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**OWNER AND DECLARANT IS:**  
Shute School Estates, LLC  
an Oregon limited liability company  
8733 SE Division, Suite 201  
Portland, OR 97266

01131273200700691490060062  
I, Richard Hobernicht, Director of Assessment and  
Taxation and Ex-Officio County Clerk for Washington  
County, Oregon, do hereby certify that the within  
instrument of writing was received and recorded in the  
book of records of said county.  
*Richard Hobernicht*  
Richard Hobernicht, Director of Assessment and  
Taxation, Ex-Officio County Clerk



**THE NAME OF THE PLANNED COMMUNITY IS:**  
Shute School Estates

**THIS DOCUMENT IS:**  
First Amendment to the Declaration of Conditions, Covenants,  
Restrictions and Easements for Shute School Estates

**RECORDED AT THE REQUEST OF AND  
AFTER RECORDING RETURN TO:**  
Warner E. Allen, Esq.  
Warren Allen LLP  
850 NE 122<sup>nd</sup> Avenue  
Portland, OR 97230-2096

**RECORDING COVER SHEET FOR THE  
FIRST AMENDMENT TO THE DECLARATION OF CONDITIONS, COVENANTS,  
RESTRICTIONS AND EASEMENTS FOR SHUTE SCHOOL ESTATES  
FOR WASHINGTON COUNTY, OREGON**

Not to be used for record by Fidelity  
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only. It has not been recorded as to its execution  
or as to its effect upon the title 812032

**FIRST AMENDMENT TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND  
EASEMENTS FOR SHUTE SCHOOL ESTATES**

Shute School Estates, LLC, ("Declarants") submitted the property recorded as Shute School Estates plat records of Washington County, Oregon to certain protective covenants, conditions, restrictions, and easements for Shute School Estates. The Declaration was made the 1<sup>st</sup> day Sept of \_\_\_\_\_, 2005 and recorded the 14<sup>th</sup> day of September, 2005 in Washington County as recorder fee number 2005-112297

THIS DECLARATION is made this 20<sup>th</sup> day of June, 2007 by Shute School Estates, LLC ("Declarant").

**RECITALS:**

A. Declarant is the owner and controls all of the property in the City of Hillsboro, County of Washington, State of Oregon, described as lots 1 through 24 and tracks A and B of the Plat of Shute School Estates recorded the 14<sup>th</sup> day of September, 2005, recorded as Washington County document number 2005-112297 (the property).

B. Declarant caused to be recorded a Declaration of Protective Covenants, Conditions, Restrictions and Easements for Shute School Estates dated the 1<sup>st</sup> day of September, 2005, recorded the 14<sup>th</sup> day of September, 2005, Washington County Recorder No. 2005-112297

C. None of the lots have been sold and Declarant is still the owner of all of the lots in Shute School Estates.

D. Declarant intends to develop the property as a Class I planned community under ORS 94.550 and to establish the planned development project of Shute School Estates. Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the property under a comprehensive general plan of improvement and development for the benefit of all of the owners, the lots and common area within Shute School Estates.

E. Declarant has deemed it desirable for the preservation of the values and amenities in Shute School Estates to create a non-profit, mutual benefit corporation, to which will be delegated and assigned the powers and authority to own, maintain and administer the Association and the common area and facilities in administering the force, the covenants, conditions and restrictions of this Declaration, and to collect and disburse the assessments and charges hereinafter created.

F. NOW, THEREFORE, the Declarant declares that the property shall be held, transferred, sold, conveyed, and occupied subject to the conditions, covenants, restrictions, easements, charges and liens as noted in the Declaration above-referenced as hereby amended. Said covenants, restrictions, easements, charges and liens shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the property, or any part thereof and shall inure to the benefit of the Association and of each lot owner.

NOW, THEREFORE, the Declarant adopts the following Amendment to the above-referenced Declaration.

**Article 1: "Definitions" is hereby deleted in its entirety and replaced with the following language:**

ARTICLE 1  
DEFINITIONS

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

1.1 "Articles" shall mean the Articles of Incorporation for the nonprofit corporation Shute School Estates Homeowners Association, or such similar name approved by and filed with the Oregon Corporations Commissioner.

1.2 "Association" means the nonprofit corporation to be formed to serve as an Owners' association as provided in Article 6 of the Declaration, and its successors and assigns.

1.3 "Board of Directors" Shall mean the Board of Directors of Shute School Estates Homeowners Association.

1.4 "Bylaws" Shall mean and refer to the Bylaws of the Association.

1.5 "Common Areas" means those lots or tracts designated as common in this Declaration, or in any plat of the Property, including improvements thereon.

1.6 "Declarant" means Shute School Estates, LLC.

1.7 "Declaration" shall mean the covenants, conditions, restrictions and all of the provisions set forth in this Declaration of protective covenants, conditions, restrictions and easements for Shute School Estates.

1.8 "General Common Expenses" shall mean those common area expenses incurred by the Association for the benefit of all of the owners of the lots within the property.

1.9 "Initial Development" means the property described in Section 2.1 below.

1.10 "Lot" means a numerically designated and platted lot within the property (including the unit located on such Lot), with the exception of any tract or lot marked on the plat as being common, open space or dedicated to the City of Hillsboro.

1.11 "Members" shall mean and refer to the owner of a lot or lots in Shute School Estates who are members of the Shute School Estates Homeowners' Association.

1.12 "Mortgage" means a mortgage or a deed of trust; "mortgagee" means a mortgagee or a beneficiary of a deed of trust "mortgagor" means a mortgagor or a grantor of a deed of trust.

1.13 "Owner" means the person or persons, including Declarant, owning any lot in the property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a lot. The rights, obligations and other status of being an owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an owner from obligations incurred prior to termination.

1.14 "The Property" means the initial development as shown on the plat.

1.15 "Sold" means that legal title has been conveyed or that a contract of sale has been executed under which the purchaser has obtained the right to possession.

1.16 "This Declaration" means all of the easements, covenants, restrictions and charges set forth herein, together with any rules or regulations promulgated hereunder, as the same may be amended.

1.17 "Turnover Meeting" shall be the meeting called by the Declarant to turnover control of the Association to the Class A members in accordance with section 6.7.

1.18 "Unit" means a building or a portion of a building located upon a lot within the property and designated for separate occupancy as a dwelling, together with any attached deck.

**Section 4.3 is deleted in its entirety and replaced with the following language:**

**4.3 Party Walls.**

(a) General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon the lots and placed on the dividing line between the lots and each common foundation under said wall and each roof over such wall shall constitute a party wall and to the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall, including the foundation under said wall, and the roof over such wall shall be shared by the owners who make use of the wall or roof in proportion to such uses.

(c) Destruction by Fire or Other Casualty. If a party wall or roof over it, or common foundation under it, is destroyed or damaged by fire or other casualty, any owner who has used the wall, the common foundation, or the roof shall restore it and if the other owners thereafter make use of the wall, common foundation, or the roof, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice; however, to the right of any such owner to call for a larger contribution to the others, any rule of law regarding liability or negligence or willful act or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Article, any owner who was negligent, or who by his negligent or willful act causes the party wall, the common foundation, or roof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) Right to Contribute. Contribution runs with land. The right of any owner to contribution from any other owner under this Article shall be pertinent to the land and shall pass to such owner successors entitled.

(f) Arbitration. In the event of any dispute arising concerning the party wall or roof over it, or under the provisions of this Section 4.3, the Board of Directors of the Association shall act as arbitrators and their decision shall be final.

(g) Access. Access to adjoining units for purposes of carrying out the provisions of this section 4.3 shall not be denied.

**Section 5.11 is hereby deleted in its entirety and replaced with the following language:**

5.11 Alterations. Exterior painting, maintenance and roof repair or replacement will be performed by the unit owners. Owners are prohibited from changing the exterior color of the building or other structure without the written permission of the Association. No structure may be installed outside of units except structures, including without limitation courtyard fences, installed by the Declarant or the

Association, or installed by an owner with written approval of the Association.

**Section 6.5 (a) is deleted in its entirety and replaced with the following language:**

6.5 (a) Maintenance and Services. The Association shall provide maintenance and services for the common areas as provided in Article 7 and other provisions of this Declaration.

**Section 7.1 is deleted in its entirety and replaced with the following language:**

7.1 Exterior Maintenance. The Association shall have no responsibility to provide any maintenance upon any of the units or the lots. Each unit owner shall be responsible to provide for all exterior maintenance to include paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, exterior garage lights and other exterior improvements. Notwithstanding the obligations of the owner to provide for all maintenance of the unit and the property, except for the common areas, no unit owner shall change the color of the exterior of the units without the prior written consent of the Association. In the event that a unit owner fails to adequately and appropriately maintain the exterior of the unit to include paint repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, exterior garage lights and other exterior improvements, replacement of doors, windows and other glass surfaces, the Association, after ten days notice to the unit owner may proceed to provide such maintenance repair and replacement and charge the unit owner with the expense of such maintenance, repair or replacement. In such event, all such expenses incurred by the Association in carrying out the maintenance duties of the unit owner shall be deemed an assessment against the unit owner and treated as any other assessment under Article 8 hereof.

**Section 7.9 is hereby deleted in its entirety and replaced with the following language:**

7.9 Damage or Destruction by Casualty. In the event of damage or destruction that affects a material portion of any unit or of the property, timely notice shall be given to the owners and their mortgagees and the following provision shall apply.

(a) In the event of damage or destruction by casualty of common areas or in the structures erected on the common areas, the damage or destruction shall be repaired, reconstructed or rebuilt, unless within fourteen (14) days of such damage or destruction, the Board of Directors, or more than 10 percent of the owners shall have requested a special meeting of the Association. Such special meeting must be held within 30 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 the mortgagees, if and as required by this Declaration vote not to repair, reconstruct, or rebuild the damaged property, the damage or destruction shall not be repaired, reconstructed or rebuilt. In the event any portion of the insurance proceeds paid to the Association are not used to repair, reconstruct or rebuild the damage or destroyed common areas, the Association shall deposit the funds in the operating fund or apply the same to such capital improvements as may be authorized pursuant to this Declaration. If the insurance proceeds are not sufficient to pay the entire costs, the Board of Directors, if necessary, may assess the owner of each unit such additional amounts as are required to pay the cost of restoration.

