a written request from an Owner, the Association shall provide a written statement to the Owner that provides the amount of assessments due from the Owner and unpaid at the time the request was received, including (a) regular and special assessments; (b) fines and other charges; (c) accrued interest; (d) late payment charges; (e) the percentage rate at which interest accrues on assessments that are not paid when due; and (f) the percentage rate used to calculate the charges for late payment or the amount of a fixed charge for late payment. The Association is not required to comply with this paragraph 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.

The Association shall be entitled to a lien that may be enforced on compliance with the provisions of ORS 100.450. In any foreclosure suit by the Association with respect to the lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of his or her Unit or shall be entitled to the appointment of a receiver pursuant to ORS 100.460 to collect such rental. Liability for all assessments, fines, charges, interest, fees (including attorney fees, whether or not a suit or an action is commenced), and other sums owing by the Owner pursuant to the Declaration, these Bylaws, the Act, and Rules and Regulations are the personal obligation of the Owner and may be enforced by suit for a money judgment, in addition to all other remedies of the Association. Any default by the Owner in any provisions of these Bylaws or of the Act is deemed to be a default by the Owner of any mortgage to which the Owner is a party or to which the Unit is subject.

**5.8.2 First Mortgages; Liability of Subsequent Purchaser.** Any lien of the Association against a Unit for common expenses shall be subordinate to tax and assessment liens and any first Mortgage of record; provided, however, that if there has been compliance with all requirements of Section 100.450(7) of the Act, such Association lien shall be prior to such first Mortgage. Where the purchaser or Mortgagee of a Unit obtains title to the Unit as a result of foreclosure of a first Mortgage or by deed in lieu of foreclosure, such purchaser or Mortgagee and his successors and assigns shall not be liable for any of the common expenses chargeable to such Unit which became due prior to the acquisition of title to such Unit by such purchaser or Mortgagee except to the extent provided in Section 100.475(2) of the Act; provided, in the case of a deed in lieu of foreclosure, that the Mortgagee complies with the requirements of Section 100.465(1) of the Act; and provided further, that any sale or transfer of a Unit pursuant to a foreclosure shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit from the lien of, any common expenses thereafter becoming due. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Unit to the time of grant of conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser, the Board shall make and deliver a statement of the unpaid assessments against the prospective grantor of the Unit, and the grantee in such case shall not be liable for, nor shall the Unit when conveyed be subject to, a lien filed thereafter for any unpaid assessments against the grantor in excess of the amounts therein set forth.

**5.8.3 Other Defaults.** The violation of any Rule or Regulation or other determination duly adopted by the Board of Directors, or the breach of any covenant or provision contained in the Declaration or these Bylaws, shall give the Board of Directors the right: (i) to enter upon that part of the Condominium where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions so violated, and the Board of Directors, or its agents, shall not thereby be deemed guilty in any manner of trespass; provided, however, that the Board of Directors must institute legal proceedings before any item of construction may be altered or demolished in remedying such violation, and (ii) to enjoin, abate or remedy by appropriate

legal proceedings the continuance of any breach. Any Owner aggrieved by such a violation shall also have the right, on behalf of the Association, to enjoin, abate, or remedy by appropriate legal proceedings any such violation and to recover its expenses in accordance with Section 12.2. All expenses of the Board of Directors in connection with such violation and such action or proceedings (including any action or proceeding brought on behalf of the Association), including engineering, architectural and other professional fees and costs, court costs and attorneys' fees and any other fees and expenses (including fees, fines, late charges and interest imposed pursuant to these Bylaws), and all damages, liquidated or otherwise, together with interest thereon at the rate provided in Section 5.8.1 of these Bylaws until the amount outstanding is paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the common expenses. The Board of Directors shall have a lien for all of the same upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto and upon all of his personal property located in such Unit or elsewhere in the Condominium. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board of Directors. Any violations by an Owner of the Declaration, these Bylaws or any Rules and Regulations which are deemed by the Board of Directors to be a hazard to public health or safety may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the offending Owner as a specific item, which shall be a lien against the offending Owner's Unit with the same force and effect as if the charge were a part of the normal common expenses attributable to such Unit.

After giving notice and an opportunity to be heard, the Board of Directors may levy reasonable fines for violations of the Declaration, Bylaws and Rules and Regulations if the charge imposed or fine levied is based on a schedule contained in the Declaration or Bylaws, or an amendment to either that is delivered to each Unit, mailed to the mailing address of each Unit or mailed to the mailing addresses designated in writing by the Owners, or based on a resolution adopted by the Board of Directors or the Association that is delivered to each Unit, mailed to the mailing address of each Unit or mailed to the mailing addresses designated by the Owners in writing.

**5.9 Liability of Owners.** An Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, or his or their guests, employees, servants, invitees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing in these Bylaws, however, shall be construed to modify any waiver by insurance companies of rights of subrogation. The expense of any such maintenance, repair or replacement shall be charged to the responsible Owner as a specific item, which shall be a lien against the corresponding Unit with the same force and effect as if the charge were a part of the normal common expenses attributable to such Unit.

