

PROPERTY MANAGEMENT AGREEMENT

This **Property Management Agreement**, hereinafter referred to as the "Agreement," is entered into this 8 day of Feb, 2024 by and between **Gearhart By The Sea, Inc.**, hereinafter referred to as "Agent", an Oregon Corporation, and _____, hereinafter referred to as "Association", an Oregon Condominium Association, described as follows:

Name of Association:

Tax I.D. # of Association:

Registry Number:

Property Description:

Pacific View Condominium Association
93-085381
8358418
1238 N Marina Ave
Gearhart, OR 97188

General Description of Building and Property including number of Units Board of Directors at the inception of this Agreement:

Chairperson: Name

Tel:

e-mail:

Secretary: Name

Tel:

e-mail:

The Board of Directors of the Association (the "Board"), on behalf of the Association, hereby retains the services of Agent to be the exclusive management agent to operate and manage the Property, and Agent accepts appointment to manage the Property.

In consideration of the mutual promises and covenants obtained herein and for other good and valuable consideration, the parties further agree as follows:

ARTICLE 1: TERM

1.1 Initial Term: The initial term of this Agreement shall be for a period of two (2) years commencing on 2/7/2024, and terminating on 2/1/2026.

1.2 Automatic Renewal: Upon the expiration of the initial term, this Agreement shall be renewed automatically every two (2) years, unless terminated earlier under the terms of this Agreement.

ARTICLE 2: MANAGEMENT FEES

2.1 Monthly Charges: Association shall pay Agent a fee of \$60 per month per unit. The renewal association fee will be determined at time of renewal.

2.2 Additional Fees: Are to be established on an annual basis by Agent.

ARTICLE 3: MANAGING AGENT'S SERVICES AND RESPONSIBILITIES

- 3.1 Appointment: The Association hereby appoints Gearhart by the Sea, Inc. (GBTS) the Agent and the Agent hereby accepts the appointment, on the terms and conditions hereinafter provided, as Agent for the Association.
- 3.2 Association Responsibilities: The Association retains the primary responsibility for enforcement of provisions of the Association's governing documents' contractual agreements and assumes liability for all acts and occurrences that relate to the Association and the real property covered by this contract.
- 3.3 Agent Responsibilities: It will be the responsibility of Agent, during the term of this Agreement, to perform the duties as outlined in this Agreement and the most current Statement of Work, consistent with the plans and directives of the Association's Board of Directors, and to perform such other acts as are reasonably necessary to discharge Agent's responsibilities.
- 3.4 Lawful Decisions: Agent will undertake reasonable efforts to implement the lawful decisions of the Board of Directors. The Agent will not be obligated to implement any decision which:
- (A) is contrary to the terms of this Agreement, applicable laws, or governing documents;
 - (B) would involve transactions or services outside the Agent's expertise, knowledge, or licenses, or
 - (C) would involve transactions or services which are not outlined in this Agreement.
- 3.5 Delays: Any delays in the performance of any obligation of Agent or Association under this Agreement shall be excused to the extent that such delays are caused by wars, national emergencies, natural disasters, strikes, labor disputes, utility failures, governmental regulations, riots, adverse weather, and other similar causes not within the control of Agent or Association, and any periods required for performance shall be extended accordingly. Agent will make good faith efforts to resume the performance of services as soon as circumstances permit.

ARTICLE 4: FINANCIAL MANAGEMENT

- 4.1 Accounting: In managing Association business, Agent will use a reliable software system capable of managing and reporting financial information, as well as handling accounting books, generating checks, maintaining inventory records, etc.
- 4.2 Delinquent Owners: The Agent will follow the Association's Declaration, Bylaws, and/or the Board of Directors' instructions about actions on delinquent accounts.

4.3 Disbursement Authorization: The Agent is authorized and shall make all disbursements from Association funds for liabilities incurred on behalf of Association, within the authority of this Agreement. In addition, Agent shall have the authority to make normal and usual expenditures within the budget, as necessary herein with the approval of the Board of Directors, except in cases of an emergency requiring prompt action to avoid further loss. Emergency repairs involving imminent danger to life or property, or immediately necessary for the preservation and safety of the property, or for the safety of the owners and/or guests may be made by the Agent irrespective of the cost limitation imposed by this section. Agent shall use best efforts to give the Board advance notice of any such expenditure and try to obtain prior Board approval of the same. Large contracts, purchases or other expenditures (greater than \$10,000) shall require Association approval of resulting invoices.