(b) In the event of damage or destruction by casualty of structures erected on a lot in the property, the unit owner shall promptly repair, reconstruct or rebuild all of the damage and destruction. In the event that a unit owner fails to promptly undertake the repair, reconstruction or rebuild of the damage to the unit, the Association may undertake the repair, reconstruction or rebuild of the damaged unit in which case the Association shall have a right to the assignment of all insurance proceeds available for such repair, reconstruction or rebuild. In the event that insurance proceeds are insufficient to pay the entire cost of such repair, reconstruction, or rebuild, the Association shall have a right to assess the unit owner for all such expenses not otherwise covered by insurance and such assessment shall be treated as an assessment under Article 8 hereof.

Except as amended, the balance of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Shute School Estates shall continue in full force and effect.

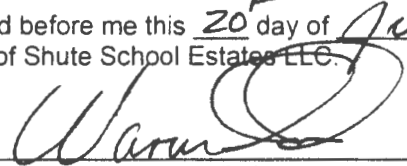
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date set forth above.

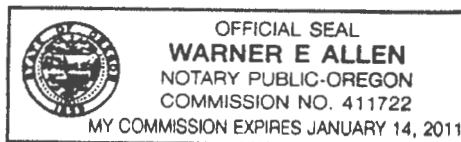
SHUTE SCHOOL ESTATES LLC

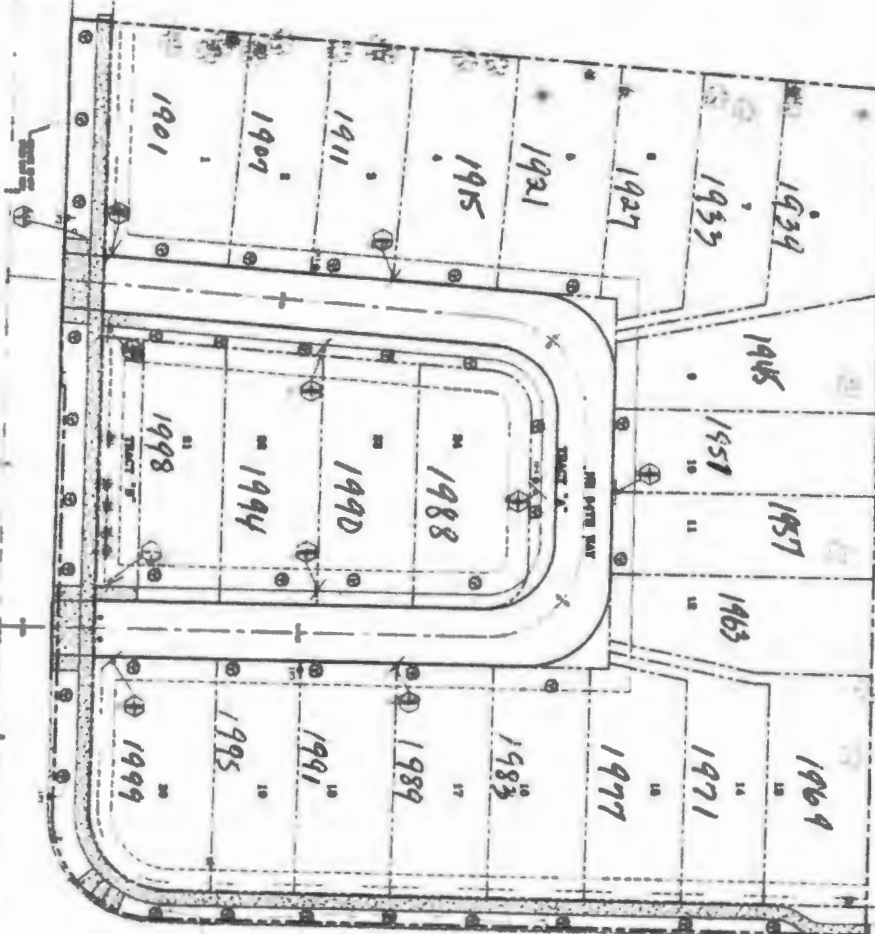
By   
Declarant, Manager

STATE OF OREGON     )  
                                  ) ss.  
County of Multnomah    )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 2007  
by Samson Cheung, Manager of Shute School Estates LLC.

  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 1/18/11





N.E. AIRPORT ROAD

N.E. SHUTE ROAD

STORAGE AND STREET TREE PLAN

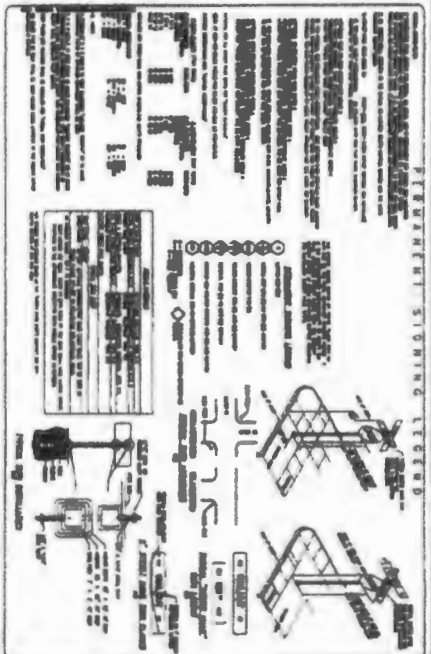
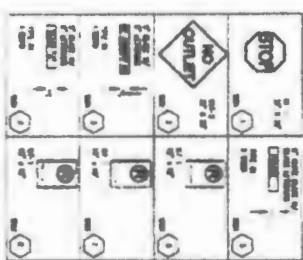


POS339-12  
12 OF 18

STREET LIGHT NOTE:  
ALL LIGHTS TO BE 15' TALL, 150W, 120V, 1200HRS. ALL LIGHTS TO BE 15' TALL, 150W, 120V, 1200HRS. ALL LIGHTS TO BE 15' TALL, 150W, 120V, 1200HRS.

AS-BUILT  
7-20-2008

CASE FILE: SUB 3-04



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1353

SHUTE SCHOOL ESTATES LLC  
7800 SW 136th  
HILLSBORO, OREGON 97008  
(503) 641-2910

SHUTE, Inc.  
1000 SW 136th  
Hillsboro, OR 97008  
(503) 641-2910

10-BUILT  
7-20-08

STORAGE & STREET TREE PLAN

SHUTE SCHOOL ESTATES  
1910 NE SHUTE ROAD  
HILLSBORO, OREGON  
97008-3824  
WASHINGTON COUNTY

Washington County, Oregon

2005-112298

08/14/2005 03:32:52 PM

D-R/B

Cnt=3 Stn=3 T/EAKIN

\$100.00 \$10.00 \$6.00 \$11.00 - Total = \$127.00



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

*Jerry Hanson*

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





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

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



**OWNER AND DECLARANT IS:**

Shute School Estates, LLC  
an Oregon limited liability company  
8733 SE Division, Suite 201  
Portland, OR 97266

**THE NAME OF THE PLANNED COMMUNITY IS:**

Shute School Estates

**THIS DOCUMENT IS:**

Shute School Estates Homeowner's Association Bylaws

**RECORDED AT THE REQUEST OF AND  
AFTER RECORDING RETURN TO:**

Warner E. Allen, Esq.  
Warren Allen LLP  
850 NE 122<sup>nd</sup> Avenue  
Portland, OR 97230-2096

**RECORDING COVER SHEET FOR THE  
BYLAWS OF SHUTE SCHOOL ESTATES HOMEOWNER'S ASSOCIATION  
FOR WASHINGTON COUNTY, OREGON**

812032  
if it is not the first for record by Priority  
Recording Co. Company as an accommodation  
only. It has not been examined by its execution  
or as to its effect upon the file

## TABLE OF CONTENTS

	<u>Page</u>
<b>BYLAWS OF .....</b>	<b>1</b>
<b>ARTICLE 1. DEFINITIONS.....</b>	<b>1</b>
1.1 Association .....	1
1.2 Articles of Incorporation.....	1
1.3 Declaration.....	1
1.4 Incorporation.....	1
<b>ARTICLE 2. MEMBERSHIP .....</b>	<b>1</b>
2.1 Membership.....	1
2.2 Membership List.....	1
<b>ARTICLE 3. MEETINGS AND VOTING.....</b>	<b>2</b>
3.1 Place of Meetings .....	2
3.2 Turnover Meeting.....	2
3.3 Annual Meeting .....	2
3.4 Special Meetings.....	2
3.5 Notice of Meeting .....	2
3.6 Quorum.....	3
3.7 Voting Rights .....	3
3.8 Fiduciaries and Joint Owners.....	3
3.9 Tenants and Contract Vendors.....	4
3.10 Absentee Ballots and Proxies.....	4
3.12 Rules of Order.....	4
3.13 Ballot Meetings.....	5

ARTICLE 4. BOARD OF DIRECTORS & MEETINGS.....	6
4.1 Number and Qualification.....	6
4.2 Interim Directors.....	6
4.3 Transitional Advisory Committee.....	6
4.4 Election and Tenure of Office.....	6
4.5 Vacancies.....	7
4.6 Removal of Directors.....	7
4.7 Powers.....	7
4.8 Meetings.....	9
4.9 Open Meetings.....	9
4.10 Notice of Meetings.....	10
4.11 Quorum and Vote.....	11
4.12 Liability.....	11
4.13 Compensation.....	11
4.14 Executive, Covenants and Other Committees.....	11
4.15 Enforcement Procedures.....	11
ARTICLE 5. OFFICERS.....	12
5.1 Designation and Qualification.....	12
5.2 Election and Vacancies.....	12
5.3 Removal and Resignation.....	13
5.4 President.....	13

5.5	Secretary.....	13
5.6	Treasurer.....	14
5.7	Compensation of Officers.....	14
ARTICLE 6. ASSESSEMENTS, RECORDS AND REPORTS.....		14
6.1	Assessments.....	14
6.2	Records.....	15
6.3	Statement of Assessments Due.....	15
6.4	Inspections of Books and Records .....	15
6.5	Payment of Vouchers .....	16
6.6	Execution of Documents.....	16
6.7	Reports and Audits.....	16
ARTICLE 7. INSURANCE .....		17
7.1	Types of Insurance.....	17
7.2	Insurance by Lot Owners.....	18
7.3	Planned Community Requirements.....	18
ARTICLE 8. GENERAL PROVISIONS.....		18
8.1	Seal.....	18
8.2	Notice.....	18
8.3	Waiver of Notice .....	19
8.4	Action without Meeting.....	19
8.5	Conflicts.....	19

ARTICLE 9. AMENDMENTS TO BYLAWS.....	19
9.1 How Proposed .....	19
9.2 Adoption.....	19
9.3 Relationship to Declaration.....	20
9.4 Execution and Recording.....	20

BYLAWS OF  
SHUTE SCHOOL ESTATES HOMEOWNER'S ASSOCIATION

ARTICLE 1.

