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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**FOR**

**THE RESERVE AT HECETA LAKE**

**DECLARANT: HECETA LAKE JOINT VENTURE**

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**EXHIBITS**

- EXHIBIT A: Property Subject to Declaration
- EXHIBIT B: Easement for Cul-de-Sacs
- EXHIBIT C: Access, Utility and Maintenance Easement
- EXHIBIT D: Units Containing Wetlands

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR  
THE RESERVE AT HECETA LAKE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE RESERVE AT HECETA LAKE ("Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by HECETA LAKE JOINT VENTURE, an Oregon partnership ("Declarant").

A. Declarant owns or controls approximately 116 acres within Lane County, Oregon. Declarant proposes to develop this property as a residential planned development to be known as "The Reserve at Heceta Lake," which shall be a Class I planned community pursuant to the Oregon Planned Community Act and shall be subject to ORS 94.550 through ORS 94.785. Declarant contemplates developing the property it owns or controls in phases, but it is not committing itself to plat and/or to develop any or all of the contemplated phases. References hereinafter made in this Declaration to "The Reserve" shall mean the residential planned community consisting of detached single-family residential homes, known as The Reserve at Heceta Lake. One who acquires property in The Reserve will have the advantage of further development of The Reserve, but shall not have any legal right to insist that there be development except as provided in this instrument or in the instruments that hereafter may be recorded annexing areas to The Reserve and subjecting areas to this Declaration. The legal description of property that may be developed as part of The Reserve at Heceta Lake is attached hereto as Exhibit A and by reference incorporated herein.

B. The property that Declarant anticipates developing as The Reserve includes properties within and outside of the urban growth boundary established for the City of Florence, Oregon, in its comprehensive plan. The City of Florence does not currently desire to annex the property to the City, but may desire to annex the property at a future time. The Declarant and the City of Florence have, therefore, entered into the On-Site Sewage Disposal Agreement made November 16, 1987, and recorded in the records of Lane County, Oregon, on December 11, 1987, as document number 8753597 (the "Sewage Agreement"), which imposes certain obligations with respect to the property and obligates Declarant, its assigns and successors-in-interest, to so annex the property in the future at the request of the City of Florence. The terms of the Sewer Agreement are incorporated into this Declaration by this reference.

C. Declarant intends to create in The Reserve a carefully planned community that will provide an attractive place to live. Declarant will provide leadership in organizing and administering The Reserve during the development period, but expects property owners in The Reserve to accept the responsibility for community administration by the time the development is complete.

D. The purpose of this Declaration is to provide for the ownership, maintenance and use of all portions of The Reserve, including certain common areas that will be owned and operated by a homeowner association for the benefit of all properties now or later made subject to this Declaration.

E. Funds for the maintenance and operation of the common areas generally will be provided through assessments against those who purchase property within The Reserve, although to assist with the development of The Reserve, Declarant may from time to time itself provide some improvements.

F. Declarant has recorded or will record a plat entitled "The Reserve at Heceta Lake, Phase 1" in the Plat Records of Lane County, Oregon (the "Plat of Phase 1"). Declarant desires to establish the property platted as The Reserve at Heceta Lake, Phase 1 as the first phase of the planned community known as The Reserve. For purposes of this Declaration, all references hereinafter made to "Phase 1" shall mean the property platted as The Reserve at Heceta Lake, Phase 1. Phase 1, as defined above, is approximately 41 acres (gross). Declarant contemplates platting the balance of the original total acreage constituting The Reserve (as described in Exhibit A) in phases. However, Declarant is not committing itself to plat and/or develop any or all of the contemplated phases.

G. Declarant hereby declares that all of the property described in Exhibit A and any additional property that is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions and charges, which are for the purpose of protecting the value and desirability of and shall run with the real property subjected to this Declaration and shall be appurtenant thereto, and shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

Article I.  
Definitions

1.1 "Area of Common Responsibility" shall mean and refer to the Common Area, and, Common Easement Areas, together with those areas, if any, that by the terms of this Declaration become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility.

1.2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of The Reserve Community Association, as filed with the Secretary of State of the State of Oregon, as amended from time to time.

1.3. "Association" shall mean and refer to The Reserve at Heceta Lake Community Association, which shall be an Oregon nonprofit corporation, its successors or assigns. The use of the term "association" or "associations" in lower case shall refer to any other owners association having jurisdiction over any part of the Properties.

1.4. "Board of Directors" or "Board" shall mean and refer to the elected body of the Association having its normal meaning under Oregon corporate law.

1.5. "Bylaws" shall mean and refer to the Bylaws of The Reserve at Heceta Lake Community Association as amended from time to time. The Bylaws shall be recorded in Lane County, Oregon.

1.6. "Class B Control Period" shall mean and refer to the period of time during which the Class B Member is entitled to appoint all or a majority of the members of the Board of Directors.

1.7. "Common Area" shall be an inclusive term referring to all General Common Area as defined herein.

1.8. "Common Assessments" shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

1.9. "Common Easement Areas" shall mean those easements on any Unit established for the benefit of all Owners pursuant to a plat or declaration.

1.10. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including the Reserve Fund, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred during the Class B Control Period for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class A vote of the Association.

1.11. "Community Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties as set forth in Article XI. Such standard may be more specifically determined by the Board of Directors and the ARC. In no event, however, shall such standard be reduced below that standard established by the Declarant as of the termination of the Class B Control Period.

1.12. "Declarant" shall mean and refer to Heceta Lake Joint Venture, an Oregon partnership, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibit A for the purpose of development and/or sale and are designated as the Declarant or successor Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

1.13. "Emergency Assessment" shall have the meaning given in Section 10.4.

1.14. "General Common Area" shall mean (i) Lot 7, which is dedicated on the Plat of Phase 1 as a park; (ii) Parcel A, which is dedicated on the Plat of Phase 1 as a nature preserve; and (iii) all real and personal property that the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners, including Common Easement Areas. Neither Lot 7, nor Parcel A, shall be used for residential purposes at any time.

1.15. "Improvements" means every structure or improvement of any kind, including but not limited to streets, street improvements, sanitary services, water services, lighting, other improvements for utilities, entry monuments, signage, walks, trails, parks, open space amenities, fences, gates, walls, driveways, storage shelters, landscaping or other product of construction efforts on or in respect to the Properties.

1.16. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein and in the Bylaws.

1.17. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a contract of sale (i.e. land sale contract), a deed to secure debt, or any other form of security deed.

1.18. "Mortgagee" shall mean and refer to a mortgagee, beneficiary, vendor or other holder of a Mortgage.

1.19. "Mortgagor" shall mean and refer to any Person who gives a Mortgage, including a mortgagor, grantor, and vendee.

1.20. "ORS" shall mean and refer to the Oregon Revised Statutes, as amended from time to time, and references to specific sections and subsections of ORS shall mean those sections and subsections as amended from time to time.

1.21. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit that is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then the purchaser (rather than the fee owner) will be considered the Owner. If a Unit is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors the lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all privileges of membership in the Association.

1.22. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.23. "Properties" shall mean and refer to the real property described in Exhibit A attached hereto as subject to this Declaration, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

1.24. "Reserve Fund" shall have the meaning given in Section 10.11.

1.25. "Reserve Study" shall have the meaning given in Section 10.12.

1.26. "Special Assessment" shall mean and refer to assessments levied in accordance with Section 10.3 of this Declaration.

1.27. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant that subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the

Association pursuant to Section 2.2 of this Declaration to subject additional property to this Declaration. The term shall also refer to any instrument recorded pursuant to Section 2.1(f) of this Declaration.

1.28. "Turnover Meeting" shall have the meaning given in Section 5.8.

1.29. "Unit" shall mean a platted or partitioned lot or parcel within the Properties, whether developed or undeveloped, intended for development, use, and occupancy as an detached residence for a single-family on a separately platted lot, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of the lot owned as well as any structure thereon. The term shall not include Common Area.

In the case of a parcel within the Properties of land on which single-family residences are to be constructed or are under construction, regardless of whether the parcel has been platted or partitioned into separate lots, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the preliminary plat submitted by Declarant to Lane County until such time as a residence has been constructed on the parcel of land and may be legally occupied by the Owner thereof. After the residence constructed on the parcel of land may be so occupied, it shall constitute a separate Unit, and the number of Units on the remaining parcel of land not included in the Unit, if any, shall continue to be determined in accordance with this paragraph.

## Article II. Property Subject to Declaration

2.1 Phase 1. All of the property described in Exhibit A is or may be, upon the recording of a supplemental declaration, subject to this Declaration. However, the initial development in The Reserve shall be the real property within the plat entitled "The Reserve at Heceta Lake, Phase 1" that is filed or will be filed in the Plat Records of Lane County, Oregon. The initial development in Phase 1 will consist of approximately 55 single-family Units.

Declarant agrees as part of the initial development in Phase 1 that Declarant shall construct and install, or supervise the installation of, the following contemplated Improvements: water services; street improvements for public streets; and a portion of several access paths, which are a Common Area within The Reserve. Notwithstanding the foregoing, Declarant may elect to add other Improvements not listed herein at Declarant's sole discretion. Declarant contemplates platting additional phases within The Reserve, from time to time, in

Declarant's sole discretion. With respect to each additional phase platted within the property described in Exhibit A:

- (a) The procedure for expansion will be the platting of another phase.
- (b) There shall be no limitation on the number of Units that Declarant may create in such phase or phases that Declarant may create in The Reserve, subject to governmental approvals and restrictions.
- (c) There shall be no limitation on the right of Declarant to create additional Common Area in such phase, which will become part of The Reserve. Additions of Common Areas may result in increased assessments related to the maintenance of Common Areas.
- (d) The Owner of a Unit within such phase shall have the same voting rights as an Owner of a Unit within Phase 1, as more particularly set forth in Section 5.3 of this Declaration.
- (e) The Owner of a Unit within such phase shall be assessed Common Expenses in the same manner as the Owner of Unit within Phase 1, as more particularly set forth in Article X of this Declaration.
- (f) As additional phases of the property described in Exhibit A are platted, the Board of Directors may, but shall not be required to, record a Supplemental Declaration describing the property as platted for ease of identification and reference.

2.2. Phase 2. Declarant currently anticipates developing the balance of the Property not included in Phase 1 as Phase 2 of The Reserve ("Phase 2"). Phase 2 has been approved by Lane County for development as an additional 50 Units. Declarant anticipates that Phase 2 will include the following Common Areas that will be made a part of The Reserve: (i) approximately one half of the seasonal lake and wetland commonly known as Heceta Lake and an approximately 100 foot wide buffer area along the Lake's water line (collectively, the "Lake"); (ii) an undeveloped nature preserve including wetlands that is approximately two (2) acres in size; (iii) a wetlands mitigation site of approximately six tenths (.6) of an acre; and (iv) common areas for streets, which may be private or public, upon dedication of any additional Common Areas to the Association (or to Lane County if streets are publicly dedicated), the Association shall be responsible for all maintenance or repair except as otherwise set forth in the dedication or this Declaration. Although these are the anticipated sizes, makeup and proposed uses for the Common Areas within Phase 2, Declarant

shall be under no obligation to dedicate these areas as Common Areas or to subject Phase 2 to this Declaration.

