

**Seventh Amendment to Condominium Declaration
for
Sand River Cohousing, a Condominium
(f/k/a ElderGrace Cohousing, a Condominium)
(amending Condominium Declaration recorded as Instrument No. 1577821)**

This Seventh Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium (“**Seventh Amendment**”), approved by all of the Residence Owners, shall be effective as of the date of its recordation in the land records of Santa Fe County, New Mexico (“**Effective Date**”).

Recitals

A. ElderGrace Cohousing Condominium (the “**Cohousing Community**” or “**Sand River**”) is located within the County of Santa Fe, New Mexico, created by that certain Condominium Declaration for ElderGrace Cohousing, a Condominium, filed on September 1, 2009, as Instrument No. 1577821, in the real property records of Santa Fe County, New Mexico (“**Declaration**”), as amended by:

A-1. The “First Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium”, filed on December 15, 2009, as Instrument No. 1585969 (“**First Amendment**”);

A-2. The “Second Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium”, filed on May 10, 2010, as Instrument No. 1598419 (“**Second Amendment**”);

A-3. The “Third Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium”, filed on August 12, 2010, as Instrument No. 1607714 (“**Third Amendment**”);

A-4. The “Fourth Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium”, filed on December 23, 2010, as Instrument No. 1621099 (“**Fourth Amendment**”);

A-5. The “Fifth Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium”, filed on January 24, 2012, as Instrument No. 1658206 (“**Fifth Amendment**”);

A-6. The “Sixth Amendment to Condominium Declaration for ElderGrace Cohousing, a Condominium”, filed on March 21, 2013, as Instrument No. 1700056 (“**Sixth Amendment**”);

B. Sand River Cohousing, Inc., f/k/a ElderGrace Cohousing Association, Inc. (“**Association**”) is the nonprofit residential association, consisting of all of the Owners of Residences within the Condominium, formed to maintain and insure the Common Elements, and to otherwise manage the interests of the Cohousing Community;

COUNTY OF SANTA FE } SEVENTH AMENDMENT
STATE OF NEW MEXICO } ss PAGES: 7
I Hereby Certify That This Instrument Was e-Recorded for
Record On The 5TH Day Of February, A.D., 2024 at 08:34:57 AM
And Was Duly Recorded as Instrument # 2027677
Of The Records Of Santa Fe County
Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM
Deputy - GLUJAN

Seventh Amendment to Condominium Declaration
Sand River Cohousing (f/k/a ElderGrace Cohousing)
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C. The Members of the Association wish to amend: (i) Section 1.3.15 of the Declaration for the purpose of changing the legal name of the Condominium; (ii) Section 1.3.28 for the purpose of changing the definition of Permanent Occupant; and (iii) Section 8.1 for the purpose of restricting the number of Residences which may be leased at any given time within the Cohousing Community.

Now, therefore, pursuant to Article 12 of the Declaration, the Owners of Residences within the Cohousing Community have unanimously approved the following amendments to the Declaration:

AMENDMENTS

1. **Article 1, Section 1.3, Defined Terms.** The following defined term shall supplant and replace the legal name of the Condominium:

1.3.15 Condominium: Sand River Cohousing, a Condominium.

2. **Article 1, Section 1.3.28, Defined Terms.** The following defined term shall supplant and replace the definition of permanent occupant:

1.3.28 Permanent Occupant: any Occupant who considers the Residence to be the individual’s legal residence and actually resides in the Residence for at least nine months during every calendar year. Each Residence must have at least one Permanent Occupant who is at least fifty-five (55) years of age or older, unless otherwise permitted under §8.2.24.

3. **Article 8, Section 8.1, Use of Residences.** The following shall supplant and replace Section 8.1 of the Declaration:

8.1 Use of Residences. Residences shall be used only for residential purposes and such home occupations or uses permitted by applicable zoning codes. As allowed by Sections 8.1 and 8.2 herein, the owner of a Residence may rent or lease the Residence to others or permit Occupants to occupy it so long as such uses and occupancy comply with zoning codes and fulfill the Permanent Occupant requirement herein. No use of a Residence shall function as a “place of public accommodation” as defined in the Americans With Disabilities Act (42 U.S.C. §§1201 *et seq.*).