DEFINITIONS

1.1 Association. "Association" means SHUTE SCHOOL ESTATES HOMEOWNER'S ASSOCIATION, a nonprofit corporation organized and existing under the laws of the State of Oregon.

1.2 Articles of Incorporation. "Articles of Incorporation" means Articles of Incorporation of the Association.

1.3 Declaration. The Declaration means the Declaration of Protective Covenants, Conditions, and Restrictions and Easements for Shute School Estates Homeowner's Association, to which these Bylaws are attached, as the same may be subsequently amended or supplemented pursuant to the terms thereof.

1.4 Incorporation by Reference. Except as otherwise provided herein, the terms that are defined in Article I of the Declaration are used in these Bylaws as therein defined.

ARTICLE 2.

MEMBERSHIP

2.1 Membership. Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such ownership, 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.

2.2 Membership List. The Secretary shall maintain at the principal office of the Association a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership "a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board of Directors.

ARTICLE 3.  
MEETINGS AND VOTING

3.1 Place of Meetings. Meetings of the members of the Association shall be held at such reasonable place convenient to the members as may be designated in the notice of the meeting.

3.2 Turnover Meeting. Declarant shall call the first meeting of the Owners to organize the Association within ninety (90) days after termination of the Class B membership as provided in Section 3.7 below. Notice of such meeting shall be given to all Owners as provided in Section 3.5. If the Declarant fails to call the meeting, the meeting may be called and notice given by any Owner or mortgagee of a Lot. The expense of giving notice shall be paid or reimbursed by the Association. No quorum is required for the Turnover Meeting. Nothing in this section shall be construed as preventing Declarant from calling the Turnover Meeting before such date or from calling informal, informational meetings of the Owners.

3.3 Annual Meeting. The annual meeting of the members for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day as may be established by the Board of Directors or, if the Board should fail to designate a date by the first day of September, then the meeting shall occur at 7:00 p.m. on the first (1st) Thursday in November. An annual meeting shall be held within each calendar year, commencing with the year in which the transfer of title occurs for the first lot to an Owner other than the Declarant, the Declarant's successors or assigns. The Turnover Meeting may count as the annual meeting for the year in which it is held.

3.4 Special Meetings. A special meeting of the Association may be called at any time by the President or by a majority of the Board of Directors. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from members having at least thirty percent (30%) of the voting rights entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

3.5 Notice of Meeting.

(a) Written or printed notice stating the place, day and hour of the meeting, the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, any proposal to remove a director or officer and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) or more than fifty (50) days before the date of the meeting. Such notice shall be given either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member entitled to vote at such meeting and to all mortgagees who have requested such notice. Notices to Declarant shall be mailed. If mailed, such notices shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the member at his or her most recent address as it appears on the records of the Association or to the mailing address of his or her Lot.

(b) When a meeting is adjourned for thirty (30) days or more, or when a re-determination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases, no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

3.6 Quorum. At any meeting of the Association members having at least twenty percent (20%) of the voting rights entitled to be cast at such meeting, present in person or by proxy, shall constitute a quorum, except when a larger quorum is required by the Declaration. No quorum is required for the Turnover Meeting. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a member or members. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time not less than forty-eight (48) hours or more than thirty (30) days from the time the original meeting was called until a quorum is present. The quorum for the adjourned meeting shall be reduced to ten percent (10%) of the voting rights entitled to be cast at the meeting, present in person or by proxy.

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

(a) Residential Lots. Each Lot shall be entitled to one vote.

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

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to voting rights for each Lot owned computed in accordance with Section (a) above. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more voting rights be cast with respect to any Lot than as set forth in Section (a) above.

Class B. The Class B member shall be Declarant and shall be entitled to three times the voting rights computed under Section (a) for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier.

(i) When all of the Lots in Shute School Estates have been sold and conveyed to Owners other than a successor Declarant or a builder for development; or

(ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

3.8 Fiduciaries and Joint Owners. An executor, administrator, guardian or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided that such person shall satisfy the Secretary that he

or she is the executor, administrator, guardian or trustee, holding such Lot in such capacity. Whenever a Lot is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-Owner. In the event of disagreement among the co-Owners, the vote of such Lot shall be disregarded completely in determining the proportion of votes given with respect to such matter, unless a valid court order establishes the authority of a co-Owner to vote.

3.9 Tenants and Contract Vendors. Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a Lot shall be exercised by the Owner. Unless otherwise stated in the contract, all voting rights allocated to a Lot shall be exercised by the vendee of any recorded land sale contract on the Lot.

3.10 Absentee Ballots and Proxies. A vote may be cast in person, by absentee ballot 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 and signed by such Owner, and shall be filed with the secretary, at any time prior to or at the start of the meeting. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one year after its date unless the proxy specifies a shorter term. Every proxy shall automatically cease upon sale of the Lot by its Owner. An Owner may pledge or assign such Owner's voting rights to a mortgagee. In such a case, the mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled under these Bylaws and to exercise the Owner's voting rights from and after the time 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.

3.11 Majority Vote. The vote of a majority of the voting rights entitled to be cast by the members present or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by law, by the Declaration, by the Articles of Incorporation, or by these Bylaws.

3.12 Rules of Order. Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Association shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

### 3.13 Ballot Meetings.

(a) At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every member who is entitled to vote on the matter, provided, however, that a ballot meeting may not substitute for the Turnover Meeting or, if a majority of the Lots 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.

(b) The Board of Directors shall provide Owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board of Directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner, and instructions for mailing 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 paragraph (c) of this section, written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(c) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of Lot 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 Lot 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 paragraph (b) of this section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(d) All solicitations for votes by written ballot shall state the number of responses needed to meet any applicable quorum requirement and the total percentage of votes needed for approval. All such solicitations for votes 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, (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 by which all ballots must be returned to be counted. A written ballot may not be revoked.

## ARTICLE 4.

### BOARD OF DIRECTORS & MEETINGS

4.1 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors of three (3) persons. All directors, other than interim directors appointed by Declarant, shall be Owners or co-Owners of Lots. For purposes of this section, the officers of any corporate Owner, the members of any limited liability company and the partners of any partnership shall be considered co-Owners of any Lots owned by such corporation or partnership.

4.2 Interim Directors. Upon the recording of the Declaration, Declarant shall appoint an interim board of three (3) directors, who shall serve until replaced by Declarant or until their successors have been replaced by the Owners as provided below.

4.3 Transitional Advisory Committee. Unless the Turnover Meeting has already been held, Declarant shall call a meeting of the Owners for the purpose of forming a Transitional Advisory Committee. The meeting shall be called within sixty (60) days after the date Declarant conveys fifty percent (50%) or more of the Lots then existing in Shute School Estates to Owners other than a successor Declarant. The committee shall consist of two (2) or more Owners elected by the Owners other than Declarant and not more than one (1) representative of Declarant. The members shall serve until the Turnover Meeting. The Transitional Advisory Committee shall be advisory only, and its purpose shall be to enable ease of transition from administrative control of the Association by Declarant to control by the Owners. The committee shall have access to any information, documents and records that Declarant must turn over to the Owners at the time of the Turnover Meeting. If Declarant fails to call the meeting to elect a Transitional Advisory Committee within the time specified, the meeting may be called and notice given by any Owner. If the Owners fail to elect a Transitional Advisory Committee at the meeting called for such purpose, Declarant shall have no further obligation to form the committee.

#### 4.4 Election and Tenure of Office.

(a) At the Turnover Meeting, the interim directors shall resign and the members shall elect three, (3) directors, two (2) to serve for two (2) years and one (1) to serve for one (1) year. The two nominees receiving the greatest number of votes shall serve for two (2) years. In the event of a tie, term selection shall be by random means. Thereafter the successors to each director shall serve for terms of two (2) years each.

(b) All directors shall hold office until their respective successors shall have been elected by the members. Election shall be by plurality.

#### 4.5 Vacancies.

(a) A vacancy in the Board of Directors shall exist upon the death, resignation or removal of any director, or if the authorized number of directors is increased, or if the members fail at any annual or special meeting of members at which any director or directors are to be elected to elect the full authorized number of directors to be voted for at that meeting. Vacancies in interim directors shall be filled by Declarant.

(b) Vacancies in the Board of Directors, other than interim directors, may be filled by a majority of the remaining directors even though less than a quorum, or by a sole remaining director. Each director so elected shall hold office for the balance of the unexpired term and until his or her successor is elected.

4.6 Removal of Directors. All or any number of the directors, other than interim directors, may be removed, with or without cause, at any meeting of members at which a quorum is present, by a vote of a majority of the number of votes entitled to be cast at an election of directors. No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting as provided in these Bylaws.