2.3. Annexation Without Approval of Class A Membership. Subject to Section 14.3 below, Declarant shall have the unilateral right at any time until the expiration of the Class B Control Period, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property adjacent to the Properties owned by Declarant. Such annexation shall be accomplished by filing in the Recorder's Office of Lane County, Oregon, a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of the Class A Members. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Subject to Section 14.3, Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex such adjacent property that is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit A or such adjacent property and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

2.4. Annexation With Approval of Class A Membership. Subject to Section 14.3, and subject to the consent of the owner thereof, the Association may annex real property other than that described in Section 2.3, and following the expiration of the right of Declarant in Section 2.3, any adjacent property described in Section 2.3, to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class A votes of the Association present at a meeting duly called for such purpose and the consent of Declarant so long as Declarant owns property subject to this Declaration or that may become subject to this Declaration in accordance with Section 2.3.

2.5. Annexation Procedures. Annexation shall be accomplished by filing of record in the Recorder's Office of Lane County, Oregon, a Supplemental Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting. The Supplemental Declaration shall, among other things, describe the additional property to be annexed, may establish land classifications for the property to be annexed, may establish any additional limitations, uses, restrictions, covenants and conditions that are intended to be applicable to such property, and shall declare that such property is held

and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration. There shall be no limitation on the number of Units that Declarant may create or annex to The Reserve.

2.6. Acquisition of Additional Common Area. Subject to Section 14.3, Declarant may convey to the Association additional real property, improved or unimproved, located within the Properties that, upon conveyance or dedication to the Association and acceptance by the Association, shall be maintained by the Association at its expense for the benefit of all its Members. There shall be no limitation on the right of Declarant to create or annex additional real property to the Common Area.

2.7. Withdrawal of Property. Declarant may withdraw property from The Reserve only by a duly adopted amendment to this Declaration except as otherwise set forth in this Section 2.7. Declarant may withdraw all or any portion of the unplatted property subject to this Declaration prior to platting, or may withdraw all or any portion of any property annexed pursuant to Sections 2.3 or 2.4, by Supplemental Declaration at any time prior to the sale of the first Unit in the property annexed by such Supplemental Declaration. Any such withdrawal shall be by a Supplemental Declaration executed by Declarant and recorded in Lane County, Oregon. In the event of such withdrawal, all voting rights otherwise allocated to Units being withdrawn shall be eliminated, and Common Expenses shall be reallocated, to the extent necessary, as provided in Section 2.8. Provided, however, subject to Section 14.3, Declarant reserves the right to amend this Declaration unilaterally at any time during the Class B Control Period, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Declarant, provided, such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties. Except as expressly set forth in this Section 2.7, the right to withdraw property from The Reserve shall not expire.

2.8. Reallocation and Reapportionment of Common Area Expenses. In the event additional Units are annexed to or withdrawn from the Properties, commencing on the effective date of such annexation or withdrawal ("Change Date") and continuing thereafter, all Common Assessments shall be allocated based on the number of Units, including the annexed Units but excluding any withdrawn Units then existing and subject to the terms of this Declaration, and all Units shall be assessed a prorata share of all Common Expenses commencing with any Change Date. In the event prior to any Change Date, Common Assessments have been paid for Common Expenses that are, in Declarant's reasonable judgment, properly chargeable to the period prior to a Change Date but for which benefits will accrue to Owners after that Change Date, each Owner of any annexed Unit shall pay its

prorata share to the Association for such amounts within thirty (30) days after receipt of written demand therefore, which demand shall be accompanied by reasonable supporting documentation. Adjustments to Common Expenses paid by all other Owners of Units prior to that Change Date shall be adjusted for the next calendar year for which billings of Common Expenses are rendered by the Association. In no event shall any refund be made to any Owner of a withdrawn Unit.

2.9. Voting Rights. An Owner of a Unit within property annexed pursuant to this Article shall have the same voting rights as an Owner of a Unit within the property described in Exhibit A.

2.10. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as Declarant owns real property subject to this Declaration or that may become subject to this Declaration in accordance with Section 2.3. Any amendment is also subject to Section 13.2 and Section 14.3.

Article III.  
Property Rights; Common Area

3.1. Conveyance of Common Area. The Common Area within The Reserve shall be conveyed to the Association on or before the Turnover Meeting held pursuant to Section 5.8.. The deed or deeds conveying Common Area shall be delivered to the Association by Declarant free and clear of monetary liens. Such deeds shall not include Common Easement Areas. Title to Common Easement Areas, subject to the easements set forth in this Declaration, shall rest in the Owners of the respective Units within which such areas are located, or in the public if part of a dedicated street or right of way.

3.2. Property Rights in Common Area. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;

(b) the right of the Association to limit the number of guests, and to adopt rules regulating the use and enjoyment of the Common Area;

(c) the right of the Board, after written notice and an opportunity to be heard as provided in the Bylaws, to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation, or

for a longer period in the case of any continuing violation, of the Declaration, Bylaws, or rules of the Association;

(d) the right of the Association, acting through the Board, to grant easements and to dedicate or transfer all or any part of the Common Area pursuant to Section 14.3 hereof;

(e) the right of the Association to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;

(f) the right of the Board to permit nonmember use of the Common Area upon payment of use fees established by the Board; and

(g) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the approval requirements set forth in Sections 14.2 and 14.3 hereof.

Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures the Board may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

3.3. Common Easement Areas. Common Easement Areas shall be reserved for signage, visual landscape features, utility and drainage easements (to the extent not located on Common Area). Such areas shall be maintained by the Association and no changes in landscaping will be permitted within such areas without written authorization by the Board. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon any Common Easement Areas, nor may any such areas be used by any Owner for storm water treatment purposes.

3.4. Alienation of the Common Area. The Association may not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Units unless the holders of at least seventy five percent (75%) of the Class A votes of the Association and the Class B Member (as defined in Section 5.3.2 below), if any, have given their prior written approval. This provision shall not apply to the easements described in Section 3.5 below. Notwithstanding the foregoing, The Association, upon approval in writing of at least fifty percent (50%) of the Class A votes of the Association and the Class B member, if any, and if approved by order or resolution of Lane County or the City of Florence, Oregon, as

appropriate, may dedicate or convey any portion of the Common Area to a park district or other public body.

3.5. Easement Reserved by Declarant. So long as Declarant owns any Unit, Declarant reserves an easement over, under and across the Common Area in order to carry out sales and rental activities necessary or convenient for the sale or rental of Units. In addition, Declarant hereby reserves to itself and for the Owners of Units in all future phases of The Reserve a perpetual easement and right of way for access over, upon and across the Common Area for construction, utilities, communication lines, drainage and ingress and egress for the benefit of other property owned by Declarant and future phases of the Properties. Declarant, for itself and for 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 Properties or other real property owned by Declarant provided, however, that no such right shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Unit by that Owner or its family, tenants, employees, guest or invitees.

Article IV.  
Property Rights in Units

4.1. Use and Occupancy. The Owner of a Unit in the Properties shall be entitled to the exclusive use and benefit of such Unit, except as otherwise expressly provided in this Declaration, but the Unit shall be bound by and the Owner shall comply with the restrictions contained in Article XII below and all other provisions of this Declaration and provisions of any supplement or amendment to this Declaration.

4.2. Easements Reserved. Declarant desires to reserve certain easements in addition to the Common Area, Common Easement Areas and any utility and drainage easements shown on any recorded plat. The easements reserved herein shall be perpetual and non-exclusive, and shall run with the land and be binding on the successors and assigns of the owners of properties benefited and burdened under these easements. Notwithstanding any unity of ownership of the properties benefited and burdened under these easements at their creation or upon future conveyance, no merger of the dominant and servient interests shall occur absent termination by express, written agreement between the owners of the benefited and burdened properties or their successors in interest. The owners of the benefited and burdened properties contemplate that the benefited properties may be partitioned or subdivided, if allowed under the Declaration and all appropriate governmental consents are obtained, creating additional Units. The easements granted hereunder are intended to benefit any additional Units so created. No party to any of the easements shall prevent another party's

or permitted user's reasonable access or otherwise take any action or fail to take any action that would unreasonably interfere with the other party's rights under these easements. No party to the easement or permitted user shall have the right to park, load or unload any vehicle in any easement area other than under emergency conditions. No easement area shall be used in any manner that results in a violation of any rules and regulations, covenants, conditions, restrictions or laws affecting the easement area. Use of the easement areas shall be on a non-exclusive, non-priority basis.

4.2.1. Easements Reserved to Declarant and the Association. Declarant hereby reserves the following easements for the benefit of Declarant, as the Owner of the Properties, and the Association:

4.2.1.1. Adjacent Common Areas. The Owner of any Unit that blends together visually with any Common Area shall, if the Association elects from time to time to so require, permit the Association to enter upon the Unit to perform all necessary maintenance of such Common Area.

4.2.1.2. Easement Allowing Right of Entry. Declarant, the ARC, and any representative of the Association authorized by the Board of Directors may at any reasonable time upon at least seventy two (72) hours prior notice, and from time to time at reasonable intervals, enter upon any Unit for the purpose of determining whether or not the use and/or Improvements of such Unit are 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 Unit.

4.2.1.3. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Units, as shown on any recorded plat. Within such easements, the ARC will not permit any structure, planting or any other material to be placed or permitted to remain on the easement area that may damage or interfere with the installation or maintenance of utilities, or that may change the direction of flow of drainage channels in the easements, or that may obscure or retard the flow of water through drainage channels in the easements. The easement area of each Unit and all Improvements on it shall be maintained continuously by the Owner of the Unit, except for those Improvements for which a public authority or utility company is responsible; and except for Common Easement Areas, which will be maintained by the Association.

4.2.1.4. Pedestrian Access Easements. The Declarant desires to provide for a pedestrian access easement allowing access to Tract A, which is a nature preserve and wetland area, and to certain areas within Phase 2 that the Declarant intends to

develop as Common Areas for Phase 2, as described in Section 2.2, including the Lake and Parcel B. The following easements for pedestrian access are hereby reserved across those Units designated on the Plat of Phase 1 as Lots 24, 25, 44, 45, and 54:

4.2.1.4.1. Easement Across Lots 24 and 25. A fifteen (15) foot wide pedestrian access easement, the centerline of which shall be the common lot line shared by Lots 24 and 25, and extending the length of the common lot line, as shown on the Plat of Phase 1.

4.2.1.4.2. Easement Across Lots 44 and 45. A fifteen (15) foot wide pedestrian access easement, the centerline of which shall be the common lot line shared by Lots 44 and 45, and extending the length of the common lot line, as shown on the Plat of Phase 1.

4.2.1.4.3. Easement Across Lot 54. A fifteen (15) foot wide pedestrian access easement across Lot 54, as shown on the Plat of Phase 1.

4.2.2. Easement for Cul-de-Sacs. Declarant constructed Lake Point Drive, Dunewood Drive and Star View Drive, which are or will become public streets, in Phase 1 and anticipates extending those streets to serve Phase 2. To accommodate the needs of emergency services providers, including fire and ambulance services, Declarant constructed temporary cul-de-sacs at the termination of those streets. Declarant hereby grants a temporary access easement to the Association allowing its members to use the cul-de-sacs as currently constructed at the terminus of Lake Point Drive, Dunewood Drive and Star View Drive, which cul-de-sacs are legally described in Exhibit B, attached hereto and by reference incorporated herein. This easement shall terminate upon Declarant's, its successors' or assigns', commencement of construction of the extension of those streets into Phase 2. Until termination of this easement, the Association shall bear all costs of repair and maintenance of the cul-de-sacs as though the cul-de-sacs were a Common Area of the Association and shall defend and indemnify Declarant for any and all claims arising from or in connection with use of the easement area by the Association.

