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**MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR HARRISON CENTER**

PORTLAND CENTER INVESTORS, LLC
Declarant

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**MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR HARRISON CENTER**

THIS DECLARATION is made this _____ day of _____, 200_, by **PORTLAND CENTER INVESTORS, LLC**, an Oregon limited liability company ("Declarant").

RECITALS:

A. Declarant owns certain real property and improvements in Multnomah County, Oregon known as the Portland Center Apartments. The Portland Center Apartments is comprised of three apartment buildings with attached townhouses (each an "**Apartment Project**"). Declarant intends to convert the Apartment Projects into three condominiums to be known as "Harrison West Condominiums," "Harrison East Condominiums" and "Harrison South Condominiums" (each a "**Condominium Project**"). Collectively, the Apartment Projects which will be converted to the Condominium Projects shall be referred to herein as "**Harrison Center**." The real property which will be subject to such declaration is described in the attached Exhibit A. Harrison Center will be a Class I planned community under the Oregon Planned Community Act, ORS 94.550 to 94.783.

B. All property within Harrison Center will be subject to this Declaration which establishes and provides for the maintenance and operation of those recreational amenities which provide a community-wide benefit to all Owners within Harrison Center (the "**Community Facilities**").

C. By this Declaration, Declarant desires to provide for the use, maintenance and operation of the Community Facilities; to provide for the obligation of all Owners of property within Harrison Center to contribute to such costs; to set forth the method for allocating such costs among such Owners; and to provide for all necessary and appropriate easements for the use, maintenance and operation of the Community Facilities. In addition, Declarant desires to grant the Association the power to regulate the exterior appearance of the structures and landscaping within Harrison Center.

D. Declarant has established or intends to establish the Harrison Center Master Association as an Oregon nonprofit corporation to maintain and operate the Community Facilities and to administer the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the real property described in the attached Exhibit A shall be held, sold and conveyed subject to the following easements and covenants, which shall run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

- 1.1 **"Articles"** means the Articles of Incorporation of the Association.
- 1.2 **"Assessments"** means all assessments and other charges, fines and fees imposed by the Association in accordance with this Declaration, including, without limitation, General Assessments, Special Assessments, Emergency Assessments and Individual Assessments as described in Article 7.
- 1.3 **"Association"** means the Harrison Center Master Association, an Oregon nonprofit corporation to be formed to administer this Declaration as provided in ARTICLE 6, and its successors and assigns.
- 1.4 **"Association Expenses"** shall mean all of the expenses incurred by or on behalf of the Association from time to time, including such reserves as the Board may deem appropriate from time to time.
- 1.5 **"Board"** means the Board of Directors of the Association.
- 1.6 **"Bylaws"** means the bylaws of the Association as adopted and amended from time to time.
- 1.7 **"Community Facilities"** means all real and personal property including easements and leaseholds designated as such in this Declaration for which the Association has maintenance, insurance, operating, or other responsibility under this Declaration or other agreements entered into by the Association.
- 1.8 **"Condominium Owners Association"** means the Harrison West Condominium Owners Association, Harrison East Condominium Owners Association, or the Harrison North Condominium Owners Association. Used in the plural, this terms means all of the Condominium Owners Associations within Harrison Center.
- 1.9 **"Declarant"** means Portland Center Investors, LLC, an Oregon limited liability company, and its successors and assigns if a recorded instrument executed by Declarant assigns to the transferee all of the rights of Declarant under this Declaration with respect to all or any portion of Harrison Center.
- 1.10 **"Emergency Assessments"** shall have the meaning given that term in Section 7.4.
- 1.11 **"General Assessments"** shall have the meaning given that term in Section 7.2.

1.12 **"Governing Documents"** means this Declaration, the Articles, the Bylaws, and any Rules and Regulations adopted pursuant to this Declaration, as well as the Declaration, the Articles, the Bylaws pertaining to each Condominium Owners Association.

1.13 **"Governmental Authority"** means the County of Multnomah, the State of Oregon, the United States of America or other governmental entity or agency that has or acquires jurisdiction over the Property or any portion thereof, or sales of the Property, from time to time.