4.7 Powers. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law, or by the Declaration, or by these Bylaws may not be delegated to the Board of Directors by the Owners. The Board of Directors may delegate responsibilities to committees or a managing agent, but shall retain ultimate control and supervision. The powers and duties to be exercised by the Board of Directors shall include any provisions in the Declaration, the Oregon Planned Community Act, the Oregon Non-Profit Corporation Act, and the following:

(a) Carry out the program for maintenance, upkeep, repair, and replacement of any property required to be maintained by the Association as described in the Declaration and these Bylaws.

(b) Determine the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

(c) Prepare a budget for the Association, and assessment and collection of the Assessments.

(d) Employ and dismiss such personnel as may be necessary for such maintenance, upkeep and repair.

(e) Employ legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the Board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter unless the Owners have enacted a resolution authorizing

the incurring of such fees by a vote of seventy-five percent (75%) of the voting rights present in person or by absentee ballot or proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitation set forth in this paragraph shall increase by \$500 on each fifth anniversary of the recording of the Declaration. To the extent required by the Oregon Planned Community Act, the Board shall notify the Owners before instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association, the Board shall periodically report to the Lot Owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the Board to disclose any privileged communication between the Association and its counsel.

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

(g) Prepare and file, or cause to be prepared and filed, any required income tax returns or forms for the Association.

(h) Purchase Lots at foreclosure or other judicial sales in the name of the Association or its designee.

(i) Sell, lease, mortgage, vote the votes appurtenant to (other than for the election of directors), or otherwise deal with Lots acquired by the Association or its designee.

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

(k) Make additions and improvements to, or alterations of, the Common Areas, or modify, close, remove, eliminate or discontinue use of any common facility, including any improvement or landscaping, except that any such modification, closure, removal, elimination or discontinuance (other than on a temporary basis) of any swimming pool, spa or recreational or community building must be approved by a majority vote of the members at a meeting or by written ballot held or conducted in accordance with these Bylaws.

(l) From time to time adopt, modify, or revoke such rules and regulations governing the details for the operation of the Association, the conduct of persons and the operation and use of the Lots and Common Areas as the Board of Directors may deem necessary or appropriate to ensure the peaceful and orderly use and enjoyment of the Property. Such action may be overruled or modified by vote of not less than seventy-five percent (75%) of the voting rights of each class of members present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of rules and regulations will be under consideration.

(m) Enforce by legal means the provisions of the Declaration, these Bylaws, Oregon statutes, and any rules and regulations adopted hereunder.

(n) In the name of the Association, maintain a current mailing address of the Association, file annual reports with the Oregon Secretary of State, and maintain and keep current the information required to enable the Association to comply with ORS 94.670(7).

(o) Enter into management agreements with professional management firms and delegate such business and record keeping functions as may be appropriate to said management firm.

#### 4.8 Meetings.

(a) Meetings of the Board of Directors shall be held at such place as may be designated from time to time by the Board of Directors or other persons calling the meeting.

(b) Annual meetings of the Board of Directors shall be held within thirty (30) days following the adjournment of the annual meetings of the members.

(c) Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by any two directors.

(d) Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Board of Directors shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

#### 4.9 Open Meetings.

(a) All meetings of the Board of Directors shall be open to Owners except that, in the discretion of the Board, the following matters may be considered in executive session: (i) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (ii) personnel matters, including salary negotiations and employee discipline; (iii) negotiation of contracts with third parties; and (iv) collection of unpaid assessments. Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in the executive session shall be included in the minutes of the meeting, and any contract or action considered in executive session shall not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which shall be reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the Board of Directors may be conducted by telephonic communication or by other means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting, except that if a majority of the Lots are principal residences of the occupants, then: (i) for other than emergency meetings, notice of each Board of Directors' meeting shall be posted at a place or places on the property at least three (3) 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 or such other means. The meeting and notice requirements of this Section may not be circumvented by chance or social meetings or by any other means.

#### 4.10 Notice of Meetings.

(a) For other than emergency meetings, notice of Board of Directors meetings shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform Lot Owners of such meetings. Notice to Directors shall be considered sufficient if actually received at the required time, or if mailed, e-mailed or faxed not less than three (3) days before the meeting. Such notice shall be directed to the address shown on the Association's records, or to the director's actual address ascertained by the person giving the notice. Such notice need not be given for an adjourned meeting if such time and place is fixed at the meeting adjourned.

(b) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

#### 4.11 Quorum and Vote.

(a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn from time to time, but may not transact any business.

(b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors unless a greater number is required by law, the Declaration, the Articles of Incorporation or these Bylaws.

(c) A director must be present at a meeting of the Board of Directors to cast a vote. No proxy votes by directors for Board actions are permissible.

4.12 Liability. Neither a member of the Board of Directors nor an officer of 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 or her 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 of Directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall 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.

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

4.14 Executive, Covenants and Other Committees. Subject to law, the provisions of the Declaration and these Bylaws, the Board of Directors, may appoint an Executive Committee, a Covenants Committee to be responsible for covenant enforcement as provided in Section 4.15 and such other standing or temporary committees as may be necessary from time to time consisting of Owners and at least one member of the Board of Directors and having such powers as the Board of Directors may designate. Such committees shall hold office at the pleasure of the Board.

4.15 Enforcement Procedures. The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Declaration, these Bylaws or the Rules and Regulations. To the extent specifically required by the Declaration, the Board of Directors shall comply with the following procedures prior to the imposition of sanctions:

(a) Notice. The Board of Directors or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator shall have fourteen (14) days to present a written request for a hearing before the Board of Directors or a covenants committee appointed by the Board of Directors, if any; and (iv) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within fourteen (14) days of the notice.

(b) Response. The alleged violator shall respond to the notice of the alleged violation in writing within such fourteen (14) day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures

the alleged violation and notifies the Board of Directors in writing within such fourteen (14) day period the Board of Directors may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided, however, that the Board of Directors or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period. Any response or request for a hearing shall be delivered to the Association's manager, President or Secretary, or as otherwise specified in the notice of violation.

(c) Proof of Notice. Prior to the effectiveness of sanctions imposed pursuant to this section, proof of proper notice shall be placed in the minutes of the Board of Directors or covenants committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

(d) Hearing. If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held before the Board of Directors or the covenants committee, as applicable. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing (i.e., the decision) and the sanction, if any, to be imposed.

(e) Appeal. Following a hearing before the covenants committee, if applicable, the violator shall have the right to appeal the decision to the Board of Directors. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President or Secretary within ten (10) days after the hearing date.

(f) Enforcement Policies. The Board of Directors, by resolution, may adopt additional policies and procedures governing enforcement of the Declaration, these Bylaws or the Rules and Regulations.

## ARTICLE 5. OFFICERS

5.1 Designation and Qualification. The officers of the Association shall be the President, the Secretary, and the Treasurer, as the Board of Directors shall from time to time appoint. Each officer shall be a member of the Board of Directors. The offices of Treasurer and Secretary may be held by the same person.

5.2 Election and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board to serve for one (1) year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

### 5.3 Removal and Resignation.

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever, in their judgment, the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided, however, that the Board of Directors may reject any postdated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

5.4 President. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have powers of general supervision, direction and control of the business and affairs of the Association. He or she shall preside at all meetings of the members and of the Board of Directors. He or she shall be an ex officio member of all the standing committees, including the executive committee, if any, shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

### 5.5 Secretary.

(a) The Secretary shall keep or cause to be kept a book of minutes of all meetings of directors and members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at members' meetings and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the members and of the Board of Directors as is required by these Bylaws or by law. The Secretary shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

5.6 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of accounts shall at all reasonable times be open to inspection by any director. The Treasurer shall deposit or cause to be deposited all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse or cause to be disbursed the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

5.7 Compensation of Officers. No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the members. The Board of Directors may fix any compensation to be paid to other officers.

## ARTICLE 6. ASSESSMENTS RECORDS AND REPORTS

6.1 Assessments. As provided in the Declaration, the Association, through its Board of Directors, shall do the following:

(a) Assess and collect from every Owner Assessments in the manner described in the Declaration.

(b) Keep all funds received by the Association as Assessments, other than reserves described in the Declaration, in the Operations Fund and keep all reserves collected pursuant to the Declaration in the Reserve Fund and use such funds only for the purposes described in the Declaration.

(c) From time to time, and at least annually, prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves based upon the reserve study required by the Declaration, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt a budget, the last adopted annual budget shall continue in effect.

(d) Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any Assessment shall be sent to every Owner subject thereto and to any first mortgagee requesting such notice. The due dates shall be established by the Board of Directors, which may fix a regular flat Assessment payable on a monthly, quarterly, semiannual or annual basis. The

Board of Directors shall cause to be prepared a roster of the Lots showing Assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner or mortgagee during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board of Directors, and every Owner as to the amounts of unpaid Assessments

(e) Enforce the Assessments in the manner provided in the Declaration.

(f) Keep records of the receipts and expenditures affecting the Operations Fund and Reserve Fund and make the same available for examination by members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each member written notice of each Assessment at least 30 days before the time when such Assessments shall become due and payable; and for a reasonable charge, promptly provide any Owner or mortgagee who makes a request in writing with a written certificate of such Owner's unpaid Assessments.

6.2 Records. The Association shall keep within the State of Oregon correct and complete financial records sufficiently detailed for proper accounting purposes, keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors, and retain all documents, information and records turned over to the Association by Declarant. All documents, information and records delivered to the Association by Declarant pursuant to ORS 94.616 and other records of the Association shall be kept within the State of Oregon for the time periods specified in ORS 94.670.

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

6.4 Inspection of Books and Records. Except as otherwise provided in ORS 94.670(5), during normal business hours or under other reasonable circumstances, the Association shall make reasonably available for examination and, upon written request, available for duplication, by Owners, lenders, and holders of any mortgage of a Lot that make the request in good faith for a proper purpose, current copies of the Declaration, Articles, Bylaws, Rules and Regulations, amendments or supplements to such documents

and the books, records, financial statements and current operating budget of the Association. The Association shall maintain a copy, suitable for purposes of duplication, of each of the following: (a) the Declaration, these Bylaws, the Rules and Regulations and any amendments or supplements to them, (b) the most recent financial statement of the Association, and (c) the current operating budget of the Association. The Association, within ten (10) business days after receipt of a written request by an Owner, shall furnish copies of such documents to the requesting Owner. Upon written request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The Board of Directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of such documents, information or records. The fee may include reasonable personnel costs for furnishing the documents, information or records.