4.2.3. Access, Utility and Maintenance Easement. Declarant hereby reserves an easement across a portion of Lot 32, as described on Exhibit C attached hereto and by reference incorporated herein, for the benefit of the portion of the Properties in Phase 2 described on Exhibit C as the "Benefited Property." The easement shall allow access to the Benefited Property. The easement may also be used for the installation, construction, inspection, maintenance, repair, reconstruction, and replacement of a roadway for access and all public and private utilities and facilities necessary for the development of the Benefited Property and shall include the right to enter upon the easement for such purposes. The cost of

the initial construction of any roadway or of construction of public or private utilities and facilities shall be bourn by the Owner(s) of the Benefited Property. The Owner of Lot 32 shall have the right to use such Owner's Unit, including that portion affected by this easement, for any purpose as long as the use does not interfere with the purposes for which the easement is granted. The cost of any maintenance or repair of the area within the easement shall be apportioned between the Owner of Lot 32 and the Owner(s) of Benefited Property based on each party's use of the easement.

4.2.4. Access Driveway and Utility Easement. The Owner of Lot 2, as shown on the Plat of Phase 1, (for the purposes of this Section 4.2.4., "Grantor") hereby grants to the Owners of Lots 1 and 3, as shown on the Plat of Phase 1 (for the purposes of this Section 4.2.4, each a "Grantee," and collectively the "Grantees"), a thirty (30) foot wide driveway, access and utility easement as shown on the Plat of Phase 1. The easement shall be used for the inspection, maintenance, repair, reconstruction, and replacement of (i) a driveway for the passage of motor vehicles, bicycles and pedestrian traffic, and (ii) all public and private utilities and facilities necessary for the development of the Grantees' lots, each as related to residential occupancy of Grantees' lots. The driveway shall be located within the easement area as currently constructed. Grantor shall not place any buildings or other permanent structures (other than the roadway) on the easement area.

4.2.4.1 Grantor shall be responsible for all maintenance and repair of the driveway and the easement area generally. All maintenance and repair shall be performed on a prompt, diligent and regular basis in accordance with generally accepted maintenance standards and the requirements of this Declaration. Required maintenance shall additionally include the removal of sand, snow, ice and debris from the driveway as soon as practicable after their occurrence. Grantor shall obtain the Grantees' prior approval (which approval shall not be unreasonably withheld or delayed) before undertaking repair or maintenance work with respect to the easement area generally if such work will result in costs in excess of One Thousand and No/100 Dollars (\$1,000.00) per calendar year, and shall have no right to reimbursement if such approval is not obtained prior to commencing such work unless such approval is unreasonably withheld or delayed. The costs of maintenance and repair of the driveway and the easement area generally shall be apportioned between the Grantor and the Grantees based on each party's use of the easement. The Grantees shall reimburse Grantor for any cost of maintenance or repair of the driveway or the easement area generally due hereunder promptly as and when due. If a Grantee constructs a private driveway on such Grantee's Unit and does not make use of the driveway on the Grantor's Unit, then the Grantee shall have no liability for the costs of the repair and maintenance work related to the driveway, nor shall the Grantee have any right to approve the work related thereto for which the Grantee is not liable.

4.2.4.2 Each Grantee shall indemnify and hold harmless Grantor and the other Grantee from and against any and all claims arising from or in connection with use of the easement area by the indemnifying Grantee or its successors, assigns, lessees, mortgagees, invitees, guests, customers, agents and employees, together with all costs, expenses and liabilities incurred in connection with each such claim or action or proceeding brought thereon, including, without limitation, all attorney fees and expenses. In case any action or proceeding from which Grantee is obligated to indemnify the Grantor and/or other Grantee is brought against such parties, the indemnifying Grantee, upon notice from Grantor or the other Grantee, shall resist and defend such action or proceeding (by counsel reasonably satisfactory to Grantor or the other Grantee). Each Grantee shall at all times carry and maintain comprehensive general liability insurance in an amount not less than \$1,000,000, which insurance shall insure the insured against claims of Grantor or the other Grantee on account of the indemnity obligation set forth herein. Upon fifteen (15) days written notice, each Grantee shall provide Grantor and/or the other Grantee reasonable proof of such liability insurance.

4.2.4.3 If any party to this easement shall be in default of such party's obligations under this easement grant, the other parties shall be entitled to require performance of the obligations by suit for specific performance or, where appropriate, through injunctive relief. Such remedy shall be in addition to any other remedies afforded under Oregon law and those rights of cure and reimbursement specifically granted under this easement grant. If legal action is commenced in connection with this easement grant, the prevailing party or parties in such action shall be entitled to recover their reasonable attorney fees and costs incurred in the trial court and any appeal therefrom. The term "action" shall be deemed to include an arbitration and any action commenced in the Bankruptcy Courts of the United States and any other court of general or limited jurisdiction. The reference to "costs" includes, but is not limited to, deposition costs (discovery and otherwise), witness fees (expert and otherwise), out-of-pocket costs, title search and report expenses, survey costs, surety bonds and any other reasonable expenses.

4.3. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any such easement of encroachment, between each Unit and such portion or portions of the Common Area as are adjacent thereto due to unintentional engineering errors, unintentional errors in original construction, unintentional building overhangs or projections, or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Area, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and

knowing action (not unintentional action) on the part of, or with the knowledge and consent of, the encroaching Owner or the encroaching Association, as the case may be.

4.4. Easements for Utilities, Etc. There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit A, the Association, and the designees of each (which may include, without limitation, Lane County, Oregon, the City of Florence, and any utility), blanket easements upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, security and similar systems, roads, walkways, bicycle pathways, drainage systems, irrigation water systems, street lights, signage, entry features, all other portions of the Area of Common Responsibility, and all utilities, including, but not limited to, water, sewers, (including sanitary sewers when such service becomes available to Units in The Reserve) meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier easements across all Units and the Common Areas for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two thirds (2/3) vote, the power to dedicate portions of the Common Area to Lane County, Oregon, the City of Florence, or to any other local, state, or federal governmental entity, subject to such approval requirements as may be contained in Sections 14.2 and 14.3 of this Declaration.

4.5. Easement for Future Development. The Declarant and its duly authorized agents, representatives, and employees as well as its successors, assigns, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Area for the purposes of enjoyment, use, access and development of the property annexed pursuant to Section 2.2 or Section 2.3. This easement includes but is not limited to a right of ingress and egress over the Common Area for construction of roads and for tying in and installation of

utilities on such property. Declarant agrees that it, its successors or assigns, shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property.

Article V.  
Association

Declarant shall organize an Association of all the Owners within The Reserve. Such Association, its successor and assigns shall be organized under the name "The Reserve Community 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 Properties and all Owners of Units located therein.

5.1. Organization. Declarant shall, before the first Unit is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is dissolved, the net assets of the Association shall be distributed by dedication to a public body, or conveyance and transfer to a nonprofit organization with similar purposes to that of the Association. Declarant shall cause the Bylaws to be recorded in the Recorder's Office of Lane County, Oregon.

5.2. Membership. Every Owner shall immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of a Unit, be deemed to be a Member of the Association, which membership rights shall commence, exist and continue simply by virtue of such ownership and need not be confirmed or evidenced by any certificate or acceptance of membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Bylaws.

5.3. Voting Rights. The Association shall have two (2) classes of membership, Class A and Class B, as follows:

5.3.1 Class A. Class A Members shall be all Owners with the exception of the Class B Member, if any. Therefore, each Class A Member shall be an Owner. Class A Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 5.2 hereof; there shall be only one (1) vote per Unit.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit and more than one (1) Person holds the interest in such Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

5.3.2. Class B. The Class B Member shall be the Declarant. The rights of the Class B Member, including the right to approve actions taken under this Declaration and the Bylaws, are specified elsewhere in this Declaration and the Bylaws. The Class B Member shall, except as specified otherwise in this Declaration or the Bylaws, have four (4) votes for each Unit owned by the Class B Member. The Class B Member shall be entitled to appoint all or a majority of the members of the Board of Directors during the Class B Control Period as provided in the Bylaws. The Class B membership shall terminate, together with the termination of the Class B Control Period, and all rights of the Class B Member shall automatically pass to all Owners (including Declarant if Declarant owns one or more Units) and such Owners shall become Class A Members entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 5.2 hereof, upon the earlier of:

(a) when eighty percent (80%) or more of the Units in The Reserve following the final phase of development of The Reserve as permitted by the Master Plan are owned by Persons other than the Declarant;

(b) December 31, 2025; or

(c) when, in its sole discretion, the Declarant so determines.

5.4. Transitional Advisory Committee. Not later than the sixtieth (60<sup>th</sup>) day after the date Declarant conveys fifty percent (50%) or more of the Units then existing in The Reserve to Owners other than a successor Declarant or at such earlier date as the Class B Member so determines, Declarant shall call for a meeting of all Owners and shall provide notice of such meeting as described in the Bylaws. At such meeting, Declarant or the Owners shall form a transitional advisory committee to provide for the transition of administrative responsibility for The Reserve from the Declarant to the Association. Such committee shall

consist of three (3) or more Members, all of which shall be selected by the Owners except that Declarant may select no more than one (1) Member of such committee.

5.5 General Powers and Obligations. The Association, acting through its Board of Directors, shall have, exercise and perform all of the following powers, duties and obligations:

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

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

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

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

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 its provisions 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.

5.6 Specific Powers and Duties. The powers and duties of the Association, acting through the Board, shall include, without limitation, the following:

5.6.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep all Common Areas in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

5.6.2. Personal Property and Real Property for Common Use. Subject to the provisions of Section 3.5 above, the Association may acquire, hold title to, convey, and dispose of tangible and intangible personal property and real property and interests therein.

The Board shall accept for the Association any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

5.6.3. Rules and Regulations and Enforcement. The Association may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. 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, including, without limitation, enforcement of the decisions of the ARC. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Area, all as more particularly set forth in the Bylaws. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the Bylaws of the Association or as determined by the Board. The Association, through the Board, by contract or other agreement, shall have the additional right to enforce county or city ordinances and to permit Lane County or the City of Florence to enforce ordinances on the Properties for the benefit of the Association and its Members.

5.6.4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege that may be reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

5.6.5. Governmental Interests. During the Class B Control Period, the Declarant shall have the authority to designate sites within the Properties, which may include Common Area owned by the Association, for fire, police, water and sewer facilities, public parks, and other public facilities.

5.6.6. Assessments. The Association shall adopt budgets and impose and collect Assessments as provided in Article X of this Declaration.

5.6.7. Employment of Agents, Advisers and Contractors. The Association may employ the services of any person or corporation as managers, 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 corporation such as, but not limited to landscape architects, 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 Properties.

5.6.8 Create Classes of Service and Make Appropriate Charges. The Association may, in the Board's sole discretion, create various classes of services and make appropriate 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 members who do not assent to such charges and to such other rules and regulations as the Board of Directors deems proper. In addition, the Board shall have the right to discontinue any services upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain the same.

5.7. Liability. No member of the Board or officer of the Association shall 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 duties, except for acts of gross negligence or intentional acts. In the event any member of the Board 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.

5.8. Turnover Meeting. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Properties to the Association (the "Turnover Meeting") not later than ninety (90) days after termination of the Class B membership in accordance with Section 5.3.2, giving notice to the Owners as provided in the Bylaws. At the Turnover Meeting the then existing directors shall resign and their successors shall be elected by the Owners as provided in this Declaration and in the Bylaws of the Association. If Declarant fails to call the Turnover Meeting required by this Section, any Owner or Mortgagee of a Unit may call the Turnover Meeting by giving notice as provided in the Bylaws.