4.4 Liability of Association: Except as expressly provided otherwise herein, Association is and shall be liable for all expenses and costs authorized by the Association Board, including, without limitation, expenses and costs for supplies and services by third parties, relating to or arising from Agent's management of the Property. It is understood and agreed that any such liabilities incurred by Agent are incurred on Association's behalf in connection with Agent's management of the Property. Association's obligation to pay such expenses and costs shall survive the termination or expiration of the Agreement as long as such expenses or costs are for goods or services provided or contracted for before the sale or other disposition of the Property or the termination and expiration of this Agreement. In addition, Association shall cover all costs that relate directly to the conclusion of the management assignment. Agent may at any time in its discretion, in incurring any such cost or expense on behalf of Association, whether arising according to a contract or otherwise, arrange for any invoices, billing statements or other written evidence of such liability to be issued (i) solely in Association's name and sent directly to association for payment, (ii) issued in the joint name of Association and Agent or (iii) issued in Agent's name. In all cases Agent in its sole discretion may (i) advance such cost or (ii) require Association to pay such cost or expense directly. Agent will not be required to perform any act or duty hereunder involving the expenditure of money unless Agent shall have in its possession sufficient funds of the Association available.

4.5 Accounting and Financial Statements: Agent will maintain a set of accounting records using the accrual method of accounting.

(A) Agent will distribute reports or financial statements as requested by the Association Board of Directors.

(B) Agent will cooperate with auditors in their performance of audits and reviews of Association's records and their preparation of applicable tax returns.

(C) Agent will, upon direction from the Agent Board of Directors, distribute to the Association Board of Directors, at Association expense, copies of annual financial reports, budgets, collection policies, and all other publications and reports deemed

necessary by the Association Board of Directors and applicable laws.

ARTICLE 5: PHYSICAL MANAGEMENT

- 5.1 Budget Preparation: Agent will aid the Association Board of Directors in preparing an annual budget. Any budget draft will be subject to final approval by the Association Board of Directors.
- 5.2 Reserve Study: In the event, the Association elects to have an outside firm perform a reserve study, Agent agrees to cooperate with said outside firm and to furnish all necessary forms and documents in Agent's possession, upon request.
- 5.3 Maintenance: Agent will assist the Association Board of Directors in its responsibilities for the upkeep, maintenance, and management of Common Areas and equipment, per the Association's governing documents and by Agent's Statement of Work.
- (A) Agent will have a procedure to respond to requests, concerns, and complaints from the Association Board of Directors and unit owners.
- (B) Agent will provide a 24- hours per day, seven days per week attended on-call capability to assist with, or refer further, any emergencies in the Common Elements and Areas of the Association. Serious matters will be reported to the Association's Board of Directors.
- 5.4 Inspections: Agent will perform periodic (minimum of weekly) inspections of the Association Common Areas and facilities and will submit findings, action taken, and recommendations to the Board of Directors as necessary. The Agent shall not be required to inspect the individual units, crawl spaces, attics, or roofs during the inspection.

ARTICLE 6: ADMINISTRATIVE MANAGEMENT AND CONSULTING

- 6.1 Internal Correspondence: Agent shall receive communications from the Association Board of Directors, and shall respond as necessary to such communication. Association Board of Directors shall respond to Agent requests in a timely manner.
- 6.2 External Correspondence: Agent will assist the Association Board in carrying out its responsibility in communicating with owners. Time and expense for Agent to be negotiated at time of request. Agent may provide a schedule of services and fees.
- 6.3 Agent's Duties: Agent will assist the Association Board of Directors and its committees in their day-to-day operations.
- 6.4 Scope: Association acknowledges and agrees that Agent has been retained only to

operate and manage the Property and that Agent and its employees are not authorized or qualified to provide legal, tax, engineering, property valuation, architectural, or any other professional advice or services of any kind. Association acknowledges that Association is solely responsible for compliance with all applicable laws and regulations relating to the Property. When requested by Association, Agent will make referrals and/or provide information to appropriate professionals or contractors concerning the Property. Except in the case of emergencies, Agent will notify the Association in advance of any additional fees or charges that will result from any work done by Agent under this paragraph.

- 6.5 Meetings: Agent or Agent's designee will attend meetings as requested by the Association Board of Directors at a mutually-agreed-upon time and place.