6.5 Payment of Vouchers. The Treasurer or managing agent shall pay all vouchers for all budgeted items and for any non-budgeted items, up to \$1,000 signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher for non-budgeted items in excess of \$1,000 shall require the authorization of the President or a resolution of the Board of Directors.

6.6 Execution of Documents. The Board of Directors may, except as otherwise provided in the Declaration, Articles of Incorporation, or these Bylaws, authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement, to pledge its credit, or to render it liable for any purpose or for any amount.

6.7 Reports and Audits. An annual financial statement consisting of a balance sheet and an income and expense statement for the preceding year shall be rendered by the Board of Directors to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. Commencing with the fiscal year following the Turnover Meeting, if the Annual Assessments exceed \$75,000 for the year, then the Board of Directors shall cause such financial statements to be reviewed within 180 days after the end of the fiscal year by an independent certified public accountant licensed in Oregon in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants, or if the Annual Assessments are \$75,000 or less, shall cause such review within 180 days after receipt of a petition requesting such review signed by at least a majority of owners. The Board of Directors need not cause such a review to be performed if so directed by an affirmative vote of at least sixty percent (60%) of the Owners, not including votes of Declarant with respect to Lots owned by Declarant. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association and furnish copies thereof to the members. At any time any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

## ARTICLE 7. INSURANCE

7.1 Types of Insurance. For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the Operations Fund, the following insurance:

(a) Property Damage Insurance.

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

(ii) The amount of the coverage shall be for not less than one hundred percent (100%) of the current replacement cost of the improvements on the Common Areas (exclusive of land, foundation, excavation and other items normally excluded from coverage), subject to a reasonable deductible.

(iii) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the Common Areas and all personal property and supplies belonging to the Association.

(b) Liability Insurance.

(i) The Association shall maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the Board of Directors, and the managing agent, against liability to the public or to Owners and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Common Areas, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of an Owner (other than as a member of the Association or Board of Directors) for liability arising out of acts or omissions of such Owner and liability incident to the ownership and/or use of the part of the Property as to which such Owner has the exclusive use or occupancy.

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

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

(c) Workers' Compensation Insurance. The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

(d) Fidelity Insurance.

(i) The Board of Directors may cause the Association to maintain blanket fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of, or administered by, the Association. In the event that the Association has retained a management agent, the Board of Directors may require such agent to maintain fidelity bonds for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The cost of such insurance, if any, shall be borne by the Association.

(ii) The total amount of fidelity insurance coverage required shall be based upon the best business judgment of the Board of Directors.

(iii) Such fidelity insurance shall name the Association as obligee and shall contain waivers by the insurance issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The insurance shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association.

7.2 Insurance by Lot Owners. Each Owner shall be responsible for obtaining, at his or her own expense, homeowner's insurance covering the improvements on the Owner's Lot and liability resulting from use or ownership of the Lot, unless the Association agrees otherwise. The insurance coverage maintained by the Association shall not be brought into contribution with the insurance obtained under this section by the Owners.

7.3 Planned Community Act Requirements. The insurance maintained by the Association shall comply with the requirements of the Oregon Planned Community Act, ORS 94.550 to 94.780.

## ARTICLE 8. GENERAL PROVISIONS

8.1 Seal. The Board of Directors may, by resolution, adopt a corporate seal.

8.2 Notice. All notices to the Association or to the Board of Directors shall be sent 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. All notices to members shall be sent to the member's Home or to such other address as may have been designated by the member from time to time in writing to the Board of Directors.

8.3 Waiver of Notice. Whenever any notice to any member or director is required by law, the Declaration, the Articles of Incorporation, or these Bylaws, a waiver of notice in writing signed at any time by the person entitled to notice shall be equivalent to the giving of the notice.

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

8.5 Conflicts. These Bylaws are intended to comply with the Oregon Planned Community Act, the Oregon Nonprofit Corporation Law, the Declaration and the Articles of Incorporation. In case of any irreconcilable conflict, such statutes and documents shall control over these Bylaws.

## ARTICLE 9.

### AMENDMENTS TO BYLAWS

9.1 How Proposed. Amendments to these Bylaws shall be proposed by either a majority of the Board of Directors or by members holding at least thirty percent (30%) of the voting rights entitled to be cast for such amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or be attached to any request for consent to the amendment.

#### 9.2 Adoption.

(a) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members and may be approved by the membership at a meeting called for such purpose, by a ballot meeting pursuant to Section 3.13, or by written consent of the members. Members not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by members holding a majority (at least 50%) of the voting rights, together with the written consent of the Class B member, if any. Amendment or repeal of any provision of these Bylaws that is also contained in the Declaration must be approved by the same voting requirement for amendment of such provision of the Declaration.

(b) Notwithstanding the provisions of the preceding paragraph, until the Turnover Meeting has occurred, Declarant shall have the right to amend these Bylaws in order to comply with the requirements 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.

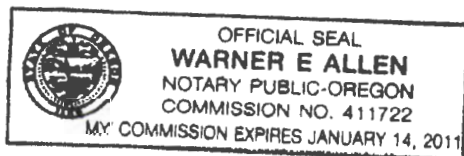
9.3 Relationship to Declaration. If a provision required to be in the declaration under ORS 94.580 is included in these bylaws, the voting requirements for amending the declaration shall also govern the amendment of the provision in the bylaws.

9.4 Execution and Recording. An amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws and ORS 94.625, acknowledged and recorded in the Deed Records of Washington County, Oregon.

By: \_\_\_\_\_  
Its: President

STATE OF OREGON            )  
  )ss:  
County of Multnomah        )

This instrument was acknowledged before me on the 20<sup>th</sup> day of June, 2007, by Samson Cheung, as President of Shute School Estates Homeowner's Association



\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires 1/14/11

After Recording:  
Michael Parich  
7909 Sw. 138th Ave.  
Beaverton Or. 97008



DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
SHUTE SCHOOL ESTATES

100%  
11/5/5  
THIS DECLARATION is made this 1<sup>st</sup> day of Sept., 2005 by Shute School Estates LLC ("Declarant").

RECITALS:

A. Declarant has recorded the plat as "Shute School Estates" in the plat records of Washington County, Oregon.

B. Declarant desires to subject such property to the conditions, restrictions and charges set forth herein for the benefit of such property and its present and subsequent owners, and to establish such property as a townhouse project to be known as "Shute School Estates."

NOW, THEREFORE, Declarant hereby declares that the property described in the plat of Shute School Estates shall be held, sold and conveyed subject to the following easements

ARTICLE 1  
DEFINITIONS

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

1.1 "Association" means the nonprofit corporation to be formed to serve as an Owners' association as provided in Article 6 of this Declaration, and its successors and assigns.

1.2 "Common Areas" means those lots or tracts designated as common in this Declaration, or in any plat of the Property, including any improvements thereon.

1.3 "Declarant" means Shute School Estates LLC.

1.4 "Initial Development" means the property described in Section 2.1 below.

1.5 "Lot" means a numerically designated and platted lot within the Property (including the Unit located on such Lot), with the exception of any tract or lot marked on the plat as being common, open space or dedicated to the City of Hillsboro.

1.6 "Mortgage" means a mortgage or a deed of trust; "mortgagee" means a mortgagee or a beneficiary of a deed of trust; "mortgagor" means a mortgagor or a grantor of a deed of trust.

1.7 "Owner" means the person or persons, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.8 "The Property" means the Initial Development as shown on the Plat.

1.9 "Sold" means that legal title has been conveyed or that a contract of sale has been executed under which the purchaser has obtained the right to possession.

1.10 "This Declaration" means all of the easements, covenants, restrictions and charges set forth herein, together with any rules or regulations promulgated hereunder, as the same may be amended

or supplemented from time to time in accordance with the provisions hereof.

1.11 "Unit" means a building or a portion of a building located upon a Lot within the Property and designated for separate occupancy as a dwelling, together with any attached deck.

ARTICLE 2  
PROPERTY SUBJECT TO THESE COVENANTS/AIRPORT NOISE DISCLOSURE

2.1 The Development. Declarant hereby declares that all the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration:

All that certain real property located in the City of Hillsboro, Washington County, Oregon, contained in that certain plat entitled "SHUTE SCHOOL ESTATES" filed in the Plat Records of Washington County, Oregon, on the 14<sup>th</sup> day of September, 2005, in Book or Plats at Page        Document No. 2005112297

The Development contains 24 Lots and will contain no more than 24 units.

2.2 Airport Noise Disclosure. Shute School Estates is located within the Established Noise Impact Area for the Portland-Hillsboro Airport. Shute School Estates, or any portion thereof, may be subject to noise impact resulting from aircraft on the approach and departure routes to and from Portland-Hillsboro Airport and other airport related activities. All future purchasers and occupants of any lot in Shute School Estates are hereby notified that Shute School Estates is within the established noise impact area. This noise disclosure does not prohibit any owner of any lot from developing such lot in a manner consistent with the City of Hillsboro building and zoning requirements, including, specifically, development for single family residential use as permitted by the City of Hillsboro and its related ordinances and requirements.

ARTICLE 3  
PROPERTY RIGHTS IN COMMON AREAS

3.1 Designation of Common Areas in the Development. The following tracts as shown on the plat of the Development shall be Common Areas for purposes of this Declaration: "A" and "B". The common area includes a 3 foot easement measured from the inside edge of the sidewalk to the perimeter fence and includes the planter strips between the sidewalk and the curb as shown on the plat.

3.2 Owner's Easements of Enjoyment. Subject to the provisions of this Article, every Owner and his or her invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and shall pass with the title to every Lot.