## **6. RECORDS AND AUDITS.**

**6.1 General Records.** The Board of Directors and the managing agent or manager, if any, shall keep detailed records of the actions of the Board of Directors and the managing agent or manager, minutes of the meetings of the Board of Directors and minutes of the meetings of the Association. The Board of Directors shall maintain a list of Owners entitled to vote at meetings of the Association and a list of all Mortgagees of Units. The Association shall maintain a copy, suitable for duplication, of: (i) the Declaration, these Bylaws, the Rules and Regulations and any amendments or supplements thereto; (ii) the most recent annual financial statement of the Association described in Section 6.5; and (iii) the current operating budget of the Association. Such documents shall be available for inspection by Owners, Mortgagees of Units, insurers and guarantors of such Mortgages, and prospective purchasers of Units during normal business hours.

**6.2 Records of Receipts and Expenditures.** The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements, itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the Owners, Mortgagees of Units, and insurers and guarantors of such Mortgages during normal business hours.

**6.3 Assessment Roll.** The Assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such account shall designate the name and address of the Owner, the amount of each assessment against the Owner, fines and other charges, accrued interest, late payment charges, the percentage rate at which interest accrues on assessments that are not paid when due; the percentage rate used to calculate the charges for late payment or the amount of a fixed charge for late payment; the dates and amounts in which the assessment comes due, the amounts paid upon the account and the balance due on the assessments.

**6.4 Payment of Common Expenses.** The Board of Directors shall authorize the Treasurer, the management agent, or another specified party, to pay all legitimate expenses of the Association. The payments shall be made pursuant to the payment system instituted by the Board of Directors as described in Section 6.7.

**6.5 Reports and Audits.** An annual financial statement of the Association, consisting of at least a balance sheet and income and expense statement for the preceding fiscal year, shall be rendered by the Board of Directors to all Owners, and to all Mortgagees of Units who have requested the same, within 90 days after the end of each fiscal year. The statement shall be prepared in accordance with generally accepted accounting procedures. At any time any Owner or Mortgagee of a Unit may, at his own expense, cause an audit or inspection to be made of the books and records of the Association.

**6.6 Notice of Sale, Mortgage, Rental or Lease.** Immediately upon the closing of any sale, Mortgage, rental or lease of any Unit, the Owner shall promptly inform the Secretary or manager of the name and address of the purchaser, Mortgagee, lessee, or tenant.

**6.7 Payment of Invoices.** All checks up to One Thousand Dollars (\$1000) may be signed by the Chair, managing agent, or other person authorized by the Board of Directors. Any check in excess of One Thousand Dollars (\$1000) shall require the signature of at least two authorized signatories. Payment of invoices guidelines shall be set by the board from time to time.

**6.8 Annual Report.** The Board of Directors must cause an Annual Report, including any amendments, to be filed with the Oregon Real Estate Agency, pursuant to the provisions of ORS 100.250 and ORS 100.260.

## **7. PURPOSES, USES AND RESTRICTIONS.**

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

The failure of an Owner (his or her family, invitees, or tenants) to comply with the rules of conduct and restrictions set forth here, in the Declaration, or others promulgated by the Board of Directors, is cause for which the Board of Directors may deny or restrict the Owner's right to use any Common Element facility with respect to which the Owner otherwise had a right of use.

**7.1 Use.** Each of the Residential Units must be occupied as a single-family private dwelling by its Owner or his or her tenants, visitors, and guests, and for no other purpose. Subject to compliance with applicable local ordinances and other restrictions of record, an Owner may use his or her Residential Unit as a "home office" if clients, customers, vendors, and employees do not regularly visit the "home office."

Each of the Storage Spaces must be used for storage purposes only, and only for storage of non-hazardous and non-flammable materials.

All Common Elements must be used in a manner conducive to such purposes. No Owner is permitted to lease his or her Unit for less than a period of 30 days. No Owner may lease less than the entire Unit. Any agreement to lease a Unit must provide that the terms of the lease are subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the tenant to comply with the terms of those documents is a default under the lease. Leasing of units is governed by Section 7.11 of these Bylaws.

**7.2 Restriction on Alteration to Unit.** No Owner may make structural alterations or installations in his or her Unit without previously notifying the Association in writing by certified mail to the management agent, if any, or to the Chair of the Board of Directors, if no management agent is employed. The Association must answer within 30 days of receipt of such notice, and failure to do so within the stipulated time means that it does not object to the proposed alteration or installation. However, nothing contained herein waives or limits an Owner's obligation to comply with the provisions of ORS 100.535.

**7.3 Use of Common Elements.** The Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of the Units. The use, operation and maintenance of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Owner.