ARTICLE 7: ADMINISTRATIVE MANAGEMENT AND CONSULTING

- 7.1 Record Keeping: Agent will assist the Association in the retention of records.
- 7.2 Record Storage/Copies: The Agent's copies of all records and documents about this agreement shall be kept at the Agent's office. Such records shall be available to the Association for inspection and copying during Agent's normal business hours following Oregon State laws and Association document provisions. Agent shall be entitled to charge and receive copying and document research costs from anyone requesting copies of records or documents, before making such copies. Agent shall be entitled to reasonable notice before such inspection or copying records.
- 7.3 Unit Owners' Lists: Agent shall maintain a current list of unit owners in the Association by the information supplied to Agent. Reasonable efforts will be made to keep this list accurate, but it shall be the responsibility of the Association to advise Agent of address or ownership changes of which it becomes aware. Agent shall not be obligated to search official records for such transfers of ownership unless specifically requested to do so by the Board.
- 7.4 Correspondence: Agent will maintain documents and complete files for all current correspondence relating to Association in regard to the Agent's duties.
- 7.5 Record Return: Within 30 days of Association's request after the termination of this Agreement, except for Agent's internal memorandum and accounting records, Agent shall provide the Association with the originals of the documents and records about this Agreement. Agent may retain copies of any of the Association's documents and records. All documents and records provided by Agent to the Association shall be available to Agent at any time during this Agreement, or after its termination, for Agent's inspection and copying. Association shall reimburse Agent for its costs in copying duplicate accounting files for the Association's records and/or transferring these documents and files to Association.
- 7.6 Extraordinary Requests: Any extraordinary requests by Association may result in hourly

charges by Agent.

ARTICLE 8: INSURANCE

8.1 Association's Insurance:

Agent will assist the Association Board in reviewing and renewing insurance coverage, including solicitation of bids for such coverage. The Association Board of Directors is solely responsible for maintaining insurance coverage for the Association, and for adequacy of coverage.

8.2 Agent Liability and Indemnity: Agent shall defend, indemnify and hold Association, together with Association's employees, agents, directors, officers, affiliates, heirs and assigns, harmless from all suits, damages, liabilities, claims, demands, costs, or expenses (including, without limitation, reasonable attorney's fees and costs) caused by the Agent's negligence or intentional misconduct, arising out of or relating to any action which Agent may take or refrain from taking concerning the Property identified in the Agreement or the management, operation or maintenance of the Property by Agent. Agent's obligations herein shall survive the termination or expiration of the Agreement.

8.3 Association Liability and Indemnity: Association shall defend, indemnify and hold Agent, together with Agent's employees, agents, directors, officers, affiliates, heirs and assigns, harmless from any and all suits, damages, liabilities, claims demands, costs or expenses (including without limitation reasonable attorney's fees and costs) related to: any condition of the Property; any action pursuant to the requirements of this Agreement which Agent may take concerning the property or the management, operation and maintenance of the Property, except in cases of gross negligence or intentional misconduct by the Agent; any lawsuit or arbitration brought against Agent or any of its employees in connection with its performance as property manager of the Property; and, those caused by the Association's negligence or misconduct, arising out of or relating to any action which Association may take or refrain from taking concerning the Property identified in the Agreement or the management, operation or maintenance of the property by Agent. Association's obligations herein shall survive the termination or expiration of the Agreement.

8.4 Earthquakes; Terrorism: Association is and shall remain solely responsible for all liability, loss, damage, claim costs, and expenses associated with or arising out of earthquake, hazards, and terrorist acts on or about the Property.