(a) The above common areas shall be subject over their entirety to a private access and a public and private utility easement for public and private utilities including, but not limited to, water, sanitary sewer, storm drainage, storm water detention, electrical power, telephone, natural gas, television cable, irrigation, security and communication systems. No trees or permanent structures shall be placed or constructed on the easements except for landscaping which by its nature, shallow-rooted, and may be easily removed to allow access to utility lines. Easement areas shall be restored to a neat and presentable condition, and the grass and topsoil restored to as near as possible to as good a condition as the same were prior to the installation, repair, replacement.

(b) Public and private utility easements as noted on the plat shall be for public and private utilities including, but not limited to water, sanitary sewer, storm drainage, storm water detention, electrical power, telephone, natural gas, television cable, security and communication systems. No trees

or permanent structures shall be placed or constructed on the easements except for landscaping which by its nature, shallow-rooted, and may be easily removed to allow access to utility lines. Easement areas shall be restored to a neat and presentable condition, and the grass and topsoil restored to as near as possible to as good a condition as the same were prior to the installation, repair, replacement.

3.3 Title to the Common Areas. Title to the Common Areas shall be conveyed to the Association by Declarant no later than the turnover meeting referring to in Section 6.7 below.

3.4 Extent of Owner's Rights. The rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

(a) Easements. Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property the following easements over, under and upon the Common Areas:

(i) An easement on all Common Areas for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant or with the approval of the Board of Directors of the Association and any such easement shown on any plat of the Property.

(ii) An easement over all roadways for vehicular access within the Property and to adjacent areas.

(iii) An easement for construction, maintenance, repair and use of Common Areas, including common facilities thereon.

(iv) An easement for the purpose of making exterior repairs to the Units.

Declarant or the Association may (and to the extent required by law, shall) grant or assign easements on all Common Areas to municipalities or other utilities performing utility services and to communications companies, and may grant free access over the Common Areas to police, fire and other public officials and to employees of utility companies and communication companies serving the Property.

(b) Use of the Common Areas. The Common Areas shall not be partitioned or otherwise divided into parcels for residential use. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas. The Common Areas and facilities thereon shall be used for the purposes for which the same area reasonably intended, and their use, operation and maintenance shall not be obstructed, damaged or unreasonably interfered with by any Owner. Nothing herein shall prevent the placing of a sign or signs upon the Common Areas identifying Shute School Estates or identifying trails or identifying items of interest, including directional signs, provided such signs comply with any applicable sign ordinances. The Board of Directors of the Association shall have authority to abate any trespass or encroachment upon the Common Area at any time, by any reasonable means and with or without having to bring legal proceedings.

(c) Alienation of the Common Areas. The Association shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas owned directly or indirectly by the Association for the benefit of the Lots unless the holders of at least eighty percent (80%) of the Class A Association voting rights and the Class B member, if any, have given their prior written approval. This provision shall not apply to the easements described in Section 3.4(a).

(d) Limitation on Use. Use of the Common Areas by the Owners shall be subject to the provisions of this Declaration and to the following:



(i) The right of the Association to suspend such use rights of an Owner and his or her family members, guests, tenants and contract purchasers to the extent provided in Article 9 below.

(ii) The right of the Association to adopt, amend and to repeal rules and regulations in accordance with this Declaration.

3.5 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his or her right of enjoyment to the Common Areas to the members of his or her family, tenants, or contract purchasers who reside on the Property, whose use of the Common Areas shall be subject to this Declaration and all rules and regulations adopted hereunder.

3.6 Easements Reserved By Declarant. So long as the Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Areas in order to carry out sales and rental activities necessary or convenient for the sale or rental of Lots. In addition, Declarant hereby reserves to itself and for the owners of Lots in all future phases of Shute School Estates a perpetual easement and right of way for access over, upon and across the Common Areas for construction, utilities, communication lines, drainage, and ingress and egress for the benefit of other property owned by Declarant. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the Construction of the improvements on the Property; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy use, enjoyment or access to an Owner's Lot by that Owner or his family, tenants, employees, guests or invitees.

#### ARTICLE 4 PROPERTY RIGHTS IN LOTS

4.1 Use and Occupancy. The Owner of a Lot in the Property shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and the Owner shall comply with the restrictions contained in Article 6 below and all other provisions of this Declaration for the mutual benefit of all Owners.

4.2 Easements Reserved. In addition to any utility and drainage easements shown on the recorded plats, Declarant hereby reserves the following easements for the benefit of Declarant and the Association:

(a) Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing the maintenance referred to in Section 7.1 below and determining whether or not the Lot is then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(b) Encroachments. Each Lot and all Common Areas shall have an easement over all adjoining Lots and Common Areas for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting or movement of any portion of the Property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching Units and Common Areas so long as the encroachment shall exist, and the rights and obligations of Owners shall not be altered in any way by the encroachment. The encroachments described in this paragraph shall not be construed to be encumbrances affecting the marketability of title to any Lot. Nothing in this section shall relieve an Owner of liability in the case of the Owner's willful misconduct.

5.3 Trailers, Campers, Boats, etc. Except with the consent of the Association, no trailer, truck camper, boat or boat trailer, or other recreational vehicles or motorcycles, vehicles in excess of three-quarter (3/4) ton in weight or motor vehicles not operated in daily family use shall be parked in driveways or on any other portion of the Property, except in a garage or for the purpose of temporarily loading or unloading. No such trailer or truck camper shall be used as a residence temporarily or permanently on any portion of the Property.

5.4 Vehicles in Disrepair. No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Lot or on the Common Area for a period in excess of forty-eight (48) hours, unless kept within a garage. A vehicle shall be deemed to be in "extreme state of disrepair" when in the opinion of the Association its presence offends the occupants of the neighborhood. Should any Owner fail to remove such vehicle within five (5) days following the date on which notice is mailed to him by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner in addition to the assessments made upon him in accordance with this Declaration.

5.5 Signs. No signs shall be placed or kept on any Lot or Common Area, other than project signs installed by Declarant or the Association, except that in the event an Owner wishes to advertise his or her Lot for sale or lease the Owner may do so, provided that the Owner shall use for that purpose a single sign not more than 24 inches high and 36 inches long placed in front of the Unit. Notwithstanding the prohibitions contained herein an Owner may temporarily place not more than two political signs on a lot owned by him during the course of any political campaign provided that such signs do not exceed the size restrictions contained herein. Notwithstanding the above, no sign shall be placed in violation of any sign, ordinance or regulation of the City of Hillsboro.

5.6 Animals. No animals or fowls shall be raised, kept or permitted within the Property or any part thereof, except domestic dogs, cats or other household pets kept within a Unit. No more than two (2) animals are allowed in each unit. No such dogs, cats or pets shall be permitted to run at large nor shall be kept, bred or raised for commercial purposes or in unreasonable numbers. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof. All dogs shall be kept on a leash while outside a Unit. An Owner may be required to remove a pet upon the third violation of any rule, regulation or restriction governing pets within the Property.

5.7 Appearance. No part of any Lot or any part of the Common Areas shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Trash, garbage or other wastes shall be kept only in sanitary containers in the garages, except when outside awaiting pickup.

5.8 Antennas and Service Facilities. Exterior antennas and satellite dishes more than two (2) feet in diameter shall not be permitted to be placed upon the exterior of any structure, except as permitted by the Association. Clotheslines and other service facilities shall be screened so as not to be viewed from any Common Area.

5.9 Exterior Lighting or Noisemaking Devices. Except with the consent of the Association, and except for exterior lighting originally installed by the Declarant, no exterior lighting or noisemaking devices shall be installed or maintained on any Lot. Owners shall not tamper with exterior lighting installed by Declarant except to replace expended bulbs with similar new bulbs.

5.10 Windows, Decks, Porches and Outside Walls. In order to preserve the attractive appearance of the Property, the Association may regulate the nature of items which may be placed in or on windows, decks, entry porches, and the outside walls so as to be visible from the common Areas. Garments, rugs, laundry and other similar items may not be hung from windows, facades, porches or decks.



5.11 Alterations. Exterior painting, maintenance and roof repair or replacement will be performed by the Association. Owners are expressly prohibited from painting or changing the exterior of a building or other structure without the written permission of the Association. No structure may be installed outside of Units except structures, including without limitation courtyard fences, installed by Declarant or the Association or installed by an Owner with written approval of the Association.

5.12 Insurance. Nothing shall be done or kept in any Lot or Common Area which will increase the cost of insurance on the Units or Common Areas. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas which will result in cancellation of insurance on any Lot or any part of the Common Areas.

5.13 Leasing and Rental of Units. No Owner may lease or rent his Unit for a period of less than thirty (30) days. All leases or rentals shall be by written lease agreement, which shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee or tenant to comply with the terms of such documents shall be default under the lease. If the Board of Directors finds that a lessee or tenant has violated any provision of such documents or the rules and regulations, the Board may require the Owner to terminate such lease or rental agreement. Other than the foregoing, there is no restriction on the right of any Owner to lease or rent his Unit.

5.14 Garage Doors. Garages shall not be converted to living space and shall, at all times, have space available for the parking of an automobile.

5.15 Landscape. The exterior landscape, installation and maintenance of the common areas shall be performed by the Association.

5.16 Association Rules and Regulations. In addition, 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 Lots, Units and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner and shall be binding upon all Owners and occupants of all Lots from the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws of the Association.

## ARTICLE 6 ASSOCIATION

Declarant shall organize an association of all of the Owners within the Property. Such Association, its successors and assigns, shall be organized under the name "Shute School Estates Homeowners Association" or such similar name as Declarant shall designate, and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of property located therein.

6.1 Organization. Declarant shall, before the first Lot 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, the assets of the Association shall be dedicated to a public body, or all of the property, powers and obligations of the incorporated association existing thereupon shall automatically vest in a successor unincorporated



nonprofit association. Such vesting shall thereafter be confirmed and 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 Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Property, 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. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When seventy-five percent (75%) of the Lots in the final phase of development of Shute School Estates have been sold and conveyed to Owners other than Declarant; or

(b) The expiration of five (5) years after the date of recording of this Declaration.