1.14 **"Harrison Center"** means the real property identified in ARTICLE 2, and all existing and future improvements located thereon

1.15 **"Individual Assessments"** shall have the meaning given that term in Section 7.5.

1.16 **"Mortgage"** means a mortgage, deed of trust or real estate installment sale contract.

1.17 **"Mortgagee"** means a mortgagee under a mortgage, a beneficiary under a deed of trust, or a seller under a real estate installment sale contract.

1.18 **"Owner"** means the Person, including Declarant, owning any Unit in the Property, but does not include a tenant or holder of a leasehold interest or a mortgagee or other Person holding only a security interest in a Unit. If a Unit is sold under a recorded real estate installment sale contract, the purchaser (rather than the seller) will be considered the Owner unless the contract specifically provides to the contrary. If a Unit is subject to a written lease with a term in excess of one year and the lease specifically so provides, then upon filing a copy of the lease with the Association, the lessee (rather than the fee owner) will be considered the Owner during the term of the lease for the purpose of exercising any rights related to such Unit under this Declaration. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Unit and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from its obligations incurred prior to termination.

1.19 **"Person"** means a human being, a corporation, partnership, limited liability company, trustee or other legal entity.

1.20 **"Property"** means all of the land within Harrison Center, including all subsequent additions thereto and excluding any property withdrawn from the provisions of this Declaration.

1.21 **"Recorded"** means filed in the official records of Multnomah County, Oregon.

1.22 **"Rules and Regulations"** means those policies, procedures, rules and regulations adopted by the Association pursuant to the authority granted in this Declaration, as the same may be amended from time to time

1.23 **"Special Assessments"** shall have the meaning given that term in Section 7.3.

1.24 **"This Declaration"** means all of the easements, covenants, restrictions and charges set forth in this Declaration, together with any Rules and Regulations promulgated

hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

1.25 **“Turnover Meeting”** means the meeting called by Declarant pursuant to Section 6.7 below, at which Declarant will turn over administration responsibility for the Community Facilities to the Association.

1.26 **“Unit”** means a residential condominium or apartment unit in any of the Apartment Projects or Condominium Projects within Harrison Center.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

Declarant hereby declares that all of the real property described in Exhibit A attached hereto is owned and shall be owned, conveyed, hypothecated, encumbered, leased, used, occupied and improved subject to this Declaration.

ARTICLE 3

DESIGNATION OF COMMUNITY FACILITIES

3.1 **Community Facilities.** The Community Facilities shall be the swimming pool and spa facility located within the Harrison South project.

3.2 **Future Community Facilities.** The Association may assume responsibility for additional Community Facilities upon the recording of an amendment to the Declaration declaring the same.

ARTICLE 4

USE OF COMMUNITY FACILITIES

4.1 **Use by Owners.** Subject to the provisions of this Declaration and the Rules and Regulations adopted hereunder, each Owner shall have a right and easement in and over the Community Facilities for the uses for which they are established, which easement shall be appurtenant to and pass with the title to such Owner's Unit. Any Owner may extend the Owner's right of use and enjoyment of the Community Facilities to the members of the Owner's immediate family, social or business invitees, agents, employees and lessees as applicable, subject to reasonable regulation by the Association. An Owner who leases the Owner's property shall be deemed to have assigned all such rights to the lessee of such property for the period of the lease.

4.2 **Restrictions on Use.** The following restrictions shall apply to the Community Facilities as provided below:

(a) **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on within the Community Facilities, nor shall anything be done or placed on the

Community Facilities which interferes with or jeopardizes the enjoyment of the Community Facilities, or which is a source of annoyance to Owners or occupants. No unlawful use shall be made of the Community Facilities nor any part thereof, and all laws and regulations of all Governmental Authorities shall be observed.