5.9. Contracts Entered into by Declarant or Board of Directors Prior to Turnover Meeting. Notwithstanding any other provision 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 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) days' written notice to the other party given not later than sixty (60) days after the Turnover Meeting.

Article VI.  
Maintenance, Utilities and Services

6.1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, with such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and Improvements, including all private streets (including, but not limited to, removal of ice and snow therefrom), the pedestrian access paths along the pedestrian access easements granted in Section 4.2.1.4., and all entry features within the Properties, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association.

The Association's maintenance obligations may also include maintenance of the public streets within the Properties. Declarant intends to dedicate the streets within the Properties to the public through a dedication to Lane County, and Lane County has expressed its willingness to accept the dedication of the streets within the Properties. However, Lane County will not accept responsibility for the maintenance and repair of the dedicated streets at the time of the streets' dedication. The Association shall be responsible for all maintenance and repair of the streets until such time, if ever, Lane County or any public entity accepts responsibility for the maintenance and repair of the streets.

Except as otherwise specifically provided herein, all costs associated with all such maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Common Assessment, notwithstanding that the Association may be entitled to reimbursement from the owner(s) of certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owners(s) thereof. The maintenance, repair and replacement of the streets, both public (to the extent maintenance and replacement responsibilities are not accepted by Lane County and the City of Florence) and private, shall be a Common Expense to be allocated among all Units.

The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

6.2. Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, parking areas and other improvements comprising the Unit (including removal of ice and snow, and any debris, from all sidewalk and driveway improvements immediately adjacent to or that are a part of such Owner's Unit) in a manner consistent with the Community-Wide Standard, all applicable covenants and any rules and regulations promulgated by Declarant or the Association unless such maintenance responsibility is

otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner thereof in accordance with Section 10.3.2 of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

6.3. Shared Fences.

6.3.1. General Rules of Law to Apply. Each fence built as a part of the original construction on the Units that shall serve and separate any two (2) adjoining Units shall constitute a shared fence 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 to such shared fences.

6.3.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a shared fence shall be shared in equal proportions by the Owners who make use of the fence.

6.3.3. Damage and Destruction. If a shared fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the fence may restore it. Any other Owner or Owners thereafter making use of the fence, shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

6.3.4. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section 6 shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

6.3.5. Arbitration. If any dispute arises concerning a shared fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and a hearing to consider the issue raised shall be held within thirty (30) days of such final appointment. The decision by a majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

6.4. Maintenance of Utilities. The Association shall perform or contract to perform maintenance of all private utilities within the Areas of Common Responsibility, such as domestic water service lines and storm drainage lines, except to the extent such maintenance is performed by utilities furnishing such services. The Association shall not be liable for any interruption or failure of such services. Each Owner shall be responsible for maintaining utility lines within such Owners' Unit.

6.5. Services. The Association shall provide or contract for such services as the Board of Directors may reasonably deem to be a benefit to the Properties, including, without limitation, landscape services, garbage and trash removal for Common Area.

Article VII.  
Insurance and Casualty Losses

7.1. Insurance. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements in or on any Area of Common Responsibility. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard if available at a reasonable cost.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents or any other person who has a right to occupy a Unit. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association and shall be included in the Common Assessments, as described in Section 10.1. The policies may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's actual loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in subsection (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in the State of Oregon that holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating that is available.

(b) All policies on the Common Area shall be for the benefit of the Association and its Members and their Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by the Board, or if it so designates, by one or more qualified persons.

(f) The Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its manager and officers, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or nonrenewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than one sixth (1/6) of the annual Common Assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or nonrenewal.

7.2. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Unit(s) and structures constructed thereon meeting the same requirements as set forth in Section 7.1 for insurance on the Common Area, unless the Association carries such insurance (which it is not obligated to do hereunder). Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Owner shall pay any costs of repair or reconstruction that are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Unit in a neat and attractive condition consistent with the Community-Wide Standard.

7.3. Damage and Destruction.

7.3.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

7.3.2 Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Members representing at least seventy five (75%) percent of the total Class A vote of the Association and the Class B Member (so long as such membership shall exist) shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

7.3.3 In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

7.4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the

Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

7.5. Repair and Reconstruction. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against all Owners on the same basis as provided for Common Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VIII.  
No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property that may or may not be subject to this Declaration.

Article IX.  
Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least seventy five (75%) percent of the total Class A vote and the Class B Member (during the Class B Control Period only) in the Association) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvement have been constructed, then, unless within sixty (60) days after such taking the Declarant (during the Class B Control Period only) and Members representing at least seventy five (75%) percent of the total Class A vote of the Association shall otherwise determine, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors. If such improvements are to be repaired or restored, the above

provisions in Article VII hereof regarding the disbursement of funds in respect to casualty damage or destruction that is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article X.  
Assessments

10.1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 10.6. There shall be three (3) types of assessments: (a) Common Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Special Assessments as described in Section 10.3 below; and (c) Emergency Assessments as described in Section 10.4 below. Each Owner, by acceptance of a deed or recorded contract for any portion of the Properties, is deemed to covenant and agree to pay these assessments. Common Assessments shall be levied on all Units as set forth in this Article X.

All Common, Special and Emergency Assessments, together with interest (at a rate established by resolution of the Board of Directors but not to exceed the highest rate allowed by Oregon law) as computed from the date the delinquency first occurs, late charges, costs, reasonable attorney fees, and fines or other charges imposed under this Declaration or the Bylaws, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorneys fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments that accrued prior to such acquisition of title.

The Association shall, upon request of an Owner or Owner's agent, for the benefit of a prospective purchaser, furnish to any Owner liable for any type of assessment a written statement signed by an officer of the Association of all unpaid assessments against the Owner or the Unit effective through a date specified in the statement. The purchaser of such Unit shall not be liable for any unpaid assessments against the Owner or the Unit not included in the written statement. An escrow agent or a title insurance company providing escrow

services or issuing title insurance in conjunction with the conveyance of such Unit (a) may rely on such statement, and (b) shall not be liable for failure to pay the Association at closing any amount in excess of the amount set forth in such statement. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such written statement.

All assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, Common Assessments may be paid in quarterly installments. Each Owner, by acceptance of a deed to his or her Unit, acknowledges that all Common Assessments levied hereunder are annual assessments due and payable in advance in quarterly installments or as otherwise fixed by the Board. The first annual Common Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year as of the Assessment Date, as defined in Section 10.6. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may revoke any privilege of paying in installments and require assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by nonuse of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements that are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association is specifically authorized but not obligated, to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials for the payment of some portion of the Common Expenses.

10.2. Computation of Common Assessments. Prior to the Assessment Date for the first Unit to become subject to assessment, the Declarant shall conduct the initial Reserve Study (as defined in Section 10.12) and prepare and adopt an initial budget for the Association covering the estimated Common Expenses of the Association for the ensuing fiscal year. The budget shall include a capital contribution establishing the Reserve Fund in accordance with a budget separately prepared as provided in Section 10.11 below. Following the adoption of the initial budget, it shall be the duty of the Board, at least sixty (60) days before the beginning of

each subsequent fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year.

The Common Assessment to be levied against each Unit for the coming year shall be set at a level that is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including the Reserve Fund. In determining the amount of the Common Assessments, the Board, in its discretion, may consider other sources of funds available to the Association.

Each Unit shall be assessed for Common Expenses based on the following formula: Subject to the provisions of Section 10.3.2, all Units shall be assessed on the basis of one assessment per Unit. The amount of the assessment for each Unit shall be determined by dividing the amount of the annual total budgeted Common Expenses or other aggregate assessment [Special Assessment (except special assessments against individual Owners, which will be assessed against Owners under Section 10.3.2) or Emergency Assessment] by the total number of Units. With respect to Common Assessments, the total number of Units shall be those Units subject to Common Assessments determined in accordance with Section 10.6. The assessment determination will initially be made as of the first day of each fiscal year. However, in determining the number of Units, the Board shall take into account the number of Units reasonably anticipated to become subject to Common Assessments during the fiscal year. The determination for other assessments to be made upon the entire membership may be made by the Board at or about the time of such assessment rather than on the first day of the fiscal year, and if such other assessment is payable over a period of time, the Board may take into account the number of Units reasonably anticipated to become subject to that assessment during the same period of time. If the foregoing formula appears to be inequitable to the Board at any time by reason of materially miscalculating the number of Units that will be subject to assessment, the Board may from time to time reallocate any assessment in accordance with the foregoing formula by adjusting the number of Units subject to assessment to a more accurate number. The common profits of the Association shall be allocated among the Units on the same basis and formula as is above applied with respect to assessments.

So long as the Declarant has the right to annex additional property pursuant to Section 2.2 hereof, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting assessment for any fiscal year by payment of a subsidy; provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

For each Common Expense budget adopted after the initial budget, the Board shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Members by Members representing at least a majority of the total Class A vote in the Association, and by the Class B Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the Bylaws, which petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

### 10.3. Special Assessments.

10.3.1. Entire Membership. The Association may levy Special Assessments, including Special Assessment for capital improvements or additions, from time to time provided such assessment receives the affirmative vote or written consent of Members representing a majority of the total Class A votes in the Association and the affirmative vote or written consent of the Class B Member, if such then exists. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines. Declarant shall not at any time be subject to Special Assessments on Units owned by Declarant.

10.3.2. Less Than All Members. The Association may levy a Special Assessment against any Member individually and against such Member's Unit to reimburse the Association for costs incurred in bringing a Member and such Member's Unit into compliance with the provisions of this Declaration, any amendments hereto, the Articles, the Bylaws, or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. Notwithstanding the other provisions of this Article X, the Association may assess a Unit for the full amount of any Common Expense, the incurring of which is solely attributable to the negligence or willful misconduct of the Owner of such Unit or of such Owner's family members or invitees. Any Common Expense or any part of a Common Expense benefiting fewer than all of the Units may be assessed exclusively against the Units benefited.

10.4. Emergency Assessments. If the Common Assessments levied at any time are, or will become, in the opinion of the Board of Directors, 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 shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an emergency assessment ("Emergency Assessment") for the amount required to meet all such expenses on a current basis. Emergency Assessments shall be apportioned as set forth in Section 10.2 above and be payable at times as determined by the Board of Directors.

10.5. Lien for Assessments. Whenever the Association levies any assessment against a Unit pursuant to this Article X, the Association shall have a lien upon the Unit for any unpaid assessments (together with and including interest, late charges, costs, attorney fees, fines and other charges) prior and superior to a homestead exemption and all other liens or encumbrances upon the Unit, except (1) all taxes, bonds, assessments, and other levies that by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Recording of this Declaration constitutes record notice and perfection of the lien for assessments. No further recording of a claim of lien for assessments or notice of a claim of lien under this Section 10.5 is required to perfect the Association's lien. The Association shall record a notice of claim of lien for assessments under this Section 10.5 in the deed records of Lane County before any suit to foreclose may proceed as below set forth in this Section 10.5. The notice of claim of lien shall contain:

- (a) a true statement of the amount due for the unpaid assessments after deducting all just credits and offsets;
- (b) the name of the Owner of the Unit, or reputed Owner, if known;
- (c) the name of the Association;
- (d) the legal description of the Unit; and
- (e) a statement that if the Owner of the Unit thereafter fails to pay any assessments when due, as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of assessments automatically continue to accumulate with interest without the necessity of further recording.