**7.4 Offensive or unlawful activities.** No noxious or offensive activities shall be carried on in any Unit nor shall anything be done in or placed upon any Unit or Common Element which interferes with or jeopardizes the enjoyment of other Units or the Common Elements or which is a source of annoyance to residents. Unit occupants shall exercise extreme care not to make noises which may disturb other Unit occupants, including the use of musical instruments, radios, televisions and amplifiers. No unlawful use shall be made of the Condominium nor any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

**7.5 Pets.** No pets except dogs and cats are permitted on the Property and no more than a total of two pets per Residential Unit are permitted. Any Owner who is given such authorization and who maintains any pet on any portion of the Condominium is deemed to have indemnified and agreed to hold the Association, each of its members, and Declarant, free and harmless from any loss, claim, or liability of any kind or character whatever arising by reason of keeping or maintaining the pet within the Condominium. All pets must be registered with the Board of Directors and must be licensed and inoculated as required by law. Furthermore, the Owner must abide by the municipal sanitary regulations, leash laws, and rules or regulations of the Association created by the Board of Directors. The Board of Directors has the power to require any Owner or occupant whose pet is a nuisance to remove the pet from the Property.

**7.6 Appearance of Condominium Building.** No Owner may cause anything to be hung, displayed, or placed on the walls, railings, doors, windows, walkways, decks, patios, fences, ceilings of decks or patios, or roof of the Building or any other Common Element or otherwise change the appearance of any portion of the Common Elements without the prior written consent of the Board of Directors. No clothes lines or similar devices and no "For Sale" or "For Rent" signs will be allowed on any part of the Property without the prior written consent of the Board of Directors, except that Declarant may post reasonable signs advertising any unit for sale or rent in reasonable places on the Property.

**7.7 Exterior lighting or noisemaking devices and antennas.** Except with the consent of the Board of Directors, no exterior lighting or noisemaking devices shall be installed or maintained on any Unit. Seasonal holiday lighting and decorations are permissible if consistent with any applicable rules and regulations and if removed within 30 days after the celebrated holiday. Exterior antennas, satellite receiver and transmission dishes and other communication devices shall not be permitted to be placed upon the General Common Elements, and may not be placed on any Unit or Limited Common Element except in accordance with rules established by the Board of Directors.

**7.8 Nuisances.** No nuisances or any use or practice that is the source of annoyance to residents or that interferes with the peaceful possession and proper use of the property by its residents is allowed on the Condominium Property. Residents must exercise extreme care about

creating disturbances, making noises or using musical instruments, radios, televisions, and amplifiers that may disturb other residents. All parts of the Condominium must be kept in a clean and sanitary condition; no rubbish, refuse, or garbage is allowed to accumulate; and no fire or environmental hazard is allowed to exist. All garbage and trash must be placed inside disposal containers. No Owner may make or permit any use of his or her Unit or make any use of the Common Elements that would increase the cost of insurance on the Property.

No Owner may hang garments, towels, rugs, or similar items from any window, facade, deck, patio, fence, or railing of the Condominium or hang or shake dust rags, mops, or similar items from any window, deck or patio, or clean such items by beating them on an exterior part of the Condominium.

**7.9 Restriction on Exterior Installations.** No Owner, resident, or tenant may install wiring for electrical or telephone installation, exterior antennas, satellite dishes, machines, air conditioning units, or similar devices on the exterior of the Building, or beyond the confines of any deck or balcony area, or cause them to protrude through the walls or the roof of the Condominium except as authorized by the Board of Directors.

**7.10 Parking.** The Parking Spaces designated as Limited Common Elements in the Declaration are intended for use of automobiles of Owners. Each Unit will be assigned one (1) Parking Space in the parking lot at the time the Unit is purchased.

The Owner of each Parking Space may park no more than one vehicle in the Parking Space. The Owner of a Parking Space must only park a vehicle in the Parking Space assigned.

Vehicles must be registered with the Board of Directors of the Association or its designee. Permitted vehicles in the Condominium are limited to cars, pickups, regular-size sport utility vehicles, and motorcycles.

The Directors may make such additional rules as may be necessary to govern the use of any parking areas by which all Owners will be bound, including a fine schedule for violation of these Bylaws, or any rules and regulations promulgated thereunder that shall be adopted by resolution of the Board of Directors.

**7.11 Vehicle Restrictions.** The speed of vehicular traffic on the parking areas and driveways on the Property must be limited to five miles per hour as a safety precaution. This speed limit will apply to bicycles, motor scooters, motorcycles, automobiles, and trucks. No recreational vehicles, campers, trailers, boats, boat trailers, commercial vehicles, vehicles in disrepair, or similar things may be parked or kept on Condominium property without the prior written consent of the Board of Directors.