(b) **Rules and Regulations.** In addition to the restrictions in this Declaration, the Association from time to time may adopt, modify or revoke such Rules and Regulations governing the conduct of Persons and the operation and use of the Community Facilities as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Community Facilities. A copy of the Rules and Regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be furnished by the Association to each Owner directly or to a Condominium Owners Association for delivery to its members and shall be binding upon all Owners and occupants of property within Harrison Center.

(c) **Governing Documents.** Use of the Community Facilities shall be subject to any additional restrictions contained in any of the applicable Governing Documents.

4.3 **Easements Reserved.**

(a) **In Favor of Association.** There are hereby reserved and granted to the Association its contractors and employees, perpetual, nonexclusive blanket easements over, under and across the Community Facilities and such portions of the Property as are necessary for access, ingress and egress to and from the Community Facilities and to enable the Association to fulfill its responsibilities under this Declaration; provided, the exercise of such easements shall not unreasonably interfere with the use and enjoyment of the burdened Property and, upon completion of work, the Association shall restore such Property to the condition existing immediately prior to the exercise of such easement, to the extent reasonably possible.

(b) **Reserved by Declarant.** So long as Declarant owns any real property within Harrison Center, Declarant reserves an easement over, under and across the Community Facilities in order to carry out management, sales and rental activities necessary or convenient for the sale or rental of Units. This easement includes, but is not limited to, a right of ingress and egress over the Community Facilities.

(c) **In Favor of Governmental Authorities and Utilities.** The Community Facilities shall be subject to any easements reserved or granted by Declarant or the Association to Governmental Authorities or companies providing utility and communication services and to police, fire and other public officials.

ARTICLE 5

MAINTENANCE COVENANTS AND ARCHITECTURAL REVIEW

5.1 **Maintenance Covenant.** The owner of each Apartment Project shall maintain in an attractive and safe condition the exterior of the buildings, all common areas and the landscaping within each such owner's portion of Harrison Center. Upon the creation of the Condominium Projects, each Condominium Project's Governing Documents will provide that its

Condominium Owners Association will assume the maintenance and repair obligations for these elements located within each such Condominium Project.

5.2 **Architectural Review of Improvements.** The Association shall have the authority to review and approve any proposed improvements or alterations to the exterior of the buildings and the landscaping plan within Harrison Center for compatibility with the overall appearance of Harrison Center. Prior to constructing or altering any exterior improvements, which shall include exterior painting, or significantly altering a landscaping plan, the owner of the particular apartment project or, if applicable, the Condominium Owners Association, shall submit a proposal of such alterations to the Board for review and approval. The Board shall have thirty (30) days from the date it receives the proposal to approve or deny the proposal or to request additional information relating thereto. Failure by the Association to respond within such time period shall be deemed an approval of the proposal.

ARTICLE 6

HARRISON CENTER MASTER ASSOCIATION

Declarant shall organize the Association as the association of all of the Owners within Harrison Center. Such Association, and its successors and assigns, shall have such powers and obligations as are set forth in this Declaration for the benefit of Harrison Center and all Owners of property located therein.

6.1 **Organization.** Declarant shall, before the first Unit is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated Association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated Association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated Association.

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

6.3 **Voting Rights.** Voting rights within the Association shall be allocated and cast as follows: voting rights in the affairs of the Association shall be cast by voting representatives. Each Apartment or Condominium Project shall be allocated one vote for a total of three votes. The owner of each Apartment Project will cast the Apartment Project's vote. Upon the

conversion of each Apartment Project to a Condominium Project, the board of directors of the corresponding Condominium Owners Association will act as the Condominium Project's voting representative. Owners of Units will be represented by their voting representative and will not individually have a vote in the affairs of the Association.

6.4 **General Powers and Obligations.** The Association shall have, exercise and perform all of the following powers, duties and obligations:

(a) The powers, duties and obligations granted to the Association by this Declaration.

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon.

(c) The powers, duties and obligations of a homeowners' association pursuant to the Oregon Planned Community Act.

(d) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

6.5 **Specific Powers and Duties.** The powers and duties of the Association shall, to be exercised by the Board, include, without limitation, the following:

(a) **Management and Maintenance of Community Facilities.** Manage, operate, repair and maintain the Community Facilities.