10.5.1. The proceedings to foreclose liens created by this Section 10.5 shall conform as nearly as possible to the proceedings to foreclose liens created by ORS

87.010, as amended from time to time, except, notwithstanding ORS 87.055, as amended from time to time, a lien may be continued in force for a period of time not to exceed six (6) years from the date the assessment is due. For the purpose of determining the date the assessment is due in those cases when subsequent unpaid assessments have accumulated under a notice recorded as above provided in this Section 10.5, the assessment and claim regarding each unpaid assessment shall be deemed to have been levied at the time the unpaid assessment became due.

10.5.2. The lien may be enforced by the Board of Directors acting on behalf of the Association.

10.5.3. An action to recover a money judgment for unpaid assessments, late charges, fines, interest, costs and/or attorney fees may be maintained without foreclosing or waiving the lien for unpaid assessments. However, recovery on such action operates to satisfy the lien, or the portion thereof, for which recovery is made.

10.5.4. Late charges, fines, interests, costs and attorney fees imposed pursuant to this Section 10.5 or pursuant to Oregon law are enforceable as assessments under this Section 10.5.

10.5.5. This Section 10.5 does not prohibit the Association from pursuing an action to recover sums for which a lien is created hereunder or from taking a deed in lieu of foreclosure and satisfaction of the lien.

10.5.6 The Association, acting on behalf of the Owners, shall have the power (but not the obligation) to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure.

10.6. Date of Commencement of Assessments. Each Unit shall be subject to Common Assessments on the first to occur of the following dates (the "Assessment Date") :

(a) the first day of the twelfth (12<sup>th</sup>) month following the month in which an Owner (excluding Declarant) acquires record title to a Unit or a purchaser's interest under a recorded contract of sale if construction of a residence is not commenced on such Unit by that date, and for purposes of this Section 10.6, the time construction of a residence is commenced

shall mean grading or other site preparation preparatory to construction of improvements on the Unit;

(b) the first (1<sup>st</sup>) day of the sixth (6<sup>th</sup>) month following the month in which construction was commenced if construction of a residence is commenced on a Unit prior to the first day of the twelfth (12<sup>th</sup>) month following the month in which an Owner (excluding Declarant) acquires record title to such Unit or a purchaser's interest under a recorded contract of sale and if construction of the residence on such Unit is not then completed;

(c) the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) month following the month in which the residence constructed on a Unit is occupied;

(d) the first (1<sup>st</sup>) day of the third (3<sup>rd</sup>) month following the month in which the residence constructed on a Unit may be legally occupied; or

(e) the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) month following the month in which an Owner who intends to occupy the residence on a Unit acquires record title to the Unit or a purchaser's interest under a recorded contract of sale.

Declarant shall not at any time be subject to Common Assessments on Units owned by Declarant.

10.7. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Oregon law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit recorded prior to recording of the notice of claim of lien shall not affect the priority of the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit that became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

10.8. Capitalization of Association. Upon acquisition of record title to a Unit by the first purchaser thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one

sixth (1/6) of the annual Common Assessment per Unit for that year as determined by the Board. This amount shall be in addition to, not in lieu of, the annual Common Assessment levied on the Unit and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

10.9. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Common Assessments, Special Assessments and Emergency Assessments:

10.9.1. all Common Area; and

10.9.2. all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, public lights, and public parks.

10.10. Operations Fund. The Association shall keep all funds received by it as assessments, other than the reserves described in Section 10.11 below (which shall be kept in a separate account exclusively for reserves), separate and apart from its other funds, in a bank account in the state of Oregon in the name of the Association 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 Properties 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 Area and of the Units situated upon the Properties, including but not limited to:

(a) Payment of the cost of maintenance, utilities and services for areas of common responsibility as described in Article VI.

(b) Payment of the cost of insurance as described in Section 7.1.

(c) Payment of taxes assessed against the Common Area and any improvements thereon.

(d) Payment of the cost of other services that the Association deems to be of general benefit to the Owners, including but not limited to management, accounting, legal and secretarial services.

10.11. Reserve Fund. The Declarant shall establish a budget based upon the Reserve Study set forth in Section 10.12 below and other reliable information and a reserve fund in the name of the Association in a bank account in the state of Oregon, 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 and for exterior painting if any items to be maintained by the Association include exterior painted surfaces ("Reserve Fund"). Such Reserve Fund shall be funded by assessments against the individual Units assessed for maintenance of the items for which the Reserve Fund is being established (except those items that can reasonably be funded from the Operations Fund) and shall be kept separate from the all other Association funds, including the Operations Fund. Such assessments shall be included in the Common Assessments established pursuant to Sections 10.1 and 10.2 and shall begin accruing as to each Unit conveyed to an Owner (excluding Declarant) as of the Assessment Date for such Unit, which is the date such Unit becomes subject to Common Assessments. After the Turnover Meeting, if the Board of Directors has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds, the Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular Operating Funds or to meet unexpected increases in expenses, which borrowing will later be repaid from Common Assessments, Special Assessments, or Emergency Assessments. Nothing in this Section shall prohibit prudent investment of the Reserve Fund. Following the second year after the Turnover Meeting, future assessments for the Reserve Fund may be reduced or increased by an affirmative vote of not less than seventy five percent (75%) of the Members or eliminated by a unanimous vote of the Members. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Units. Sellers of the Units, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

10.12. Reserve Study. Prior to the Assessment Date for the first Unit subject to Common Assessments, Declarant shall conduct a Reserve Study (the "Reserve Study") to determine the requirements for the Reserve Fund and may adjust the payments into the Reserve Fund as indicated by the Reserve Study or update thereof and provide for other reserve items as the Board of Directors deems appropriate. Prior to the Turnover Meeting, the Board may rely on the initial Reserve Study or update the Reserve Study at the Board's discretion. After the Turnover Meeting, the Board of Directors shall annually conduct a Reserve Study or review and update the existing Reserve Study. The Reserve Study shall include the identification of all items for which reserves are required to be established; the estimated remaining usable life of each item as of the date of the Reserve Study; the estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and a thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

Article XI.  
Architectural Standards

11.1. General

No construction, which term shall include within its definition staking, clearing, excavation, well drilling, grading, and other site work, no exterior alteration or modification of existing improvements (including fences), and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained pursuant to the provisions of this Article XI. The Board of Directors may establish reasonable fees to be charged by the Architectural Review Committee (the "ARC") on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

All development shall comply with the requirements of the Beaches and Dunes (B/D) Combining District. All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications approved by Lane County or the City of Florence, as applicable, Lane County Sanitation Department, the Oregon Department of Environmental Quality, all other appropriate governmental entities and the ARC. All wells drilled on any portion of the Properties shall be subject to the approval of the ARC in addition to all approvals by Lane County and all other appropriate governmental entities.

Only one (1) residential building may be constructed on any Unit, except Lot 42, and the residential building shall be a detached single-family residential building. Lot 42 may be developed as a residential building with a primary single-family residence and an ancillary "mother-in-law apartment" (and the residence and "mother-in-law apartment" shall be considered a single residence for purposes of this Declaration) if such development meets all other requirements of this Article, including the approval of the ARC and all approvals by Lane County and all other appropriate governmental entities.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

The Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the ARC. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

11.2. Architectural Review Committee. The ARC shall consist of at least three (3), but not more than five (5), (but in all events an odd number) persons and shall have exclusive jurisdiction over all original construction and all modifications, additions, or alternation made on or to existing Units on any portion of the Properties. During the Class B Control Period, the Declarant retains the right to appoint all members of the ARC who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the ARC, who shall serve and may be removed at the discretion of the Board. The members of the ARC may include architects, engineers and other persons who are not members of the Association.

The ARC shall prepare and, on behalf of the Board of Directors, shall promulgate Architectural Guidelines and/or Development Guidelines that shall set forth design and development guidelines and application and review procedures for original construction and all modifications, additions, or alterations made on or to existing Units. Copies of such documents shall be made available to Members by the ARC for review. The guidelines and procedures shall be those of the Association, and the ARC shall have sole and full authority to prepare and to amend them. The ARC shall make the guidelines and procedures available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such original construction or modifications, additions, or alterations on or to existing Units, including ground stabilization plans for during and after completion of such construction activities, shall be submitted to the ARC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his or her Unit, or to paint the interior of his or her Unit any color desired; provided, modifications or alterations to the interior of his or her screened porches, patios and similar portions of a Unit visible from outside the Unit shall be subject to approval hereunder.

11.3. Procedures. In addition to any other procedures that the ARC may reasonably promulgate, any Member or person desiring a decision by the ARC shall deliver a complete package of information, as reasonably determined by the ARC, and the ARC shall render its decision with respect to the construction proposal within thirty (30) business days after it has received all material required by it with respect to such application unless such time period is extended pursuant to Section 11.10. In the event the ARC fails to render its approval or disapproval within forty five (45) working days after the committee has received

all material required by it with respect to the application or, if no suit to enforce this Declaration has been commenced within one (1) year after completion of the work described in the construction proposal, then the requested decision shall be deemed approved and the related provisions of this Declaration shall be deemed to have been fully complied with.

11.4. Committee Discretion. The ARC may, at its sole discretion, withhold consent to any proposed work if such committee finds the proposed work would be inappropriate for the particular Unit or incompatible with the design standards that such committee intends for The Reserve. Consideration such as siding, shape, size, color, design, materials, height, solar access, screen, impairment of view from other Units, or other effect on the enjoyment of other Units or the Common Area, disturbance of existing terrain and vegetation and any other factors that such committee reasonably believes to be relevant, may be taken into account by such committee in determining whether or not to consent to any proposed work. Regulations on location of television antennas and satellite receiving dishes shall be in conformance with any applicable federal communications commission rules.

11.5. No Waiver of Future Approvals. The approval by ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

11.6. Variance. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section 11.6, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

11.7. Compliance With Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the ARC may be excluded by the Board from the Properties without liability to any person, subject to the notice and hearing procedures contained in the Bylaws.

11.8. No Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ARC shall not bear any responsibility of ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Although ground stabilization plans must be included in any application under the ARC's review, the ARC shall have no liability for evaluating such plans to ensure their feasibility or effectiveness. Neither the ARC, Declarant, the Association, the Board of Directors, any officer, any committee, or member of any of the foregoing (collectively, the "Indemnified Parties") shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit and the Association shall indemnify the Indemnified Parties therefrom, provided only that the Indemnified Parties, in accordance with the actual knowledge possessed by such Party, acted in good faith.

11.9. Majority Action. Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the committee of which they are a member without the necessity of a meeting and without the necessity of consulting the remaining members of the committee of which they are a member. The ARC may render its decision only by written instrument setting forth the action taken by the consenting members.

11.10 Recusal of Adjoining Owners. If one or more member of the ARC (the "Interested Members") own Units that share a common boundary with the Unit of an Owner requesting approval of construction or modification of the Owner's Unit, and the requesting Owner believes that the Interested Members are incapable of fairly evaluating the requesting Owner's proposal, the requesting Owner may, by written notice to the Board of Directors, require the Interested Members to recuse themselves from any action related to the proposal. The Board shall appoint one Director to take the place of each Interested Member or, if there are an insufficient number of Directors available to serve, the Board shall appoint Owners of its selection who do not own Units sharing a common boundary with the requesting Owner's Unit (an "Alternate Member"). The time for approval of the requesting Owner's proposal shall be extended by the length of time reasonably necessary to convene the Board of Directors and appoint an Alternative Member.