**7.12 Leasing/Renting Units.** An Owner may rent or lease his or her entire Unit for a period of not less than thirty (30) days, provided that the occupancy is only by the tenant, his or her visitors, and guests. No rooms may be rented and no transient tenants may be accommodated. All leases or rental agreements shall be in writing ("Lease"). Tenants shall be under the control of and subject to the Declaration, the Bylaws, and the Rules and Regulations of the Association



and the Board of Directors or any amendments to the foregoing. At any time during the tenancy, the Board of Directors may cause its termination and evict the tenant for cause based upon any violation of the Declaration, the Bylaws, the Rules and Regulations of the Association or the Board of Directors on the Lease. The Owner of such Unit shall be notified in advance of any such action.

**7.13 Use of Storage Spaces.** Each Unit will be assigned one Storage Space. Each Owner shall use only the Storage Space so assigned for storage purposes, and may store therein only non-hazardous and non-flammable materials.

**7.14 Unlawful or Improper Activities.** No unlawful use shall be made of the Condominium or any part thereof, and all Legal Requirements shall be strictly complied with. Compliance with any Legal Requirements shall be accomplished by and at the sole expense of the Owner or Association, as the case may be, whichever shall have the obligation to maintain and repair the portion of the Condominium affected by any such Legal Requirement. Each Owner shall give prompt notice to the Board of Directors of any written notice received of the violation of any Legal Requirement affecting the Owner's Unit or the Condominium. Notwithstanding the foregoing provisions, an Owner may, at his expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any Legal Requirement affecting any portion of the Condominium which such Owner is obligated to maintain and repair, and the Board of Directors shall cooperate with such Owner in such proceedings, provided that:

**7.14.1** Such Owner shall pay and shall defend, save harmless, and indemnify the Board of Directors, the Association, and each other Owner against all liability, loss or damage which any of them respectively shall suffer by reason of such contest and any noncompliance with such Legal Requirement, including attorneys' fees and other expenses incurred;

**7.14.2** Such Owner shall keep the Board of Directors advised as to the status of such proceedings; and

**7.14.3** If any Owner conducts any activity or fails to comply with any Legal Requirement that increases the insurance premiums on insurance carried by the Association, or for which the Association is directly or indirectly responsible, such Owner shall pay such increased premium to the Association, upon demand.

**7.15 Contested Legal Requirements.** An Owner need not comply with any Legal Requirement so long as the Owner is contesting the validity or applicability thereof as provided in Section 7.14, provided that noncompliance shall not create a dangerous condition or constitute a crime or an offense punishable by fine or imprisonment, and that no part of the Condominium shall be subject to being condemned or vacated by reason of noncompliance or otherwise by reason of such contest. The Board of Directors may also contest any Legal Requirement without being subject to the conditions described in Section 7.14 and may also defer compliance with any Legal Requirement, subject to the conditions contained in this Section 7.15 as to deferral of

compliance by an Owner. The costs and expenses of any contest by the Board of Directors shall be a common expense.

**7.16 Signs.** Unless written approval is first obtained from the Board of Directors, no sign of any kind shall be displayed to the public view on or from any Unit or the Common Elements except signs used by the Declarant to advertise Units for sale or lease.

**7.17 Trash.** No part of any Unit or any part of the Common Elements shall be used or maintained as a dumping ground for rubbish, trash, garbage, recycling materials or other waste. No garbage, trash, recycling materials or other waste shall be kept or maintained on any part of the Property, except in sanitary containers in the designated areas.

**7.18 Insurance.** Nothing shall be done or kept in any Unit or in the Common Elements which will increase the cost of insurance on the Common Elements. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in cancellation of insurance on any Unit or any part of the Common Elements.

**7.19 Water beds.** Water beds may not be placed in any Unit, except with the prior consent of the Board of Directors. If such consent is given, the Owner shall carry insurance covering damage caused by the water bed and shall be responsible for all damages to any Unit or the Common Elements which might be caused by the water bed.

**7.20 Covenants, Conditions, Restrictions, and Easements Affecting Condominium Property.** In addition to the provisions of the Declaration, the Articles of Incorporation, the Bylaws, and any Rules or Regulations, each Owner of a Unit in the Condominium is subject to covenants, conditions, restrictions, and easements affecting the Condominium Property.

**7.21 Association Rules and Regulations.** In addition to the foregoing requirements, the Board of Directors from time to time may adopt, modify, or revoke Rules and Regulations, which shall be known as Lanai East Condominium Association, Inc. Rules and Regulations (the "**Rules and Regulations**"), governing the conduct of persons and the operation and use of the Units and the Common Elements as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Condominium. Any such Rules and Regulations may be amended, modified or revoked by the Owners of Units in the same manner as these Bylaws. 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 of Directors promptly to each Owner and shall be binding upon all Owners and occupants of all Units from the date of delivery.

## **8. MAINTENANCE AND REPAIR.**

**8.1 By Board.** Subject to Section 8.2, the necessary work to maintain, repair, or replace the exterior surfaces of the Units and the Common Elements located on the Property shall be the responsibility of and carried out by the Board as provided in Section 3.2.1.