(b) **Review of Proposed Exterior and Landscaping Improvements.** Review and regulate all proposed changes in the color and appearance of the exterior of the structures and the landscaping within Harrison Center for the purpose of maintaining a uniform and attractive appearance of such elements.

(c) **Fixtures and Equipment.** Acquire or lease, repair and replace fixtures and equipment for the Community Facilities.

(d) **Taxes and Charges.** Pay all taxes, assessments, maintenance contracts and other costs and charges affecting or related to the Community Facilities and discharge, contest or protest liens or charges affecting the Community Facilities.

(e) **Utility Services.** Obtain and pay the cost of electrical and other utility services the Board deems appropriate for the Community Facilities.

(f) **Rules and Regulations.** Adopt from time to time and enforce Rules and Regulations relating to use and enjoyment of the Community Facilities by the Owners and their family members, social or business invitees, agents, employees and lessees, and by the public.

(g) **Legal and Accounting Services.** Obtain and pay for the cost of legal and accounting services necessary or appropriate for the maintenance and operation of the Community Facilities and the enforcement of this Declaration.

(h) **Insurance.** Obtain and pay for the cost of insurance insuring against liability for personal injury or property damage resulting from an occurrence in, on or about the Community Facilities and such other insurance as the Board deems appropriate.

(i) **Other Acts.** Do all other acts or things necessary or appropriate to the ordinary and necessary operation and maintenance of the Community Facilities and to preserve and protect the same in the event of any emergency.

(j) **Assessments.** Adopt budgets and impose and collect Assessments.

(k) **Enforcement.** Enforce the terms of this Declaration.

(l) **Managing Agent.** Contract with a managing agent for the performance of any or all of the obligations herein.

(m) **Administration of Particular Areas within Harrison Center.** In addition to its other powers and obligations, the Association may be obligated by Declarant or agreement to provide maintenance, architectural review, Assessment collection, rules enforcement or such other services to, and levy Assessments against, Owners within particular areas of Harrison Center. In such event, the Association shall provide such services in the manner prescribed, and the expenses of such services shall be allocated and assessed as provided in the covenants, easements, or agreement obligating the Association. In the event of a conflict between such other covenants, easements, or agreements and this Declaration, this Declaration shall control.

(n) **Assumption of Other's Maintenance Responsibility.** The Association may, but shall not be obligated to, assume maintenance responsibility for property which is the responsibility of another Person (e.g., a Condominium Owners Association or any local or state Governmental Authority) if, in the discretion of the Board, the maintenance of such property provides a benefit to the Harrison Center community and/or such property is not otherwise being properly maintained. The cost of maintenance assumed in accordance with this Section may be a Common Expense to be allocated among all Owners or may be Individual Assessments levied only against the benefited parties.

(o) **Implied Rights and Obligations.** The Association may exercise any other right or privilege reasonably to be implied from the existence of any right or privilege expressly given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

6.6 **Liability.** Neither a member of the Board nor an officer of the Association or a member of any committee established by the Association shall be liable to the Association, any Owner or any third party for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his duties, so long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. In the event any member of the Board or any officer or committee member of the Association is threatened with or made a party to any proceeding because the individual was or is a director, officer or committee member of the Association, the Association shall defend such individual against such claims and indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the Association, the Owners or any third party on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent and its officers and employees from any such claims, other than for gross negligence or intentional misconduct.