ARTICLE 9: TERMINATION OF AGREEMENT

- 9.1 Termination at Term: Either party may terminate this Agreement at the end of the Initial Term, or at the end of any renewal term, provided that written notice is given to the other party on or before sixty (60) days before the expiration of the Initial Term or any such renewal term. Automatic renewal shall occur unless timely written notice of termination is sent. Time is of the essence as to all notices outlined in this Agreement
- 9.2 Agent Termination: Agent may terminate this Agreement upon thirty (30) days written notice if Agent determines that (a) there are insufficient funds to maintain the premises in a safe and habitable condition and Association is unable or unwilling to provide sufficient funds for needed work; (b) Association and Agent cannot agree upon an operating budget for the Property or the order of payment in the event there are insufficient funds to pay all expenses; (c) Agent determines that directions given by the Association could subject Agent to legal liabilities; (d) the Association ceases to exist as a legal entity.
- 9.3 Association Termination: Association may terminate this Agreement upon thirty (30) days' written notice if Association determines that (a) there is Just Cause to terminate the Agreement. Just Cause exists where a substantial material breach of this Agreement has occurred, written notice to Agent has been provided (per Section 9.5), but the breach has not been cured (per Section 9.6); (b) Association and Agent cannot agree upon an operating budget for the Property or the order of payment in the event there are insufficient funds to pay all expenses; (c) Association determines that directions given by the Agent could subject Association to legal liabilities.
- 9.4 Post-Termination Liabilities: If any payments for Association's account(s) are received by the Agent following the expiration or termination of the Agreement, they shall be used to pay outstanding invoices. In the event and to the extent that there are not sufficient funds in the Association's account(s), Agent shall forward to Association any unpaid invoices, and Association will be solely responsible for their payment. Any excess income shall be forwarded to Association within 60 days after the date of the written notice to terminate, along with a reconciliation document showing any such payments and expenses.
- 9.5 Breach of Contract Disputes: If a dispute arises between Association and Agent, and if, in the opinion of the aggrieved party, the offending party has committed a material breach of this agreement, the aggrieved party will notify the offending party of the alleged breach ("Material Breach Notice").
- 9.6 Opportunity to Cure Breach: If a party receives a Material Breach Notice, said party will have the opportunity to cure the alleged breach. The curing party must notify the aggravated party of its intent to cure the breach within seven (7) days of receipt of the Material Breach Notice. The breach must be cured within thirty (30) days of receipt of the Material Breach Notice.

9.7 Mediation, Arbitration: Any dispute, controversy, claim, or difference concerning or arising from the Agreement or the rights or performance of either party under the Agreement, including disputes about the interpretation or construction of the Agreement, shall be settled first through non-binding mediation by procedures and a mediator mutually agreed to by the parties in good faith, the costs of which shall be shared equally. If the mediation fails to resolve the issue, the dispute, controversy, claims or difference shall be resolved through arbitration in the State of Oregon and by rules mutually agreed to by the parties, except that (i) in no instance shall the arbitration be governed by the rules of the American Arbitration Association and (II) the parties shall in all events be afforded a reasonable opportunity for discovery under the procedures for discovery outlined in the Oregon Rules of Civil Procedure. The arbitration shall be before a single arbitrator chosen by mutual agreement of the parties from a panel of arbitrators knowledgeable in the subject of the arbitration. If the parties are unable to reach an agreement on a single arbitrator, each party shall choose an arbitrator, and the two arbitrators chosen shall select the arbitrator for the arbitration. The arbitrator shall award the prevailing party its costs, including reasonable attorney's fees. If there is no prevailing party, both parties will share the costs of the arbitration equally. A judgment upon the award rendered in such arbitration may be entered in any court of competent jurisdiction. Such arbitration shall occur in Clatsop County in the state of Oregon, or at such other place mutually agreed to by the parties.

9.8 Attorneys' Fees and Costs: If arbitration is instituted to enforce any term of or right under the agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs, all reasonable amounts allowed by law, at any hearing, on appeal, and on any petition for review or other trial court or appellate proceeding. In addition, the prevailing party shall recover all attorney fees and costs incurred in connection with any non-judicial action or in the exercise of non-judicial remedies, in any bankruptcy case, proceeding or motion (including motions for relief from stay), and in any administrative, arbitration, mediation or dispute resolution process or proceeding. Agent and Association agree to be subject to the jurisdiction of the Courts of the State of Oregon and agree that the venue for any court proceeding shall be Clatsop County in the State of Oregon.

9.9 Condemnation: Upon the final taking of the entire or a substantial portion of the Property through lawful condemnation proceedings by any governmental party, either party may terminate this agreement by serving thirty (30) days written notice by certified mail to the other party.

ARTICLE 10: AGENT AND ASSOCIATION PROTECTION

10.1 Company Trade Secrets: Each party will have access to and be dealing with trade secrets of the other, such as confidential information about client lists; procedures, processes, and documentation relating to the management of Agent's client Associations; and programs, software, procedures, and techniques relating to data processing and financial reporting. Each party agrees to hold any such trade secrets

or confidential information, obtained during this Agreement, in the strictest confidence, and shall retain a total confidentiality, giving value to protecting them from the other party's competitors. This provision will continue after the termination of this Agreement.