11.11. Appeal. At any time after Declarant has delegated appointment of the members of the ARC to the Board of Directors pursuant to Section 12.2, any Owner adversely affected by action of the ARC may appeal any action adverse to such Owner to the Board of Directors. Appeals shall be made in writing within ten (10) days of the action taken by the ARC and shall contain specific objections or mitigating circumstances justifying the appeal.

A final, conclusive decision shall be made by the Board of Directors within fifteen (15) business days after receipt of such notification.

11.12. Effective Period of Consent. Consent of the ARC to any proposed work shall automatically be revoked one (1) year after issuance unless construction of the work has been substantially commenced in the judgment of the ARC and thereafter diligently pursued, unless the Owner has applied for and received an extension of time from the applicable committee. In all events, the construction of any building approved by the ARC, including painting and all exterior finishes, shall be completed within eight (8) months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to extraordinary weather conditions, the ARC may extend the time for completion for a reasonable time. All front yard landscaping on all lots and also the side yard landscaping on corner lots shall be completed within six (6) months from the date of completion of the single-family residential building on the Owner's Unit. Notwithstanding the foregoing, all Owners shall place ground cover on exposed areas as soon as reasonably practicable to prevent blowing sand.

11.13. Estoppel Certificate. Within fifteen (15) business days after written request is delivered to the ARC by any Owner, and upon payment to the ARC of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with an estoppel certificate executed by an authorized member of the ARC and acknowledged, certifying with respect to any Unit owned by the Owner that as of the date thereof, either: (i) all improvements made or done upon or within such Unit by the Owner comply with this Declaration or (ii) such improvements do not so comply, in which event the Certificate shall also identify the non-complying improvements and set forth with particularity the nature of such non-compliance.

11.14. Additional Architectural Restrictions. In addition to any guidelines that the ARC may promulgate, the following restrictions shall apply, and in the event of conflict with the guidelines, the more restrictive shall control:

11.14.1. No building constructed on any Unit shall exceed thirty five (35) feet in height. Each single family residential building shall be a minimum of one thousand six hundred (1,600) square feet, and shall include a private garage for at least two (2) vehicles.

11.14.2. The roof pitch on all buildings constructed on any Unit shall have a minimum of six (6) inches of rise for each twelve (12) inches of run or span.

11.14.3. All residential buildings shall have a minimum of two (2) of the following architectural features: (i) dormers, (ii) covered porches, (iii) recesses, (iv) masonry veneers or masonry posts, and/or (v) porch or deck railings.

11.14.4. Vinyl and aluminum siding shall not be permitted on any building on a Unit.

11.14.5. All roof drains, crawl space drains, foundation drains, and impervious surface areas shall drain to a street or drywell. Each Owner shall control the storm water runoff from the Owner's lot to avoid creating or exacerbating erosion. All roof drains connected to drywells shall have drywells that are a minimum of thirty six (36) inches in length, thirty six (36) inches in height, and thirty six (36) inches in width.

11.14.6. All residential buildings within The Reserve shall be constructed on site on an Owner's Unit. No mobile home, modular home, manufactured home, manufactured dwelling or other residential building of any type that is transported or designed to be transported on any roadway shall be constructed or placed on any Unit within The Reserve, permanently or temporarily. Provided, however, vehicles that are licensed with the Oregon Department of Transportation and possess current operating licenses may be parked in an enclosed garage located on the vehicle Owner's Unit or special parking areas, if any, designated by the Board of Directors for such purposes. Nothing in this paragraph shall be deemed to prohibit temporary placement of vehicles that are licensed with the Oregon Department of Transportation and possess current operating licenses on a Unit during the construction of the residence on the Unit, if the vehicle is used as a job trailer, for tool storage or similar purposes provided that the vehicle is not used as a home, dwelling unit, residence or sleeping place by any person.

11.14.7. Roofing materials for all buildings must be cedar shake, cedar shingle, tile or an architectural 80 asphaltic shingle with a minimum thirty five (35) year life. The exterior siding material for all buildings shall be cedar, stone, brick, stucco, a horizontal lap siding approved by the ARC, fiberglass composite material or other siding material acceptable to the ARC in its sole discretion. However, texture one-eleven (T1-11) or other pressed wood sheet siding shall be prohibited. The single-family residential building constructed on an Owner's Unit shall be double wall construction. Windows and exterior doors shall be vinyl if approved by the ARC or wood. Garage doors shall be wood, fiberglass composite material or metal construction. The ARC may approve other materials if necessary to accommodate unique circumstances, provided the other materials are in keeping with the character of The Reserve.

11.14.8. All buildings that are painted or stained shall be painted or stained in natural, muted earth tones or colors which create the an overall impression that the buildings harmoniously blend into their natural surroundings. Muted greens, browns and grays are preferred. A single color shall comprise the dominant color of each building elevation although up to two complimentary accent colors may be used on a building for the trim, shutters and other architectural accents. Accent colors shall together comprise no more than twenty percent (20%) of any building elevation's area. The color scheme of all buildings is subject to the approval of the ARC as provided in Section 11.2. Provided, however, no ARC approval shall be required to repaint the exterior of a building in the same colors as were used for the last approved color scheme for that building.

11.14.9. Accessory buildings must be constructed in same materials and finished in the same colors as the residence on a Unit unless a variance is approved in advance by the ARC. All accessory buildings constructed on those Units designated on the Plat of Phase 1 as Lots 4 through 6 and 8 through 53 (collectively, the "UGB Lots") shall be placed in the rear half of an Owner's Unit.

11.14.10. The residence and accessory buildings constructed on each of the UGB Lots shall not cover in excess of thirty percent (30%) of the Unit area.

Article XII.  
Use Restrictions

12.1. General Provisions.

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and amendments hereto). Any Supplemental Declaration or amendments to this Declaration may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, canceled or modified in a regular or special meeting of the Association by the vote of Members representing a majority of the total Class

A votes in the Association and by the Class B Member, so long as such membership shall exist.

12.2. Delegation by Board. Whenever in the use restrictions set forth in this Article XII, the consent or approval of the Board of Directors is required for certain activities, the Board of Directors may from time to time adopt resolutions designating an authorized representative to give such consent or approvals in lieu of the Board, and such resolutions may include conditions to and limitations on the authority granted by the Board.

12.3. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except entry and directional signs installed by Declarant; provided, however, that not more than one (1) "For Sale" or "For Rent" sign placed by the Owner, Declarant or by a licensed real estate agent, not exceeding twenty four (24) inches high and thirty six (36) inches long may be temporarily displayed on any Unit so long as such sign complies with all applicable ordinances of Lane County and the City of Florence. If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board (following the expiration of the Class B Control Period) or Declarant (during the Class B Control Period) shall each have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties shall be permitted within the Properties.

12.4. Traffic, Parking and Prohibited Vehicles.

12.4.1 Traffic Rules and Regulations. The Board of Directors may adopt speed limits, use restrictions and other traffic-related rules and regulations for the streets to the extent the streets are not regulated by Lane County or the City of Florence, and shall have the right and authority to enforce such rules and regulations, and the right to levy fines and other sanctions for violations (see Section 5.6.3 for fines and other sanctions).

12.4.2. Parking. Vehicles shall be parked only in the garages or in the driveways, if any, serving the Units or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors may adopt. The Board may designate certain on-street parking areas on the private streets within the Properties for visitors or guests subject to reasonable rules and regulations. The Board shall have the right and authority to enforce parking rules and regulations and to levy fines and other sanctions for violations.

12.4.3. Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or special parking areas, if any, designated by the Board. Stored vehicles and vehicles that are either obviously inoperable, in extreme state of disrepair or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. For purposes of this Section, a vehicle shall be considered in "extreme state of disrepair" when the Board of Directors reasonably determines that its presence offends the occupants of the area of the Properties in which the vehicle is located. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board for three (3) days following the date notice is mailed to such Owner may be towed by the agent of the Association in accordance with the Bylaws and at such Owner's cost and expense. No heliports or landing strips may be constructed on any Unit. No helicopter, ultra light, airplane, hydroplane or other flying apparatus shall be permitted to be used on the Property other than by emergency police or other government personnel in connection with their official duties.

12.5. Occupants Bound. All provisions of the Declaration, Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto that govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants, guests and invitees of any Unit. Every Owner shall cause all Occupants of his or her Unit to comply with this Declaration, the Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such Occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of this Declaration, the Bylaws, and rules and regulations adopted pursuant thereto.

12.6. Animals and Pets.

12.6.1. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of three (3) may be permitted in a Unit.

(i) Excluded from the foregoing number restriction shall be birds, fish, small reptiles and small animals that are kept in cages or tanks which are permanently kept within the interior of a dwelling or residence situated on the Unit.

(ii) The Owner of a Unit may apply to the Board of Directors to increase the maximum number of three (3) household pets set forth above if the increased number and the type of household pet or pets would not be reasonably objectionable to the Owners of neighboring Units or other Units in the vicinity. The Board, in its sole discretion, may grant such applications subject to such terms, conditions and modifications as the Board may determine to be appropriate to accomplish the intent and purpose of this Section 12.6 and the other use restrictions of this Article.

12.6.2. Provided, however, and notwithstanding anything to the contrary set forth in Section 12.6.1 above, those pets that are permitted to roam free, or, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board; and if the Owner fails to honor such request, the pet may be removed by the Board at the cost and expense of the offending Owner.

12.6.3. No pets shall be kept, bred, or maintained for any commercial purpose.

12.6.4. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person.

12.7. Quiet Enjoyment. No portion of the Properties or any Unit shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties or any Unit, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, hazardous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. No dumping or disposal of any flammable substances, explosives, radioactive materials, medical wastes,

hazardous materials, hazardous waste, toxic substances, pollutants, pollution or related materials specified as such in, or regulated under, any federal, state or local law, ordinance, rule, regulation or policy in effect or hereafter adopted governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of such materials, wastes, substances or pollutants shall be permitted on any Unit or part of the Property and each Owner covenants that such Owner shall indemnify, defend and hold Declarant and the Association harmless from any claims, judgments, damages, penalties, fines, expenses, liabilities (including sums paid in settlement of claims) or loss arising out of or in any way related to a breach of such Owner's obligations set forth in this Section.

12.8. Unsanitary or Unkempt Conditions. It shall be the responsibility of each Owner to prevent any unclean, unhealthy, unsightly, hazardous or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions are prohibited on any part of the Properties, including on or in any Unit.

12.9. Antennas. To the extent limitations are permitted by applicable law, no exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, without the prior written consent of the ARC. In order to comply with the applicable rules of the Federal Communications Commission relating to the installation of an antenna or dish, and notwithstanding any other provision of this Declaration expressing or implying to the contrary, the ARC shall act promptly in responding to any request for installation thereof, and any restrictions that such committee places on the installation of such antenna or dish shall not (a) unreasonably delay or prevent its installation, maintenance or use (b) unreasonably increase the cost of its installation, maintenance or use, or (c) preclude reception of an acceptable quality signal. Provided, however, there may be installed within a Unit a satellite systems dish not to exceed one (1) meter (i.e. 39.37 inches) in diameter, which shall be screened by fencing or tasteful landscaping so as to be concealed from the view of neighboring Units, streets, and property located adjacent to the Unit. All restrictions concerning installation, size and location of satellite dishes under this Declaration are subject to the rules and regulations adopted from time to time by the Federal Communications Commission.