6.7 **Interim Board; Turnover Meeting.** Declarant shall have the right to appoint an interim Board of one to three directors, who shall serve as the Board of the Association until replaced by Declarant or until their successors take office at the Turnover Meeting. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for Harrison Center to the Association not later than ninety (90) days after the recordation of the first Condominium Project plat in Harrison Center. If Declarant fails to call the Turnover Meeting required by this Section, any Owner or Mortgagee of a Unit may call the meeting by giving notice as provided in the Bylaws. At the Turnover Meeting the interim directors shall resign and their successors shall be elected or appointed. The owner of each Apartment Project within Harrison Center shall each initially appoint one representative to serve on the Association's Board of Directors for a total of three directors. Each director appointed by the owner of an Apartment Project shall serve until it is replaced by the owner of the Apartment Project, or until the owner of the Apartment Project forms the corresponding Condominium Project and turns over control of the Condominium Owners Association to the Owners of Units in that Condominium Project. At the turnover meeting of each Condominium Project, the director appointed by the owner of the Apartment Project shall resign and the Board of Directors of the Condominium Owners Association shall elect a director to represent the Condominium Owners Association to serve on the Board of the Association.

6.8 **Contracts Entered into by Declarant or Before Turnover Meeting.** Notwithstanding any other provision of this Declaration, any management contracts, service contracts or employment contracts entered into by Declarant or the Board on behalf of the Association before the Turnover Meeting shall have a term of not more than three (3) years. In addition, any such contract shall provide that it may be terminated without cause or penalty by the Association or Board upon not less than thirty (30) days' notice to the other party given not later than sixty (60) days after the Turnover Meeting.

6.9 **Bylaws.** The Bylaws of the Association and any amendment or modification of the Bylaws shall be recorded in the Deed Records of Multnomah County, Oregon. Declarant

hereby adopts, on behalf of the Association, the initial Bylaws attached as Exhibit B to this Declaration.

ARTICLE 7

ASSESSMENTS

7.1 **Power to Assess.** The Association may levy Assessments. The Assessments levied by the Association shall be used for the purpose of carrying out the powers and obligations of the Association as provided in ARTICLE 6 above. The obligation to pay assessments under this Declaration shall commence upon adoption of the initial budget by the Board and the levying of Assessments in accordance with this ARTICLE 7.

7.2 **General Assessments.**

(a) **Budget.** At least 60 days prior to the beginning of each fiscal year, the Board shall prepare a budget of the estimated Association Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 7.7 below. The budget shall also reflect the sources and estimated amount of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments, and the amount to be generated through the levy of General Assessments and Special Assessments as authorized in accordance with this ARTICLE 7.

(b) **Allocation.** General Assessments shall commence upon the recordation of this Declaration in the Official Records of Multnomah County, Oregon. The General Assessments shall be allocated among the three Apartment Projects in Harrison Center based on the relative number of residential Units in each building, as compared to the total number of residential Units in Harrison Center combined. Each building's portion of the General Assessments shall be billed by the Association to the owner of each Apartment Project. Upon the formation of each Condominium Owners Association, the Association shall then bill each Condominium Owners Association for its corresponding share of the General Assessments, and each Condominium Owners Association shall in turn assess its Owners a proportional share.

(c) **Payment.** General Assessments shall be paid in such manner and on such dates as the Association may establish. Each Condominium Owners Association shall include as a line item in its common expense budget and shall be responsible for collecting and paying to the Association the total amount of the Assessments levied by the Association against such association. Such amounts shall have first priority for payment out of the income of the Association. Until the Turnover Meeting, any obligation of Declarant to pay Assessments may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

7.3 **Special Assessments.** The Board may levy during any fiscal year a Special Assessment, applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement or for any other one-time expenditure not to be paid for out of General Assessments. Special Assessments for acquisition or construction of new capital

improvements or additions which in the aggregate in any fiscal year exceed an amount equal to fifteen percent (15%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the voting rights voting on such matter, together with the written consent of Declarant prior to the Turnover Meeting. Special Assessments shall be apportioned as provided in Section 7.2(a) and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board.

7.4 **Emergency Assessments.** If the General Assessments levied at any time are or will become inadequate to meet all expenses incurred under this Declaration for any reason, the Board shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis. Emergency Assessments shall be apportioned as set forth in Section 7.2(a) above and payable as determined by the Board.