8.1.1 Limits on the Number of Contemporaneously Leased Residences (“Rental Cap”). No more than four (4) of the twenty-eight Residences within Sand River, representing 14.29% of the total Residences, may be rented at any given time (“Rental Cap”). If at any time four (4) Residences are rented, an Owner who wishes to lease a Residence that is not already rented shall be placed on a waiting list by the Board of Directors. When an existing tenant moves out of a Residence, the Owner of the vacated Residence shall immediately notify the Board of Directors or Managing Agent of such fact (“Expired Rental”). The Owner of an Expired Rental may not re-rent until all prior Owners on the waiting list, if any, have had a chance to rent their Residences.

A Residence Owner shall notify the Board of Directors or the Managing Agent as to the Owner’s intent to rent prior to the execution of any lease. After receiving such notice, the

Board of Directors or the Managing Agent shall advise the Owner if the Residence may be rented or whether the Rental Cap maximum has been reached (in which case the Board of Directors or the Managing Agent shall also notify the Owner of the Owner's position on the waiting list).

Grandfathered Units. The "Rental Cap" described above shall not apply to an Owner who, on the Effective Date of this Seventh Amendment, is already renting the Owner's Residence and provides written proof thereof to the Association's Board of Directors. Such proof shall include a copy of an executed lease which identifies the tenant, the tenant's date of birth, the effective date of the lease, the lease term and renewal options, with rental amounts and other immaterial information redacted at the Owner's election ("Grandfathered Units"). Grandfathered Units shall be exempt from the Rental Cap until the Grandfathered Unit is subsequently conveyed, transferred or devised at which time the Residence shall immediately become subject to this Subsection 8.1.1. The transfer of title of the Residence to a trust where the existing Owner is a trustee or beneficiary of said trust shall not be deemed a conveyance, nor shall transfer of title to an LLC in which the existing Owner maintains the sole membership interest.

8.1.2 Hardship and Sole Tenancy Exceptions; Waiver. Notwithstanding Subsection 8.1.1, above, if an Owner wishes to rent or lease the Owner's Residence, but the maximum number of Residences is currently being leased, the Owner may request the Board of Directors waive the Rental Cap and approve a proposed lease if the Owner establishes, in the Board's sole determination, that:

(a) Hardship Exception. The Rental Cap will cause undue hardship to the Owner. Examples of an undue hardship include:

- Death, dissolution or liquidation of an Owner;
- Divorce or marriage of an Owner;
- Necessary relocation of the Residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Sand River due to a change of employment or retirement of at least one (1) of such Owners;
- Necessary relocation of the Residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- Sabbatical;
- Extended House Swap; or
- Other similar circumstances deemed an undue hardship by the Board.

(b) Sole Tenancy Exception. The Residence was purchased for occupancy by a specific friend or relative of the Owner ("Sole Tenant") who intends to sell the Residence after the Sole Tenant leaves the community.

8.1.3 General Lease Conditions. With the exception of a Sole Tenancy, all leases shall be in writing, including renewals. No lease shall be entered into for a term of less than

thirty (30) days, nor more than one (1) year, without the prior written approval of the Board of Directors. Residences shall be leased in their entirety. Subleasing is prohibited. For purposes of this Article 8, a “tenant” shall be defined as a person who exchanges currency or payment-in-kind for Occupancy of a Sand River Residence. A “tenant” shall not include temporary house-sitters, house exchangers, housekeepers or caretakers in residence, guests and visiting family members. Tenants shall be over the age of fifty-five (55) unless otherwise approved by the Board of Directors. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, Bylaws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Residence. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of the Sand River governing documents (including the Declaration, Bylaws, and Rules and Regulations, as amended) to the Owner’s tenant prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.

8.1.4 One Year Waiting Period. In addition to all other provisions of this Article 8, for a period of one (1) year after an Owner’s acquisition of title to a Residence, the Residence may not be leased (“Waiting Period”). After the Waiting Period, the Residence will be eligible for leasing if all other conditions of this Article 8 are satisfied and the Owner is not delinquent in the payment of assessments or other charges to the Association. Notwithstanding Subsection 8.1.4, if an Owner wishes to lease a Residence prior to the expiration of the Waiting Period, the Owner may apply to the Board of Directors for a waiver. The Board may approve a waiver of this Subsection 8.1.4, in its sole discretion, if it finds a Hardship Exception or a Sole Tenancy Exception applies.