- 10.2 Confidential: All material of a confidential nature, prepared and utilized in the performance of duties under this Agreement, shall remain the exclusive property of such party, and shall be retained such party's possession, provided that Association shall have the right to all contracts, correspondence, and a printed copy of accounting materials related to the Association. This provision will continue after the termination of this Agreement.

ARTICLE 11: MISCELLANEOUS

- 11.1 Successors and Assigns: This Agreement will be binding the successors and assigns of Agent and the Association. This Agreement shall be binding on the parties hereto, their heirs, executors, administrators, successors, and assignees, and constitutes the full agreement except that subsequent changes or additional provisions must be in writing and executed by both parties.
- 11.2 Assignment: Notwithstanding the previous Section 11.1, Agent shall not assign its interest under this Agreement, except in connection with the sale of all or substantially all of the assets of its management business, provided Agent shall give Association 60 days' notice of such sale. In the event of such a sale, Agent shall be released from all previous and further liability by the Association, but only as of the effective date of such sale. All liability for prior actions will only be released to the extent Assignee assumes such liability.
- 11.3 Construction of Agreement: In construing the Agreement, it is understood that the Association and Agent may be more than one person and that either or both may be a corporation, partnership, or association; that if the context so requires, the singular pronoun may be taken to mean and include the plural, the masculine, the feminine, and the neuter; and generally, all grammatical changes shall be made assumed and implied to make the provisions hereof apply equally to corporate partnerships or associations and more than one individual. In addition, it is understood and agreed that the rules of construction that a written agreement is to be construed against the party preparing or drafting such agreement shall not apply to the interpretation of the agreement.
- 11.4 Warranty of Authority: Association hereby expressly represents and warrants that Association is the legal Association of record of the Property, and/or that Association has the actual and express authority to enter into the Agreement on behalf of any Association, whether or not the existence of such Association has been disclosed to Agent in the Agreement or otherwise. Association shall indemnify and hold Agent harmless from any claims of third parties against Agent and any damages Agent may incur arising from Association's breach of the foregoing representations and

warranties.

- 11.5 Recitals; Applicable Law; Amendment: Every portion of the Agreement is contractual and not mere recital, and all recitals shall be deemed incorporated into the Agreement. The Agreement shall be governed by and interpreted according to Oregon law and any applicable federal law.
- 11.6 Integration: The Agreement contains the entire understanding and agreement of the parties concerning the parties' relationship, and all prior negotiations, discussions, or understandings, oral or written, are hereby integrated herein. No prior negotiations, discussions, or agreement not contained herein or in such documents shall be binding or enforceable against the parties.
- 11.7 Counterparts: The Agreement may be signed in several counterparts. The signature of one party on any counterpart shall bind such party just as if all parties had signed the counterpart. Each counterpart shall be considered an original. All counterparts of the Agreement shall together constitute one original document.
- 11.8 Waivers: Any waiver by any party hereto of any provision of the Agreement, or any breach thereof shall not constitute a waiver of any other provision or any other breach. If any provision, paragraph, or sub paragraph herein shall be deemed invalid, illegal, or unenforceable in any respect, the validity and enforceability of the remaining provisions, paragraphs, and subparagraphs shall not be affected.
- 11.9 Captions: All captions used herein are for convenience only and shall not be construed so to limit or restrict any term of the Agreement.
- 11.10 Disclaimer: No representation or recommendation is made by the Agent or its employees as to the legal sufficiency, legal effect, or other consequences of this Agreement. The parties shall rely solely upon the advice of their own legal counsel as to the legal and other consequences of this agreement.
- 11.11 Acknowledgment: Association and Agent acknowledge that they have carefully read and reviewed this Agreement and each term and provision contained herein and by execution of this Agreement show their informed and voluntary consent thereto. The parties hereby agree that, at the time this Agreement is executed, the terms of this Agreement are commercially reasonable and effectuate the intent and purposes of the Association and Agent concerning the service agreement.

IN WITNESS WHEREOF, the parties hereto do signify their mutual agreement of the terms and provisions of the Agreement as of the day and year first written above.

Association Name, an Oregon condominium association,

Pacific View Homeowners Association

By: Scott Samuel, President

Chairperson of the Board

Date: 2/8/24

By: _____

Secretary/Treasurer

Date: _____

Gearhart By the Sea, Inc., an Oregon Corporation,

By: Kathy A. Campbell

Chairperson of the Board

Date: 3/12/24

By: [Signature]

Secretary/Treasurer

Date: 3.11.24