7.5 **Individual Assessments.** Any Association Expense or any part of an Association Expense benefiting fewer than all of the Units, may be assessed exclusively against the corresponding Condominium Owners Association which governs the benefited Units as an Individual Assessment. Individual Assessments shall also include Assessments levied against any Unit or Owner to reimburse the Association for costs incurred in bringing such Unit or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Individual Assessments relating to violations of the Rules and Regulations or Declaration shall be assessed directly against the violating Unit or Owner. Unless otherwise provided by the Board, the Individual Assessments shall be due 30 days after the Association has given written notice thereof to the Owner or Condominium Owners Association(s) subject to the Individual Assessment.

7.6 **Operations Fund.** The Association shall keep all funds received by it as Assessments, other than reserves described in Section 7.7, separate and apart from its other funds, in an Operations Fund held in a bank account in the State of Oregon in the name of the Association.

7.7 **Reserve Fund.**

(a) **Establishment of Account.** Declarant shall conduct a reserve study as described in paragraph (c) of this Section and establish a Reserve Fund in a bank account in the State of Oregon in the name of the Association for replacement of the Community Facilities that will normally require replacement in whole or in part in more than three (3) and less than thirty (30) years, and for other items, whether or not involving Community Facilities, if the Association has responsibility to maintain the items. The Reserve Fund need not include those items that could reasonably be funded from operating Assessments or for those items for which one or more Owners are responsible for maintenance and replacement under the provisions of this Declaration or the Bylaws.

(b) **Funding of Reserve Fund.** The Reserve Fund shall be funded by Assessments against the individual Unit assessed for maintenance of the items for which the Reserve Fund is being established, which sums shall be included in the regular General

Assessment for the Unit. The Reserve Fund shall be established in the name of the Association. The Association is responsible for administering the Reserve Fund and making periodic payments into it.

(c) **Reserve Studies.** The reserve portion of the initial Assessment determined by Declarant shall be based on a reserve study described in this paragraph (c) or other sources of information. The Board annually shall conduct a reserve study, or review and update an existing study, to determine the Reserve Fund requirements and may adjust the amount of payments as indicated by the study or update and provide other reserve items that the Board, in its discretion, may deem appropriate. The reserve study shall include:

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

(d) **Use of Reserve Fund.** The Reserve Fund shall be used only for the purposes for which the reserves have been established and shall be kept separate from other funds. After the Turnover Meeting, however, the Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. Nothing in this Section shall prohibit prudent investment of the Reserve Fund. In addition to the authority of the Board under paragraph (c) of this Section, following the second year after the Turnover Meeting, the Board may elect to reduce or increase future Assessments for the Reserve Fund by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Board and may, on an annual basis by a unanimous vote, elect not to fund the Reserve Fund. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Units. Sellers of the Units, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

7.8 **No Waiver.** Failure of the Board to fix Assessment amounts or rates or to deliver or mail each Condominium Owners Association an Assessment notice shall not be deemed a waiver, modification, or a release of any Condominium Owners Association from the obligation to pay Assessments. In such event, each Condominium Owners Association shall continue to pay Assessments on the same basis as during the last year for which an Assessment was made, if any, until a new Assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

ARTICLE 8

ENFORCEMENT

8.1 **Violation of Declaration or Rules and Regulations.** In the event any Person violates the restrictions contained in this Declaration or the Rules and Regulations adopted pursuant to this Declaration, then the Association acting through its Board shall notify such Person in writing of any such specific violations and require the Person to remedy or abate the same. If the Person is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, then the Association, acting through its Board, after notice and reasonable opportunity to be heard, shall have the right to do any or all of the following:

(a) Assess reasonable fines against such Person based upon a resolution adopted by the Board that is delivered to each Condominium Owners Association, mailed to the mailing address of each Unit or mailed to the mailing address designated by the Owner of each Unit in writing, which fines shall constitute Individual Assessments for purposes of this Declaration;

(b) Exclude such Person from use of the Community Facilities until the violation has been corrected and for any additional reasonable period of time determined by the Association. In no event shall the Association deprive any Owner of access to and from the Owner's Unit;

(c) In the event of construction of an improvement in violation of this Declaration, remove, alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform to this Declaration, in which case the Association may assess to such Person the entire cost of the work done; or

(d) Bring suit or action against such Person on behalf of the Association to enforce this Declaration and to recover the amount of any damages to the Community Facilities, fines or other charges imposed pursuant to this Declaration.