12.10. Basketball Equipment, Clotheslines, Garbage Cans, Tanks, Etc. All basketball hoops and backboards shall be portable and shall be confined to a driveway or backyard within a Unit. Basketball hoops and backboards shall not be affixed to a garage, residence, stationary post or other structure on a Unit. When not in use, basketball hoops and

backboards shall be stored out of sight of neighboring Units, Persons on adjacent streets and other property located adjacent to the Unit. Clotheslines, garbage cans, above ground storage tanks, mechanical equipment, and other similar items on Units shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be stored in appropriate containers and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

12.11. Subdivision of Unit. No Unit shall be partitioned, subdivided, or its boundary lines changed except for the Units designated as Lots 1, 2, 3, 54, 55 and 56, which are outside of the Urban Growth Boundary identified in the City of Florence's comprehensive Plan, but inside the Urban Growth Boundary for Lane County. These Units are required under the Lane County Code, which governs the use of unincorporated land within Lane County's Urban Growth Boundary, to contain a minimum of 2 acres per lot. If the Units are incorporated into the City of Florence's Urban Growth Boundary or otherwise rezoned to allow smaller lot sizes that would permit the Units to be partitioned into two lots, then the Owner of such a Unit may do so provided the Owner obtain approval of the Board and all required land use approvals. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant in accordance with any applicable subdivision and zoning regulations.

12.12. Firearms. The discharge of firearms within the Properties, including on or in any Unit, is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, neither the Association nor the Board shall be obligated to take action to enforce this Section and shall have no liability to any person as a result of the breach of this Section by any Person.

12.13. Pools. No above-ground swimming pools shall be erected, constructed or installed on any Unit.

12.14. Sprinklers and Irrigation. All sprinkler or irrigation systems installed in Units that are connected to a public or potable water supply must include the necessary back flow control devices. With respect to any sprinkler or irrigation system utilized by a Unit, the water shall be confined within the boundaries of such Unit. Provided, however, this Section 12.14 shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to annex property in accordance with Section 2.2.

12.15 Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant, the ARC, or the Board of Directors, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties.

12.16. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow.

12.17. Site and Drain Field Restrictions. The Lane County Land Management Division, Environmental Health Department reviewed and approved the location of the home sites and the septic system drain fields for each Unit within the Reserve. In some, but not all, cases, the approvals are site specific. Owners who wish to change the siting of their home or drain field may be required to obtain a new site approval from the Lane County Land Management Division, Environmental Health Department.

12.18. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit a clear line of vision across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

12.19. Air Conditioning Units. Except as may be permitted by the ARC, as appropriate, no window air conditioning units may be installed in any Unit.

12.20. Lighting. Except for seasonal decorative lights, which may be displayed between October 15 and January 10 only, all exterior lights must be approved in accordance with Article XI of this Declaration prior to installation. Without limiting the generality of the foregoing restriction, all exterior lighting shall be designed to minimize glow and light pollution.

12.21. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties, including any Unit. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Article XI of this Declaration.

12.22. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Unit unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARC.

12.23. Wetlands, Lakes and Water Bodies. Significant portions of the Properties have been identified as jurisdictional Wetlands on the state-wide Wetlands inventory. All development which may affect Wetlands must comply with the Division of State Lands and/or the Army Corps of Engineers Wetlands regulations. All development of the Properties must also comply with the requirements of the Beaches and Dunes (/BD) Combining District.

Each Owner shall protect existing and presently identified Wetlands during any construction (as defined in Section 11.1), modifications, additions, or alterations made on or to such Owner's Unit. All Units containing Wetlands are identified on the attached Exhibit E. Declarant shall deliver a copy of this Declaration, including Exhibit E, to each prospective Owner purchasing a Unit from Declarant on or before the closing of the sale of a Unit to such prospective Owner. In addition, Declarant shall ensure all Wetland areas within any Unit to be purchased by such prospective Owner shall be identified by markings on the ground of the Unit. All construction, modifications, additions, or alterations to a Unit shall maintain a ten-foot wide riparian area setback from the Wetland boundary as required by Lane County. No excavation, filling, draining, dredging or flooding of Wetlands by any Owner shall be permitted except with all necessary governmental approvals and permits.

All wetlands and storm water ponds, irrigation water ponds and other ponds, streams, biofiltration swales and water retention facilities within the Properties, if any (collectively the "Water Bodies"), shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted without the prior approval of the Board. The Property in Phase 2 that Declarant anticipates developing as part of The Reserve includes The Lake, which a seasonal lake and wetland commonly known as Heceta Lake. The Lake is intended, upon its annexation, for the common use of the Owners within The Reserve and their guests. Boating shall be allowed only on The Lake, and shall be restricted to non-motorized boats, such as sailboats and rowboats. The Board may adopt additional rules and regulations related to the use off the Wetlands, Lake and Water Bodies. The Board may levy fines and sanctions for any violations. All use of the Wetlands, Lake, and Water Bodies shall be at the risk of the user, and the Association shall not be held liable to any person for any claim, damage or injury related to the use thereof. Each Owner, by taking title to a Unit, acknowledges that the Wetlands, Lake, and Water Bodies are naturally fed water features and as such the waterline of the water features will change seasonally, and in some drought instances, the water features may seasonally disappear. The Association shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of The Lake, Wetlands or Water Bodies within the Properties. Each Owner covenants to use the Wetlands, Lake and Water Bodies in compliance with all applicable law, rules and regulations, and shall be liable to the Association for any loss, damage, or injury to the Wetlands, Lake or Water Bodies caused or contributed to by such Owner, his or her family members and invitees, the

costs of which may be assessed against such Owner's Unit as a special assessment levied as described in Section 10.32. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed on The Lake by the Declarant or the Association. No hydroplanes or motorized vehicles of any kind shall be allowed on The Lake, Wetlands or any Water Bodies provided, however, this restriction on motorized vehicles shall not apply to any vehicle operated by the Declarant's employees, agents or invitees in connection with the construction, maintenance or replacement of any Wetland or Wetland mitigation area.

12.24. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

12.25. Fences. The maximum height of a site obscuring fence or hedge on any lot shall be six (6) feet. Any fence or hedge may be erected along the front, rear and/or side lot lines, but no fence erected along the front lot line may be closer than twenty (20) feet to the property line. Street fences shall be constructed of wood, vinyl, or masonry. No walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit except as approved in accordance with Article XI of this Declaration.

12.26. Business Use. No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. The Board may from time to time restrict, limit and/or condition garage sales, moving sales or similar activities on a Unit.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Unit

shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and sale of the Properties, including any Units within the Properties.

12.27. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels or any flammable liquids or gases or petroleum products shall be permitted on any part of the Properties, including any Unit, except that up to five (5) gallons of fuel may be stored on each Unit for emergency purposes and for the operation of lawn mowers and similar tools or equipment, and except that propane gas tanks (in reasonable numbers and with reasonable amounts of propane) may be stored on each Unit, limited to use for outdoor barbeques. Also, the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

12.28. Pest Control. No Owner shall permit any thing or condition to exist upon any portion of the Properties that shall induce, breed or harbor any infectious plant, animal, or disease or any noxious insects or vermin.

12.29. Grades, Slopes and Drainage. Each Owner of a Unit shall accept the burden of and shall not in any manner alter, modify or interfere with, the established drainage pattern in grades, slopes and courses related thereto over any Unit or Common Area without the express written permission of the ARC, and then only to the extent and in the manner specifically approved. No structure, plantings or other materials shall be placed or permitted to remain on or within any grades, slopes or courses, nor shall any other activities be undertaken that may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow, or obstruct or retard the flow of water through drainage channels.

12.30. Leasing of Units.

12.30.1 Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or Persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

12.30.2. Leasing. In order (i) to protect the equity of Owners of Units; and (ii) to carry out the purpose for which the Properties were formed by preserving the character of the Properties as a homogenous residential development, leasing of a Unit shall be restricted as provided below. Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth

the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. When an Owner's right to lease is approved by the Board, a copy of the lease shall be submitted to the Board within ten (10) days after it has been signed by both parties.

12.30.3. Leasing Provisions. Such leasing as is permitted by this Section 12.30 shall be governed by the provisions set forth below. Any Owner who leases his or her Unit shall submit to the Board a copy of the lease within ten (10) days after it has been signed by the Owner and his or her tenant. Each Owner covenants and agrees that such Owner shall cause any lease of a Unit to contain the following language and agrees that if such language is not expressly contained therein, then such language shall be deemed incorporated into such lease by existence of this covenant on the Unit. Any tenant, by occupancy in a Unit, agrees to the applicability of this covenant and incorporation of the following provisions into the lease:

(i) General. Units may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Board. No transient tenants may be accommodated in a Unit. All leases shall be in writing and in a form approved by the Association. All rentals must be for a term of no less than one (1) year. The Unit Owner must make available to the tenant copies of the Declaration, Bylaws, and the rules and regulations of the Association.

(ii) Liability for Assessments. Each tenant agrees to be personally obligated for the payment of all assessments against the Owner that become due during the term of the lease and any other period of occupancy by the tenant or that become due as a consequence of the tenant's activities which violate provisions of the Act, the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Unit Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment for a period of more than thirty (30) days after it is due and payable, then, upon request by the Board, the tenant shall pay to the Association all unpaid annual and special assessments, as lawfully determined and made payable during the term of the lease and any other period of occupancy by the tenant; provided, however, the tenant need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All such payments made by the tenant shall reduce, by the same amount, the tenant's obligation to make monthly rental payments to the Unit Owner. If the tenant fails to comply with the Board's request to pay

assessments, the tenant shall pay to the Association all late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney fees actually incurred, to the same extent the tenant would be required to make such payment to the Association if the tenant were the Owner of the premises during the term of the lease and any other period of occupancy by the tenant.

(iii) Compliance with Declaration, Bylaws and Rules and Regulations. The tenant shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to ensure compliance with the foregoing. The tenant acknowledges that the violation by the tenant or any occupant living with the tenant of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under the lease. The Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the tenant, or a Person living with the tenant, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, such fine shall be assessed against the tenant; provided, however, if the fine is not paid by the tenant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the tenant's failure to pay the fine. Unpaid fines constitute a lien against the Unit. Any tenant charged with violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

(iv) Use of Common Areas. The Owner transfers and assigns to the tenant, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area of the Properties, including, but not limited to, the use of any and all recreational facilities and other amenities.

12.30.4. Rules and Regulations, Fines. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section 12.30. Any transaction that does not comply with this Section 12.30 shall be voidable at the option of the Board.

12.31. Laws and Ordinances. Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be

considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

12.32 Access Restriction. The Units shown as Lots 1, 2, and 56 on the Plat of Phase 1 are bounded to the east by U.S. Highway 101. To ensure safe access to those Units and The Reserve, no Unit in The Reserve may construct, maintain or utilize access to U.S. Highway 101 except through the public street constructed by the Declarant that is commonly known as Dunewood Road or such other public street approved by all appropriate governmental authorities.