8.1.5 Owner Obligations are Non-Transferable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from responsibility to the Association and the other Owners for compliance with the provisions of the Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations promulgated by the Board of Directors, or from the Owner’s liability to the Association for payments of assessments or other charges.

8.1.6 Tenant Data Sheet. Owners shall provide a completed Tenant Data Sheet (attached as **Exhibit A**) to the Board of Directors at least seven (7) days prior to the start of a tenancy.

8.1.7 Violations. Any lease or attempted lease of a Residence in violation of the provisions of this Article 8 shall be voidable at the election of the Association’s Board of Directors or any other Sand River Residence Owner, except that neither party to such lease may assert this provision of this Article 8 to avoid the party’s obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any

Sand River Residence Owner, shall have the right to exercise any available remedies at law or equity.

8.1.8 Maximum Number of Residences Owned by Single Owner. So that Sand River Cohousing remains a community where the Residence Owners reside on the property, in keeping with the Cohousing philosophy:

(a) No Owner may own more than one (1) Residence within Sand River at any time. This restriction shall not apply to any Owner who owns more than two (2) Residences which were purchased or with respect to which there was a binding purchase agreement prior to the Effective Date of this Seventh Amendment.

(b) For the purpose of this Subsection 8.1.8, the term “Owner” means the record owner, whether one or more persons or entities of a fee simple title to any Residence which is part of Sand River. “Owner” also means those persons or entities who comprise less than all persons or entities who own in any form or manner the fee simple title or any part thereof to any Residence and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Residence. As an example, if any person or entity owns or has any interest in the ownership of a Residence, whether individually, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot hold an interest in a second Residence, whether in individually, as joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

(c) A purchase agreement, conveyance or lease or rental agreement executed after the recording of this restriction which violates a provision of this Subsection 8.1.8 shall be voidable at the election of the Association’s Board of Directors or any Sand River Owner, except that neither party to such agreement, conveyance or lease may assert this provision of this Article 8 to avoid the party’s obligations thereunder. In the event of a violation, the Board of Directors on behalf of the Association, or any Sand River Owner, shall have the right to exercise any available remedies at law or equity.

8.1.9 Time Shares are Prohibited. Time shares are defined as the right to occupy a Residence during five or more separated time periods over a period of at least five years, including renewal options. A Residence that meets this definition shall qualify as a time share whether or not ownership is coupled with a freehold estate or an estate for years in a time share project or a specified portion thereof, including, but not limited to, a fractional ownership, vacation license, prepaid hotel reservation, club membership, limited partnership interest, limited liability membership interest, vacation bond, or any other ownership structure or action in foreclosure intended to evade this time share prohibition. Time shares are expressly prohibited within the Condominium.

8.1.10 Lender Exemption. The provisions and restrictions on leasing as contained in this Section 8.1 shall not apply to first mortgage foreclosing lenders or impair the right of first mortgagees to: foreclose or take title to a unit; or accept a deed (or assignment) in lieu of

Exhibit A

Sand River Tenant Data Sheet

e-Recorded 2027677 02/05/24 SFC

Residence Address: _____

Full Name of Tenant(s): _____

Tenant's Date of Birth: _____ / _____ / _____

Tenant's Phone Number: (____) _____ - _____

Tenant's Email Address: _____

Tenant's Emergency Contact:

Name: _____

Relationship: _____

Phone Number: (____) _____ - _____

Tenant's Vehicle Information:

Vehicle Make: _____

Vehicle Model: _____

License Plate Number: _____

Occupancy Information:

Term Start Date: _____ / _____ / _____

Term End Date: _____ / _____ / _____

Is this a sole tenancy arrangement? YES NO (circle one)

Additional Occupants (if any):

1. Name: _____

Date of Birth: _____ / _____ / _____

2. Name: _____

Date of Birth: _____ / _____ / _____

Acknowledgement of Rules and Regulations

The undersigned tenant(s) has/have received a copy of the condominium association's rules and regulations and agree(s) to abide by them.

Signature of Tenant(s): _____

Date: _____ / _____ / _____