8.2 **Interest, Expenses and Attorneys' Fees.** Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at 12% per annum, or such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board, which resolution is delivered to each Unit, mailed to the mailing address of each Unit or mailed to the mailing address designated by the Owner in writing, together with all expenses incurred by the Association in collecting such unpaid assessments, including attorneys' fees (whether or not suit is instituted). In the event the Association shall bring any suit or action to enforce this Declaration or incurs any costs or collection agency charges to collect any money due under this Declaration, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, with or without litigation, including attorneys' fees. The prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any

appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy issues or remedies.

8.3 **Responsibility of Owners.** An Owner shall be responsible for the actions of such Owner's family members, contractors, social or business invitees, agents, employees and lessees and shall be equally liable to the Association for any violations by such Persons. Any damages, fines, or charges imposed on an Owner pursuant to this Declaration will be charged to such Owner in accordance with Section 7.5.

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

8.5 **Dispute Resolution.**

(a) **Mediation.**

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

(ii) If the party receiving the offer does not accept the offer within ten (10) days after receipt of the offer, such acceptance to be made by written notice, hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party, the initiating party may commence the litigation, arbitration or 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.

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

(iv) Unless a stay has been granted under paragraph (c) of this Section, if the dispute resolution process is not completed within thirty (30) days after receipt of the initial

offer, the initiating party may commence litigation, arbitration or an administrative proceeding without regard to whether the dispute resolution is completed.

(v) Once made, the decision of the court, arbitrator or administrative body arising from litigation, arbitration or an administrative proceeding may not be set aside on the grounds that an offer to use

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

(c) **Survival.** The mediation and arbitration agreement set forth in this Section 8.5 shall survive the transfer by any party of its interest or involvement in Harrison Center and any Unit therein and the termination of this Declaration.

ARTICLE 9

AMENDMENT AND REPEAL

9.1 **How Proposed.** Amendments to or repeal of this Declaration shall be proposed by at least fifty percent (50%) of the Board. The proposed amendment or repeal must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment or repeal.

9.2 **Approval Required.** This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of Harrison Center, may be amended or repealed by the vote or written consent of all of the voting rights in the Association. All votes or consents of the Board under this Article shall be cast as provided in Section 6.3.

9.3 **Recordation.** Any such amendment or repeal shall become effective only upon Recordation in the Deed Records of Multnomah County, Oregon of a certificate of the president and secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that such amendment, amendments or repeal have been approved in the manner required by this Declaration and ORS 94.590, and acknowledged in the manner provided for acknowledgment of deeds.

9.4 **Regulatory Amendments.** Notwithstanding the provisions of Section 9.2 above, until the Turnover Meeting has occurred, Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of any applicable statute, ordinance or regulation or of the Federal Housing Administration; the United States Department of Veterans Affairs; the Farmers Home Administration of the United States; the Federal National Mortgage Association; the Government National Mortgage Association; the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon; or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community. After the Turnover Meeting, any such amendment shall require the approval of a majority of the voting rights of the Association voting in person, by proxy or by ballot at a meeting or ballot meeting of the Association at which a quorum is represented.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 **No Implied Obligations.** Nothing in this Declaration shall be construed to require Declarant to improve or develop any of the Property or to do so for any particular uses.

10.2 **Right to Transfer or Assign Declarant's Rights.** Any or all of the Declarant's rights reserved by Declarant under this Declaration and related obligations may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant then has under this Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and Recorded. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment.

10.3 **Duration.** Unless repealed or terminated in accordance with the provisions of Article 9 this Declaration shall have perpetual duration. If State of Oregon law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless repealed in accordance with the provisions of ARTICLE 9 above.