6.4 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 obligation 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 of the Association 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 include, without limitation, the following:

(a) Maintenance and Services. The Association shall provide maintenance and

services for the Property as provided in Article 7 and other provisions of this Declaration.

(b) Insurance. The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association.

(c) Rulemaking. The Association shall make, establish, promulgate, amend and repeal Rules and Regulations as provided in Section 5.16 of this Declaration.

(d) Assessments. The Association shall adopt budgets and impose and collect assessments as provided in Article 8 of this Declaration.

(e) Enforcement. The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Rules and Regulations adopted by the Association.

(f) Employment of Agents, Advisers and Contractors. The Association, through its Board of Directors, may employ the services of any person or corporation as manager, hire employees to manage, conduct and perform the business, obligations and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, recreational experts, architects, planners, lawyers and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Property.

(g) Borrow Money, Hold Title and Make Conveyances. The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas, subject to Section 3.4(c) above, and encumber the Common Areas as security for the repayment of such borrowed money. The Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of the Common Area, and shall accept any real or personal property, lease hold or other property interests within the Property conveyed to the Association by Declarant.

(h) Transfer Dedication and Encumbrance of Common Area. Except as otherwise provided in Section 3.4(c) above, the Association may sell, transfer or encumber all or any portion of the Common Area to a person, firm or entity, whether public or private, and dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for public purpose.

(i) Create Classes of Service and Make Appropriate Charges. The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefor to the users of such services including but not limited to reasonable admission and other fees for the use of any and all recreational facilities situated on the Common Areas, without being required to render such services to those of its member who do not assent to such charges and to such other Rules and Regulation as the Board of Directors deems proper. In addition, the Board of Directors shall have the right to discontinue any service upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain the same.

(j) 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. A member of the Board of Directors or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts. In the event any member of the Board of Directors or any officer of the



Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

6.7 Interim Board: Turnover Meeting. Declarant shall have the right to appoint an interim board of one (1) to three (3) directors, who shall serve as the Board of Directors of the Association until replaced by Declarant or their successors have been elected by the Owners at the turnover meeting described in this section. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Property to the Association not later than one hundred twenty (120) days after Lots representing seventy-five percent (75%) of the voting power (computed in accordance with Section 6.3 above) have been sold and conveyed to Owners other than Declarant. At the turnover meeting, the interim directors shall resign and their successors shall be elected by the Owners as provided in the Bylaws of the Association. If the Declarant fails to call the turnover meeting as required by this section, any Owner or mortgagee of a Lot may call the meeting by giving notice as provided in the Bylaws.

6.8 Declarant Control After Turnover. After the turnover meeting described in Section 6.7 above, Declarant shall continue to have the voting rights described in Section 6.3 above. In addition, a majority of the Board of Directors of the Association shall be elected by Declarant, as Class B member, with the balance of the Board of Directors elected by the Class A members. After termination of Class B membership, all directors shall be elected by the Class A members.

6.9 Management Agreements and Service Contracts. The Association may enter into a management agreement with a professional management firm either alone or in a common management arrangement with other owners or associations in the area. Any such management agreement shall be terminable by the Association for cause upon thirty (30) days' written notice, and the term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one- (1) year periods.

6.10 Contracts Entered into by Declarant or Prior to Turnover Meeting. Declarant, on behalf of the Association, has entered into a contract for outdoor area lighting with Portland General Electric Company. The contract term commenced on April 18, 2005 and continues for five years ending on April 18, 2010. By its terms, it shall automatically extend for month-to-month thereafter until terminated by customer or company. Except for the PGE contract and notwithstanding any other provisions of this Declaration, any leases or contracts (including management contracts, service contracts and employment contracts) entered into by the Declarant or the Board of Directors on behalf of the Association prior to the turnover meeting described in Section 6.7 above shall have a term of not in excess of three (3) years. In addition, any such lease or contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) nor more than ninety (90) days' notice to the other party given at any time after the turnover meeting described in Section 6.7 above.

## ARTICLE 7

### MAINTENANCE, SERVICES, CONDEMNATION, DAMAGES

7.1 Exterior Maintenance. The Association shall provide exterior maintenance upon each Unit as follows: paint, repair, replace and care for roofs, gutters, down spouts, exterior building surfaces, exterior garage lights and other exterior improvements. Such exterior maintenance does not include repair or replacement of doors, windows and other glass surfaces, except to the extent of the proceeds of the Association's insurance. The Association shall also maintain party walls as provided in Section 4.3 and the landscaping on that portion of each Lot not occupied by the Unit. The cost of such maintenance by the Association shall be a common expense paid out of assessments described in Article 8. In the event, however, the need for such maintenance or repair is caused by the willful or negligent act or omission of an Owner, his or her family, tenants, guests or invitees, and to the extent such maintenance



or repair is not covered by the Association's insurance policy, the costs of such maintenance and repair may, in the discretion of the Board of Directors, be charged to the Owner as an Individual Assessment.

7.2 Maintenance and Lighting of Common Areas. In addition to the exterior maintenance as set forth in Section 7.1, the Association shall maintain any exterior lighting for and perform all maintenance upon the Common Areas and the improvements located thereon, including but not limited to grass, trees, walks, private roads, entrance gates, parking areas and driveways.

7.3 Maintenance of Utilities. The Association shall perform or contract to perform maintenance of all utilities, such as sanitary sewer service lines, domestic water service lines and storm drainage lines located in the Common Areas and Lots. Each Owner shall maintain at such Owners' expense utility lines to the extent located within the Unit.

(a) The water system is public up to and including the water meter, and will be owned, operated and maintained by the City of Hillsboro. Maintenance of the water service from the meter to the unit will be the maintenance responsibility of the Association.

(b) The sanitary sewer mains are public and will be owned, operated and maintained by the City of Hillsboro. Sewer laterals located on lots outside of units, or on parent lots are private and will be the maintenance responsibility of the Association. Access to the sanitary sewer manholes by City of Hillsboro Maintenance vehicles shall be maintained at all times.

(c) The storm drainage improvements to include storm drainage lines, storm drain laterals to individual units, catch basins and cleanouts are the maintenance responsibility of the Association. The Association shall ensure that the sumps of the private trapped catch basins in the Private Road, and the sumps of the catch basins and area drains in and between the detention facilities are kept free of accumulated dirt, oil and foreign materials.

7.4 Maintenance of Detention Facilities and Public Facilities. The Association shall maintain the detention basins, the cost of which shall be assessed as a common expense.

7.5 Preservation of Trees. The owners of Lots 1 through 13 are hereby restricted from removal of all mature trees along the edges of said lots. No trees shall removed unless certified as dangerous by a registered arborist. All landscaping and fencing beneath the drip lines of said mature trees shall be designed and installed in such a way as to minimize disruption of existing soil grades and moisture levels.

7.6 Utilities and Services. The Association shall provide or contract for such utilities and services as the Board of Directors may reasonably deem to be of benefit to the Property, including, without limitation, cable, garbage and trash removal and security services.

7.7 Access at Reasonable Hours. For the purpose solely of performing the maintenance and services provided for in this Article 7, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of the dwelling thereof at reasonable hours.

7.8 Condemnation. If a portion of the Common Areas is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall promptly be given to each Owner and to each mortgagee. The Association shall represent the Owners in any condemnation proceeding or in negotiations, settlements and agreements with the condemning authority for acquisition of any portion of the Common Areas and each Owner appoints the Association to act as his other attorney-in-fact for such purposes. All compensation, damages or other proceeds of the taking of Common Areas shall be payable



to the Association. Proceeds shall first be applied to restore or repair any remaining Common Area, including a structure on Common Area, which may be required to permit the continued enjoyment of such Common Area. Thereafter, the Association shall deposit such sums in the Operations Fund or apply these sums to such capital improvements as shall be authorized pursuant to Section 8.5 of this Declaration.

7.9 Damage or Destruction by Casualty. In the event 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 the following provisions shall apply:

(a) In the event of damage or destruction by casualty of structures erected on the Common Areas or to any Unit, the damage or destruction shall be repaired, reconstructed, or rebuilt unless, within fourteen (14) days of such damage or destruction, the Board of Directors or more than ten percent (10%) of the Owners shall have requested a special meeting of the Association. Such special meeting must be held within thirty (30) 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 if and as required by this Declaration, vote not to repair, reconstruct or rebuild the damaged property, the damage or destruction shall be repaired, reconstructed or rebuilt, with the work commencing as soon as reasonably possible. In the event any portion of the insurance proceeds paid to the Association are not used to repair, reconstruct or rebuild the damaged or destroyed Common Areas or units, the Association shall distribute the proceeds attributable to Units to the Owners and mortgages thereof, as their interests may appear. The proceed attributable to Common Areas shall be deposited in the Operations Fund or applied to such capital improvements as shall be authorized pursuant to Section 8.5 of this Declaration. If the insurance proceeds are not sufficient to pay the entire cost, the Board of Directors, if necessary, may assess the Owner of each Unit such additional amounts as required to pay the cost of restoration.

(b) If due to act or neglect of an Owner or a member of his or her family or his or her household pet or of a guest or other unauthorized occupant or visitor of such Owner, damage shall be caused to the Common Areas or maintenance, repairs or replacements should be required which would otherwise be a common expense, then such Owner shall pay for such damage and such maintenance, repairs or replacements as may be determined by the Association, to the extent not covered by the Association's insurance, as an Individual Assessment.

## ARTICLE 8 ASSESSMENTS

8.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of Shute School Estates and for the improvement, operation and maintenance of the Common Areas and other areas to be maintained by the Association.

8.2 Types of Assessments. The Association may levy Annual Assessments, Special Assessments, Emergency Assessments and Individual Assessments, all as more particularly described below.

8.3 Apportionment of Assessments. Lots owned by Declarant shall not be subject to Assessments until such time as the Unit located on the Lot is occupied for residential use, subject to accrual of reserves as described in Section 8.10 below. All other Lots shall pay an equal pro rata share of the Annual Assessments, Special Assessments and Emergency Assessments commencing upon the date such Lots are made subject to this Declaration.