If the Mortgagee of any Unit determines that the Board is not providing an adequate maintenance, repair, and replacement program for the Common Elements, such Mortgagee, at its option, may deliver a notice to the registered agent of the Association, as required pursuant to Section 100.500 of the Act, setting forth the particular defect(s) which it believes exists in the maintenance, repair, and replacement program. If the specified defect(s) are not corrected within 60 days after receipt of such notice, then the Mortgagee, upon written notice to the registered agent that it is exercising its proxy rights thereunder, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each Unit on which it holds a Mortgage on all business coming before such meeting, which proxy rights shall continue until the defect(s) described in the notice are corrected.

**8.2 By Owner.** Each Owner shall be responsible to maintain and repair, as such Owner deems necessary, the interior of such Owner's Unit, and shall be responsible to maintain, repair and replace all exterior windows and doors that are part of such Unit.

## **9. INSURANCE.**

The Board must obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided, including insurance for such other risks as are or hereafter may customarily be covered with respect to other condominiums similar in construction and design.

**9.1 Types of Insurance Policies.** For the benefit of the Association and the Owners, the Board must obtain and maintain at all times, and must pay for out of the common expense funds, the following insurance:

**9.1.1** A policy or policies of special form property insurance for the full insurable replacement value, if available, of all Units and Common Elements, and such other fire and casualty insurance as the Board determines, to give substantially equal or greater protection to the Owners and their Mortgagees, as their respective interests appear, which policy or policies must provide for a separate loss payable endorsement in favor of the Mortgagee, if any, of each Unit. For the purposes of any policy or policies of fire insurance, the term "building" includes fixtures, installations, or additions comprising a part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the Units initially installed or replacement thereof, in accordance with the original Condominium plans and specifications, or installed by or at the expense of any Owner or Owners.

**9.1.2** A policy or policies insuring the Association, the Board, officers and directors, the Owners individually, and the manager, if any, against any liability to the public or the Owners and their invitees or tenants, incident to the ownership, supervision, control, or use of the Property. Limits of liability under such insurance must be not less than \$1 million per occurrence for bodily injuries and property damage. Such limit and coverage must be reviewed at least annually by the Board, which, in its discretion, may increase either. The policy or policies must be issued on a comprehensive liability basis and provide cross-liability endorsements wherein the rights of a named insured under the policy or

policies must not be prejudiced with respect to his or her action against another named insured.

**9.1.3** Worker's compensation insurance to the extent necessary to comply with any applicable laws.

**9.1.4** A fidelity bond naming such persons as may be designated by the Board as principals and the Association and the Owners as obligees, for the amount determined by the Board. However, the Board shall require that all officers and employees of the Association handling or responsible for Association funds obtain adequate fidelity bonds. The premiums on such bonds must be paid by the Association.

The Association will not be responsible for any loss or damage to personal property of any Owner, whether stored on the Common Elements or in the Owner's Unit; nor will the Association maintain any insurance coverage for such loss.

**9.2 Insurance Companies Authorized.** All policies must be written by a company licensed to do business in Oregon and holding such ratings as may be acceptable to all Mortgagees and the Board.

**9.3 Authority to Adjust Losses.** All losses under policies in force regarding the Property must be settled exclusively through the Board or its authorized representative. However, when a first Mortgagee has been designated as a loss payee by an Owner and the first Mortgagee has requested the opportunity to exercise the rights provided by this Section 9, the Mortgagee must be entitled to settle losses as to the mortgaged Unit, provided that the loss that occurs is severable. Releases and proofs of loss must be executed by at least two directors.

**9.4 Value of Owner Improvements.** Each Owner must inform the Board of the value of improvements made to his or her Unit in excess of One Thousand Dollars (\$1,000) so that the Board may make any desired adjustments in insurance coverage. Nothing in this paragraph permits an Owner to make improvements without first obtaining the approval of the Board.

**9.5 Provisions in Insurance Policies.** The Board of Directors must make every effort to secure insurance policies that provide for the following:

**9.5.1** A waiver of subrogation by the insurer as to any claims against the Board, the manager, if any, the Owners, and their respective servants, agents, and guests;

**9.5.2** A provision that any "no other insurance" clause in the master policy exclude individual owners' policies and not otherwise prevent such individual policies from providing coverage for damage to Units or Common Elements;

**9.5.3** A provision that the insurer issue binders specifying the portion of any master policy earmarked for each Owner's interest and that until the insurer furnishes written notice and a grace period to the Mortgagee insured under the loss payable clause thereof,

the Mortgagee's coverage is neither jeopardized by the conduct of the mortgagor-Owner, the Association, or other Owners, nor canceled for nonpayment of premiums;

**9.5.4** A provision that such policy or policies of insurance shall not be canceled or substantially modified without at least 30 days prior written notice to all parties whose interests appear thereon, including any Mortgagee who has given notice to the insurer;

**9.5.5** A provision that the same shall be primary insurance in respect of any other insurance carried by any Owner;

**9.5.6** An "inflation guard" endorsement; and

**9.5.7** An endorsement providing coverage with respect to changes that may be required under applicable codes or ordinances to undamaged portions of the Condominium in the event of a casualty affecting a portion of the Condominium.