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

10.5 **Lessees and Other Invitees.** Lessees, licensees, social or business invitees, contractors, agents, employees, family members, guests, and other Persons entering the Property under rights derived from an Owner shall comply with all of the applicable provisions of this Declaration. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such Persons in the same manner and to the same extent as if the failure had been committed by such Owner.

10.6 **Nonwaiver.** Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.7 **Construction; Severability; Number; Captions.** This Declaration shall be governed and construed under the laws of the State of Oregon. It shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory Sections hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

10.8 **Terminology and Captions.** As used in this Declaration, the singular shall include the plural and the plural the singular, and 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 this Declaration.

10.9 **Notices and Other Documents.** Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: (a) If to Declarant or the Association, 4640 SW Macadam Avenue, #260, Portland, Oregon 97239; (b) if to a Condominium Owners Association, to the address designated by such Condominium Owners Association in writing, or at the principal office of such Condominium Owners Association; or (c) if to an Owner, to such Owner at the address of such Owner's Unit within the jurisdiction of the Association or such other address as it has registered with the Association. The address of a party may be changed at any time by notice in writing delivered as provided in this Section.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first written above.

PORTLAND CENTER INVESTORS LLC,
a Delaware limited liability company

By: **PORTLAND CENTER MEZZANINE LLC,**
a Delaware limited liability company, Manager

By: **PORTLAND CENTER HOLDING COMPANY LLC,**
a Delaware limited liability company, Manager

By: S&T-WDD DEVELOPMENT, LLC, an Oregon
limited liability company, Manager

By: WILLIAMS & DAME DEVELOPMENT,
INC., an Oregon corporation, Co-Manager

By: _____

Print Name: _____

Its: _____

By: S&T DEVELOPMENT- PORTLAND
CENTER, LLC, an Oregon limited liability
company, Co-Manager

By: _____

Print Name: _____

Its: _____

This instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of Williams & Dame Development, Inc., an Oregon corporation, on its behalf.

STATE OF OREGON)
COUNTY OF _____)ss.

This instrument was acknowledged before me this ____ day of _____, 20 __, by _____, as _____ of S& T Development-Portland Center, LLC, an Oregon limited liability company, on its behalf.

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EXHIBIT A

Legal Description of the Property

EXHIBIT B

Bylaws

ADDENDUM _____

Comment [COMMENT1]: Status:
DOCUMENT WAS ORIGINALLY
CREATED ON June 21, 1999 AS
FINAL. MAY CONTAIN DATE
CODES.

PARKING SPACE EASEMENT ADDENDUM TO UNIT SALES AGREEMENT

The following is a part of Unit Sales Agreement dated _____, 20__ between
PORTLAND CENTER INVESTORS, LLC, a Delaware limited liability company ("Seller") and
_____, ("Purchaser") relating to
Living Unit _____, Harrison West Condominiums.

Seller and Purchaser agree as follows: At closing of the sale of the above unit, Seller will grant
to Purchaser an easement to use Parking Space _____ in the parking garage located at 200 SW Harrison,
Portland, Oregon (the "Parking Space") pursuant to a Parking Space Easement Agreement substantially
in the form attached to this Addendum. Purchaser understands that the Parking Space Easement
Agreement requires Purchaser to pay a prorata share of the costs of operating and maintaining the parking
garage facility.

Check as applicable:

- ☐ The purchase price on page 1 of the Agreement includes the easement fee for the Parking
Space in the amount of \$_____.
☐ The purchase price on page 1 of the Agreement is hereby increased by \$_____ as
the easement fee for the Parking Space, for a total purchase price of \$_____.
☐ The earnest money deposit is hereby increased by \$_____ to a total of
\$_____.

Seller makes no representations as to whether the appraised value of the unit for financing
purposes will reflect the easement fee for the Parking Space. If it does not, Purchaser will not be able to
finance this fee.

All other terms and conditions of the Unit Sales Agreement remain unchanged.

PURCHASER:

Date: _____, 20__

Date: _____, 20__

SELLER:

PORTLAND CENTER INVESTORS, LLC,
a Delaware limited liability company

By: _____
Authorized Signer

Date: _____, 20__