8.4 Annual Assessments. The Board of Directors of the Association shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current



costs of maintenance and services and future needs of the Association, any previous over assessment and any common profits of the Association. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the reserves required by Section 8.10 below. Annual Assessments for such operating expenses and reserves ("Annual Assessments") shall then be apportioned among the Lots as provided in Section 8.3 above. The method of adoption of the budget and the manner of billing and collection of Assessments shall be as provided in the Bylaws.

8.5 Special Assessments. In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment ("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 Annual Assessments. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to fifteen percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the Voting Units voting on such matter, together with the written consent of the Class B member, if any. Special Assessments shall be apportioned as provided in Section 8.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

8.6 Emergency Assessments. If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors of the Association shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noted as to the reason therefore, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment"). Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to five percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the voting rights voting on such matter, together with the written consent of the Class B member, if any. Emergency Assessments shall be apportioned as set forth in Section 8.3 above and payable as determined by the Board of Directors.

8.7 Individual Assessments. Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited (Individual Assessment"). Individual Assessments include, without limitation, charges for services provided under Section 6.5(i). Individual Assessments shall also include default assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot 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. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to the Individual Assessments.

8.8 Operations Fund. The Association shall keep all funds received by it as Assessments, other than reserves described in Section 8.9, separate and apart from its other funds, in an account to be known as the "Operations Fund." The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Property and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots situated upon the property, including but not limited to:

- (a) Payment of the cost of maintenance, utilities and services as described in Article 7;
- (b) Payment of the cost of insurance as described in the Bylaws of the Association;



(c) Payment of taxes assessed against the Common Areas and any improvements thereon;

(d) Payment of the cost of water service, sewer service and garbage and trash disposal for the Common Areas or which are commonly billed;

(e) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal and secretarial services;

(f) In the event any condemnation of a portion of the Common Areas should result in a surplus in the Operations Fund not needed for payment of the other items described in this section, such surplus shall be divided by the number of units within the Property and such amounts paid equally to the holder of any first mortgage or deed of trust on each Lot, or if none, to the Owner of the Lot.

8.9 Reserve Fund. The Declarant shall establish a reserve fund for replacement of those items to be maintained by the Association all or a part of which will normally require replacement in more than three (3) and less than thirty (30) years ("Reserve Fund"). Such Reserve Fund shall be funded by Assessments against the individual Lots assessed for maintenance of the items for which the Reserve Fund is being established. The Assessments under this section begin accruing against each Lot from the date the first Lot in the Property is conveyed. The Declarant may defer payment of the accrued Assessment for a Lot until the Lot is conveyed. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The Reserve Fund shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The Reserve Fund shall be used only for replacement of common property as determined by the Board of Directors and shall be kept separate from the Operations Fund. After the turnover meeting described in Section 6.7, however, the Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from Annual Assessments, Special Assessments, Emergency Assessments or Limited Common Area Assessments. Nothing in this section shall prohibit prudent investment of the reserve account. Following the second year after the turnover meeting, future Assessments for the Reserve Fund may be reduced, eliminated or decreased by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Association. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

8.10 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Property, does hereby covenant, and Each owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Association Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 9.6, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below.

## ARTICLE 9 ENFORCEMENT

9.1 Use of Common Areas. In the event any Owner shall violate any provision of this Declaration, the Bylaws of the Association, or other rules adopted by the Association governing the use of

Common Areas, then the Association, acting through its Board of Directors, shall notify the Owner in writing that the violations or nuisances exist and that he is responsible for them, and may, after reasonable notice and opportunity to be heard, do any or all of the following: (a) suspend his voting rights and right to use the Common Areas for the period that the violations or nuisances remain unabated, or for any period not to exceed sixty (60) days for any infraction of its rules and regulations, (b) impose reasonable fines upon the Owner, in the manner and amount the Board deems appropriate in relation to the violation, which fines shall be paid into the Operations Fund, or (c) bring suit or action against such Owner to enforce this Declaration. Nothing in this section, however, shall give the Association the right to deprive any Owner of access to and from his Unit.

9.2 Nonqualifying Improvements and Violation of General Protective Covenants. In the event any Owner constructs or permits to be constructed on his Lot or Unit an improvement contrary to the provisions of this Declaration, or causes or permits any improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on his Lot or Unit, then the Association acting through its Board or Directors shall notify the Owner in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his Lot and Unit, the improvements thereon and his use thereof, into conformance with this Declaration. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptance solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, then the Association acting through its Board of Directors shall have the right to do any or all of the following:

(a) Impose reasonable fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation;

(b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done which amount shall be payable to the Operations Fund, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings; or

(c) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

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

(a) The Association may suspend such Owner's voting rights and right to use the Common Areas until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his Lot.

(b) The Association shall have a lien against each Lot for any assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 87.352 to 87.386 shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Association, through its duly authorized agents, may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Lot.



(c) The Association may bring an action to recover a money judgment for unpaid assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in Paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made. equity.

(d) The Association shall have any other remedy available to it by law or in equity.

9.4 Notification of First Mortgagee. The Board of Directors shall notify any first mortgagee of any individual Lot of any default in performance of this Declaration by the Lot Owner which is not cured within sixty (60) days.

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

9.6 Interest, Expenses and Attorneys' Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three (3) percentage points per annum above the prevailing Portland, Oregon, prime rate at the time, or such other rate as may be established by the Board of Directors, 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 of Directors of the Association not to exceed thirty percent (30%) of such assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice and a fee for preparing the notice of lien established from time to time by resolution of the Board of Directors of the Association. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorney's fees at trial and upon any appeal or petition for review thereof.

9.7 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 or 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 aggrieved owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate or remedy any violation of this Declaration by appropriate legal proceedings.

9.8 Enforcement by City of Hillsboro. The provisions of this Declaration relating to preservation and maintenance of Common Areas shall be deemed to be for the benefit of the City of Hillsboro as well as the Association and Owners of Lots, and the city may enforce such provisions by appropriate proceedings at law or in equity or may cause such maintenance to be made, in which event such costs shall become a lien upon the Property.

## ARTICLE 10

## MORTGAGEES

10.1 Reimbursement of First Mortgagees. First mortgagees of units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Areas or any Unit. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

10.2 Right of First Mortgagees Relating to Maintenance. At any time that the common Areas or the exterior of a Unit is not maintained or repaired by the Association pursuant to Article 7 to the extent reasonably necessary to protect and preserve the value of the Property for security purposes, then the record mortgagee, upon giving written notice as hereinafter provided, shall be entitled to exercise the rights of the Owner of the Unit as a member of the Association to vote at all regular and special meetings of the members of the Association for a period of one (1) year following the date of such notice. During this one- (1) year period, the Association shall give notice of all regular and special meetings to both the Owner and the mortgagee, and the Owner may attend such meetings as an observer. Notice from the mortgagee under this section shall quote this Section 10.2 and shall be sent postage prepaid by certified United States mail, return receipt requested, to the Owner with a copy by regular mail to the Association at the last known address of each.

10.3 FHANA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration, if this Declaration was previously approved by such agencies: annexation of additional properties, mergers and consolidations, mortgaging of Common Areas, dissolution of the Association and amendment of this Declaration or the Articles of Incorporation or the Bylaws of the Association.

## ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Amendment and Repeal. This Declaration, or any portion thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the voting rights in the Association, together with the written consent of the Class B member if such membership has not been terminated as provided herein. To the extent required by Article 10, such amendment shall also require the prior written approval of the FHA and VA. Any such amendment or repeal shall become effective only upon recordation in the Deed Records of Washington County, Oregon, of a certificate of the president or 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. In no event shall an amendment under this section create, limit or diminish special Declarant rights, increase the number of Lots or Units or change the boundaries of any Lot or any uses to which any Lot or Unit is restricted unless the Owners of the affected Lots unanimously consent to the amendment. To the extent any amendment related to the preservation or maintenance of the Common Areas, or the existence of an entity responsible for accomplishing the same, such amendment shall be approved by the Planning Commission of the City of Hillsboro. Such amendment or repeal shall not have the effect of denying any Owner access to his Lot unless such Owner and any mortgagee of such Lot have consented thereto.

11.2 Regulatory Amendments. Notwithstanding the provisions of Section 11.1 above, until termination of the Class B membership, Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board of commission or agency of the United States or the State of

Oregon, or any corporation wholly owned, directly or indirectly, by the United States of the State of Oregon which insures, guarantees or provides financing for a planning community or lots in a planned community.

11.3 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or other action whatsoever, provided, however, that this Declaration may be terminated at the end of the initial or any additional period by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the Lots within the Property and the written approval of the FHA and VA to the extent required by Article 10. Any such termination shall become effective only if (a) a certificate of the president or secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the Deed Records of Washington County, Oregon, not less than six (6) months prior to the intended termination date, and (b) such termination has been approved by an order or resolution of the Planning Commission of the City of Hillsboro. Such termination shall not have the effect of denying any Owner access to his Lot unless such Owner and any mortgagee of such Lot have consented to such termination.

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

11.5 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his unit and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner himself.

11.6 Enforcement. The Association, or any Owner or the owner of any recorded mortgage on any part of said Property shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.7 Construction; Severability; Number, Caption. This Declaration shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs thereof. 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.

As used herein, 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.

11.8 Notices and Other Documents. Any notice or other documents 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, with postage prepaid, addressed as follows: If to Declarant, 8733 SE Division, Suite 201, Portland, OR 97266; if to an Owner, at the address given by the Owner at the time of his or her purchase of a Lot, or at the Unit; if to the Association, to the mailing address of the Association as filed with the Oregon Secretary of State. The address of a party may be changed by him at any time by notice in writing delivered to the Association as provided herein.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date set forth above.

SHUTE SCHOOL ESTATES LLC

By Michael G. Parich  
Declarant

STATE OF OREGON     )  
                                  ) ss.  
County of Multnomah    )

The foregoing instrument was acknowledged before me this 1 day of September, 2005  
by Michael G. Parich, Manager of Shute School Estates LLC.

Vickie R. Ward  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