## **9.6 Additional Requirements.**

**9.6.1** Prior to obtaining any policy or policies of insurance under Section 9.1.1, or any renewal or renewals thereof and if any first Mortgagees holding Mortgages on at least 80% of the Units so requires, or at such other times as the Board may deem advisable, the Board shall obtain an appraisal from an independent qualified appraiser, of the "full replacement cost" of the Condominium, for the purpose of determining the amount of insurance to be obtained pursuant to Section 9.1.1, and the cost of such appraisal shall be a common expense; provided, however, that the full replacement cost of the Common Elements for the policy or policies of insurance placed in force upon recording of these Bylaws or the Declaration shall be determined by the Declarant.

**9.6.2** No Mortgage may be placed against any Unit unless the Mortgagee agrees to waive any contractual or statutory provision giving the Mortgagee the right to have the proceeds of any insurance policy or policies applied on account of the Mortgage and thereby prevent application of the proceeds of any insurance policy or policies towards the repair of the property pursuant to the provisions of these Bylaws. This Subsection 9.6.2 shall be read without prejudice to the right of a Mortgagee to vote on or to consent to certain matters, if the Mortgage itself contains a provision giving the Mortgagee that right, and also to the right of any Mortgagee to receive the proceeds of any insurance policy, if the insured property is not repaired.

**9.6.3** Upon request, a certificate or memorandum of any of the insurance policies required hereby and endorsements thereto shall be made available to each Owner and to each Mortgagee. Also upon request, renewal certificates or certificates of new insurance policies shall be furnished to each Owner and Mortgagee not later than the renewal date for the expiration of any current insurance policy. The master policy (or a copy thereof) for any insurance coverage shall be kept by the Association in its office, available for inspection by an Owner or Mortgagee on reasonable notice to the Association.

**9.6.4** No insured, other than the Association, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Association, or to direct that loss shall be payable in any manner other than as provided in these Bylaws.

**9.7 By the Owner.** It is acknowledged that the foregoing provisions specify the only insurance required to be obtained and maintained by the Association and that the following insurance shall be obtained and maintained by each Owner, as specified:

**9.7.1** Insurance shall be purchased and maintained by the Owner for all furnishings, fixtures, equipment, decorating and personal property and chattels of the Owner contained within his Unit, and his personal property and chattels stored elsewhere on the Property, including his automobile or automobiles, for loss of use and occupancy of his Unit in the event of damage, and the deductible under the Association property policy. Any such policy or policies of insurance shall contain waivers of subrogation against the Association, its manager, agents, employees and servants, and against the other Owners and any members of their households, except for vehicle impact, arson and fraud.

**9.7.2** Public liability insurance in an amount reasonably set by the Board no more often than every two (2) years covering any liability of any Owner to the extent not covered by any public liability and property damage insurance obtained and maintained by the Association.

**9.8 Owners' Insurance Carriers and Evidence of Coverage.** All insurance to be provided by the Owner pursuant to Section 9.7 shall be carried with a company or companies qualified to do business in the State of Oregon, and shall provide that payment for any losses covered thereunder shall be made to the Owner and the Association and/or any Mortgagee designated by the Owner, as their respective interests may appear. Before taking possession of a Unit, each Owner shall furnish the Association with certificates evidencing the insurance required under Section 9.7 and thereafter shall furnish the Association with certificates evidencing extension or replacement insurance. Such policies of insurance and certificates shall provide (i) that the Association is named as an additional insured, and (ii) that the Association shall receive at least thirty (30) days' written notice before any insurance evidenced by such policy or certificate is reduced or terminated.

## **10. DAMAGE AND DESTRUCTION.**

In the case of damage or destruction which affects a material portion of the Property, timely written notice shall be given to the Owners and their Mortgagees and any eligible mortgage insurer or guarantor and the following provisions shall apply:

**10.1 Determination to Repair Damage.** In the event of damage or destruction by casualty of Condominium Property, the damage or destruction shall be repaired, reconstructed or rebuilt unless, within 14 days of such damage or destruction, the Board of Directors or Owners of at least 50% of the Units shall have requested a special meeting of the Association. Such special meeting must be held within 60 days of the date of damage or destruction. At the time of such meeting, unless all Owners, whether in person, by writing or by proxy, with the approval of

Mortgagees as required by the Declaration, vote not to repair, reconstruct or rebuild the damaged property, the damage or destruction shall be repaired, reconstructed or rebuilt. If the damage or destruction is not repaired, reconstructed or rebuilt, then the Property shall be removed from Condominium ownership in the manner provided in the Act.

**10.2 Responsibility of Costs of Repairs.** The Association shall be responsible for repairing, reconstructing or rebuilding all such damage or destruction to the Common Elements and to the extent of the Association's insurance coverage, all such damage or destruction to the Units. Each Owner shall be responsible for such repairing, reconstructing or rebuilding of his Unit as is not so covered by the Association's insurance and to the extent of any deductible under the Association's insurance.

**10.3 Uninsured Losses.** If, due to the act or neglect of Owner, or of a member of such Owner's family or household pet or of a guest or other occupant or visitor of such Owner, damage shall be caused to the Common Elements or to a Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a common expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Association, to the extent not fully covered by the Association's insurance.

**10.4 Unused Insurance Proceeds.** In the event any portion of the insurance proceeds paid to the Association is not used to repair, reconstruct or rebuild the damaged or destroyed property, the Association shall distribute the proceeds among the Owners and their Mortgagees (as their interest may appear) in the same proportion as Common Expenses are shared, unless the Property is removed from Unit ownership. If the property is removed from Unit ownership, the insurance proceeds, together with the proceeds from the sale of the property, shall be distributed to the Owners and their Mortgagees (as their interest may appear) in the manner described in the Act.

## **11 AMENDMENTS TO BYLAWS.**

**11.1 How Proposed.** Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by the Owners holding at least 50% of the voting power of the Association. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon.

**11.2 Adoption.** A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the Owners and may be approved by the Owners at a meeting called for this purpose. Owners not present at the meeting considering such amendment may express their approval in writing or by proxy delivered to the Board of Directors at or prior to such a meeting. Any resolution shall be approved by Owners holding at least a majority of the voting power of the Association, except that any resolution containing an amendment relating to age restrictions, pet restrictions, limitations on the number of persons who may occupy a Unit and limitations on leasing or rental of Units shall be approved by Owners of at least 80% of the Units of the Association, and except that any provision of these Bylaws that is required to be in the Declaration may be amended only in accordance with the requirements governing amendment of the Declaration. In addition to the foregoing approval requirements, amendment of the following

provisions of these Bylaws shall require the prior written approval of at least a majority of those holders of first Mortgages on Units (based upon one vote for each first Mortgage held) who have given written notice to the Association requesting notification of any proposed action that requires the consent of a specified percentage of eligible Mortgagees: (i) Section 8, which addresses maintenance and repair; (ii) Section 9, which addresses insurance requirements; (iii) any other provision of these Bylaws which expressly benefits Mortgagees of Units or insurers or guarantors of such Mortgages; and (iv) any other provision the amendment of which is of a material nature as provided in the applicable provisions of the Fannie Mae Selling Guide. Any approval of a Mortgagee required under this Section 11.2 may be presumed by the Association if the Mortgagee fails to submit a response to a written proposal for an amendment to these Bylaws within 30 days after it receives notice of such proposal by certified or registered mail, return receipt requested. For so long as the Declarant remains the Owner of one or more Units, the Bylaws may not be modified, added to, amended or repealed so as to eliminate, change, or impair any rights, privileges, easements, licenses or exemptions granted therein or herein to the Declarant or its designee, or otherwise adversely affect the Declarant or such designee, without the Declarant's or such designee's prior written consent in each instance.

**11.3 Execution and Recording.** An amendment shall not be effective until certified by the Chair and Secretary of the Association, approved by the Real Estate Commissioner of the State of Oregon if required by law, and recorded as required by law.

**11.4 Rights of the Declarant.** Nothing in this Section 11 shall limit the right of the Declarant to approve amendments to the Bylaws pursuant to Section 23 of the Declaration.

## **12. DISPUTE RESOLUTION AND LITIGATION.**

**12.1 Dispute Resolution.** Subject to the last paragraph of this Section 12.1, before initiating 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 use any dispute resolution program available within Multnomah County that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party.

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

If a qualified dispute resolution program exists within Multnomah County, and an offer to use the program is not made as required under the first paragraph of this Section 12.1, litigation or an administrative proceeding may be stayed for 30 days upon a motion of the noninitiating party. If the litigation or administrative action is stayed under this paragraph, both parties shall participate in the dispute resolution process.



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

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

The requirements of this Section 12.1 do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation or an administrative proceeding initiated to collect assessments, other than assessments attributable to fines.

**12.2 Litigation by Fewer Than All Owners.** If any action is brought by one or more but fewer than all Owners on behalf of the Association and recovery is obtained, the plaintiff's expenses, including reasonable counsel's fees, shall be a common expense; provided, however, that if such action is brought against all of the Owners or against the Board of Directors, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the plaintiff's expenses, including counsel's fees, shall not be charged to or borne by the other Owners, as a common expense or otherwise.

**12.3 Complaints Against Board and Association.** Complaints brought against the Association, the Board of Directors or the officers, employees, or agents thereof, in their respective capacities as such, or against the Property as a whole, shall be directed to the Board of Directors, which shall promptly give written notice thereof to the Owners and any Mortgagees who have requested notice thereof and shall be defended by the Board of Directors, and the Owners and Mortgagees shall have no right to participate other than through the Board of Directors in such defense. One or more Owners shall have the right to enjoin, abate, or remedy by appropriate legal proceedings any failure by the Association or the Board of Directors to comply with the provisions of the Declaration, these Bylaws, or any Rule or Regulation. Complaints against one or more, but less than all of the Owners, shall be directed to such Owners, who shall promptly give written notice thereof to the Board of Directors and to the Mortgagees having an interest in such Units, and shall be defended by such Owners.

### **13. COMPLIANCE.**

These Bylaws are intended to comply with the provisions of the Oregon Condominium Act, which are incorporated herein and to supplement the provisions of the Condominium Declaration. If any of the provisions here conflict with the provisions of the statutes, the statutory provisions apply. If any of the provisions here conflict with the provisions of the Declaration, the provisions of the Declaration apply.

#### **14. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.**

The Association shall indemnify any Director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the fact that he or she is or was a Director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with the suit, action, or proceeding if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, does not of itself create a presumption that a person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his or her conduct was unlawful. Payment under this clause may be made while the claim, action, suit, or proceeding is pending subject only to the right of the Association to be reimbursed, should it be proved at a later time that the person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee, or agent have a right of contribution over and against all other Directors, officers, employees, or agents and members of the Association who participated with or benefitted from the acts that created said liability.

#### **15. MISCELLANEOUS.**

**15.1 Notices.** All notices to the Association or to the Board of Directors shall be sent in care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time by written notice thereof to each Owner. All notices to any Owner shall be sent to such address as may have been designated by him from time to time, in writing, to the Board of Directors, or if no address has been designated, then to the Owner's Unit.

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

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

**15.4 Conflicts.** These Bylaws are intended to comply with the Act and the Declaration. In case of any irreconcilable conflict, the Act and Declaration shall control over these Bylaws, any amendments hereto or any Rules and Regulations adopted hereunder.

**15.5 Liability Survives Termination.** The sale or other disposition of a Unit shall not relieve or release any former Owner from any liability or obligation incurred or in any way connected to such ownership, nor shall such termination impair any rights or remedies which the Association may have against such former Owner arising out of or in any way connected with such ownership and the covenants and obligations incident thereto.

**15.6 Indexing.** Whenever any dollar amount is specified in these Bylaws, such amount shall be automatically adjusted each January 1 based upon any changes in the Consumer Price Index - All Items - For All Urban Consumers, U.S. City Average, published by the U.S. Bureau of Labor Statistics (or any generally accepted substitute for such index, if such index shall be discontinued) using the index for August, 2007, as the base year.


**15.7 The Declarant as Owner.** Except as expressly provided in these Bylaws and the Declaration, the Declarant shall, with respect to any Units owned by the Declarant, enjoy any and all rights, and assume any and all obligations, enjoyed or assumed by an Owner.

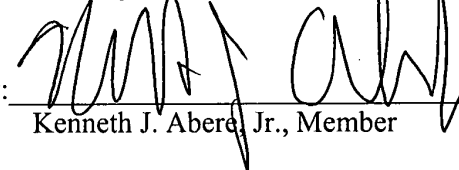
\*\*\*\*\*

Dated at Portland, Oregon, this 21<sup>st</sup> day of September, 2007, being hereby adopted by the undersigned Declarant on behalf of the Association.

**DECLARANT:**

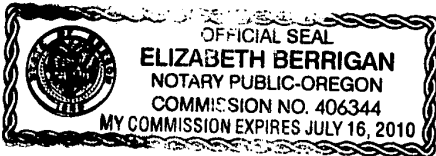
**BANTAM LLOYD PROPERTIES, LLC**

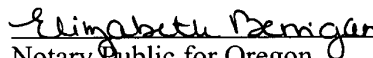
By:   
Timothy J. Coleman, Member

By:   
Kenneth J. Abere, Jr., Member

STATE OF OREGON     )  
  ) ss.  
County of Multnomah     )

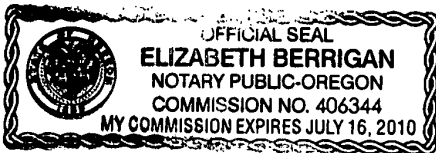
The foregoing instrument was acknowledged before me on this 21<sup>st</sup> day of September, 2007, by Timothy J. Coleman, who is a Member of Bantam Lloyd Properties, LLC, on behalf of the limited liability company.

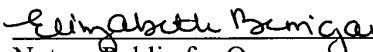


  
Notary Public for Oregon  
My Commission expires: July 16, 2010

STATE OF OREGON     )  
  ) ss.  
County of Multnomah     )

The foregoing instrument was acknowledged before me on this 21<sup>st</sup> day of September, 2007, by Kenneth J. Abere, Jr., who is a Member of Bantam Lloyd Properties, LLC, on behalf of the limited liability company.



  
Notary Public for Oregon  
My Commission expires: July 16, 2010