Article XIII.  
General Provisions

13.1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, shall be appurtenant thereto, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

13.2. Amendment. Any amendment to this Declaration shall require prior approval from the United States Department of Housing and Urban Development ("HUD") and/or the Department of Veterans Administration ("VA") and/or a duly authorized representative of such federal agencies as long as there is Class B membership. Such approval while there is a Class B membership is sometimes hereinafter referred to as "HUD/VA Approval." Subject to HUD/VA Approval, prior to the conveyance of the first Unit, Declarant may unilaterally amend this Declaration. Thereafter, subject to HUD/VA Approval, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least seventy five percent (75%) of the total votes in the Association (but the votes of the Class B Members shall be calculated for purposes of this Section 13.2 without regard to the weighted voting right otherwise given to the Class B Members). In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Recorder's Office of Lane County, Oregon. References to specific sections in

this Declaration shall mean those sections as amended from time to time pursuant to this Section 13.2 or pursuant to other sections of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege during the Class B Control Period. Furthermore, no amendment may increase the number of Units or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Unit(s) unanimously consent to such amendment.

13.3. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

13.4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

13.5. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Unit for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and the Association rules,

which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation in which no notice shall be required, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition that may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

13.6. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy five (75%) percent of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

13.7. Use of the Words "The Reserve". No Person shall use the words "The Reserve at Heceta Lake," "The Reserve," or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the words "The Reserve at Heceta Lake" and/or "The Reserve" in printed or promotional matter where such words are used solely to specify that particular property is located within The Reserve, and the Association shall be entitled to use the words "The Reserve at Heceta Lake" and/or "The Reserve" in its name.

13.8. Compliance. Every Owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the Bylaws and rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owners.

13.9. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Unit hereunder, including payment of assessments, notwithstanding the transfer of title to the Unit.

13.10. Common Irrigation System. The Declarant shall have the right, but not the obligation, to install an irrigation system with non-potable water to service the Common Area, or parts thereof, utilizing water from wells on the Properties, subject to the approval of Happy Valley and/or Lane County, as applicable. Such irrigation system may be constructed, operated and maintained on a joint basis with other property owners adjacent to the Properties upon such terms and conditions as the Declarant or the Board of Directors may determine on behalf of the Association. The Board of Directors may from time to time adopt rules and regulations as to the irrigation water. Costs in connection with a common irrigation system for Common Area shall be treated as Common Expenses, which will be funded by Common Assessments.

Article XIV.  
Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

14.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss that affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Unit of any obligation under the Declaration or Bylaws of the Association that is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action that would require the consent of a specified percentage of eligible holders.

14.2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty seven percent (67%) of the first Mortgagees or Members representing at least sixty seven percent (67%) of the total Association vote entitled to be cast thereon consent (unless a greater percentage is required pursuant to this Declaration), the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area that the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner of a Unit (a decision, including contracts, by the Board shall not be subject to this provision where such decision is otherwise authorized by this Declaration);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges that are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

14.3. HUD/VA Provisions. Anything to the contrary in this Declaration notwithstanding, the following requirements of HUD and/or VA (collectively "HUD/VA") shall control:

(a) The lien of any assessment is subordinate to the lien of any first Mortgage, as more particularly set forth in Section 10.7.

(b) Mortgagees are not required to collect assessments.

(c) Failure to pay assessments shall not constitute a default under any insured Mortgage.

(d) Approval by Members representing at least seventy five percent (75%) of the total votes in the Association calculated without regard to weighted voting rights is required to amend this Declaration, as more particularly set forth in Section 13.2. Amendment of this Declaration also requires prior approval by HUD/VA as long as there is Class B membership, as more particularly set forth in Section 13.2.

(e) The Common Area cannot be mortgaged or conveyed without the approval of Members representing at least seventy five percent (75%) of the total votes of the Association (calculated without regard to weighted voting rights). The dedication of Common Area also requires prior approval by HUD/VA as long as there is a Class B membership.

(f) If ingress or egress to any Unit is through Common Area, any conveyance or encumbrance of such area is subject to the easement of the Owner of the Unit.

(g) The Common Area shall be conveyed to the Association free and clear of all encumbrances (except easements, conditions and restrictions of record) before HUD insures the first Mortgage on the Properties, and any provision in this Declaration conflicting with the foregoing HUD requirement shall have no force or effect.

(h) Absolute liability is not imposed on Owners of Units for damage to Common Area or to Units.

(i) Annexation of any real property, as provided in Article II, shall require prior approval by HUD/VA as long as there is a Class B membership.

(j) Declarant intends that this Declaration and the Articles and Bylaws shall comply with HUD certification requirements as set forth in HUD Form 4150.1 REV-1 (2/90), as contained in the U.S. Department of Housing and Urban Development publication entitled Valuation Analysis for Home Mortgage Insurance, February, 1990, Handbook 4150.1 REV-1, pages 11-23 and 11-24 (the "HUD Certification"), the provisions of which are incorporated herein, and in the event of any conflict between the HUD Certification and the Declaration, Articles or Bylaws, the provisions of the HUD Certification shall prevail. However, with

respect to required approvals by Members, if a greater percentage is required in this Declaration, the greater percentage shall control.

14.4. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.5. Notice to the Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

14.6. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements that necessitate some of the provisions of this Article or make any such requirements less stringent, the Board, with approval of the Owners in accordance with Section 13.2, may cause an amendment to this Article to be recorded to reflect such changes.

14.7. Amendment to Comply with Federal Laws. Declarant may unilaterally amend this Declaration in order to comply with requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmer's 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, guaranties or provides financing for a planned community or lots in a planned community. However, if the need to amend the Declaration occurs after the Turnover Meeting, the amendment must be approved by the Members in accordance with Section 13.2.

14.8. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Oregon law for any of the acts set out in this Article.

14.9. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Article XV.  
Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the Bylaws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Recorder's Office of Lane County, Oregon.

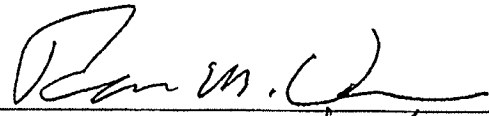
Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by the Declarant and any clubhouse or community center that may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) December 31, 2025, (b) the termination of the Class B membership, or (c) upon recording by Declarant of a written statement that all sales activity has ceased.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 16th day of SEPTEMBER, 2005.

HECETA LAKE JOINT VENTURE,  
an Oregon partnership

By:   
Name: ROGER M. VIAN  
Its: MANAGING PARTNER

State of Oregon )  
 ) ss.  
County of Lane )

This instrument was acknowledged before me on 16 Sept, 2005,  
by Roger M. Van as Managing Partner of  
Heceta Lake Joint Venture, an Oregon partnership.



Ryan M. Erickson  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**(Property Subject to Declaration)**

Phase 1:

THE RESERVE AT HECETA LAKE PHASE 1 as platted and recorded in Document Number ~~2005-~~ 2006-067885, Lane County Oregon Deed Records, Lane County, Oregon.

And

Phase 2, which shall be subject to this Declaration upon annexation as provided in Section 2.2:

Real property in the County of Lane, State of Oregon, described as follows:

Beginning at a point on the Northerly line of Section 10, Township 18 South, Range 12 West of the Willamette Meridian, said point being South 89° 19' 22" East 570.00 feet from the one-quarter corner between Sections 3 and 10; thence along the Northerly line of said Section 10, South 89° 19' 22" East 2080.19 feet to the Northeast corner of said Section 10; thence along the Easterly line of said Section 10, South 0° 06' 26" West 199.72 feet; thence leaving said Easterly line South 88° 21' 45" East 839.56 feet to the Westerly margin of U.S. Highway 101; thence along said Westerly margin South 5° 01' 05" West 713.31 feet; thence North 84° 58' 55" West 80.00 feet; thence South 5° 01' 05" West 600.00 feet; thence South 84° 58' 55" East 80.00 feet; thence South 5° 01' 05" West 1082.58 feet; thence leaving said Westerly margin South 89° 16' 46" West 634.24 feet to the one-quarter corner between Sections 10 and 11; thence along the Southerly line of the Northeast one-quarter of said Section 10, North 89° 35' 21" West 752.83 feet to the Easterly line of Parcel 1; thence along said Easterly line North 909.70 feet; thence West 254.61 feet; thence North 31° 43' 00" West 2031.07 feet to the point of beginning, in Lane County, Oregon.

SAVE AND EXCEPT any portion thereof lying within Heceta Lake Estates, as platted and recorded in File 73, Slides 623, 624 and 625, Lane County Oregon Plat Records, in Lane County, Oregon.

EXHIBIT A

ALSO SAVE AND EXCEPT that portion lying within the Reserve at Heceta Lake  
Phase 1.

EXHIBIT A

**EXHIBIT B**

(Cul-de-Sacs)

**Easement Area for Lake Point Drive Cul-de-Sac:**

Beginning at a point North 60° 13' 25" East 19.26 feet from the Northeast corner of Lot 31, **THE RESERVE AT HECETA LAKE, PHASE I**, as platted and recorded in Document Number 2005 - \_\_\_\_\_, Lane County Oregon Deed Records; thence North 41° 49' West for 14.22 feet; thence along a curve to the right having a radius of 45.00 feet and a central angle of 327° 16' 47" for an arc length of 257.04 feet, said curve having a chord bearing of North 52° 31' 47" East for 25.35 feet; thence South 41° 49' East for 17.69 feet; thence South 60° 13' 25" West for 25.85 feet to the point of beginning in Lane County, Oregon.

**Easement Area for Dunewood Drive Cul-de-Sac:**

Beginning at a point South 75° 04' 57" East 21.56 feet from the Northeast corner of Lot 42, **THE RESERVE AT HECETA LAKE, PHASE I**, as platted and recorded in Document Number 2005 - \_\_\_\_\_, Lane County Oregon Deed Records; thence North 12° 01' 30" West for 56.02 feet; thence along a curve to the right having a radius of 45.00 feet and a central angle of 330° 54' 06" for an arc length of 259.89 feet, said curve having a chord bearing of South 83° 09' 53" East for 22.61 feet; thence South 12° 01' 30" East for 59.58 feet; thence North 75° 04' 57" West for 24.00 feet to the point of beginning in Lane County, Oregon.

**Easement Area for Star View Drive Cul-de-Sac:**

Beginning at a point North 20° 12' 30" East 21.54 feet from the Northeast corner of Lot 55, **THE RESERVE AT HECETA LAKE, PHASE I**, as platted and recorded in Document Number 2005- \_\_\_\_\_, Lane County Oregon Deed Records; thence along a 45.00 foot radius curve to the right (the chord of which bears North 20° 12' 30" East 62.78 feet) a distance of 69.48 feet; thence South 20° 12' 30" West for 62.78 feet to the point of beginning in Lane County, Oregon.

**AND**

Beginning at a point South 16° 29' 42" East for 15.63 feet from the Northwest corner of Lot 56, **THE RESERVE AT HECETA LAKE, PHASE I**, as platted and recorded in Document Number 2005- \_\_\_\_\_, Lane County Oregon Deed Records; thence along a 45.00 foot

EXHIBIT B

radius curve to the right (the chord of which bears South 14° 04' 40" East 89.81 feet) a distance of 135.57 feet; thence along a 1030.00 foot radius curve to the left (the chord of which bears North 14° 02' 14" West 88.34 feet) a distance of 88.36 feet; thence North 16° 29' 42" West for 1.48 feet to the point of beginning in Lane County, Oregon.

EXHIBIT B

**EXHIBIT C**

**(Access, Utility and Maintenance Easement Across Lot 32)**

**Access, Utility and Maintenance Easement Area:**

Beginning at a point on the Easterly right-of-way line of Lake Point Drive, said point is South 45° 20' 44" East 16.11 from the Northwest corner of Lot \_\_\_\_\_, **THE RESERVE AT HECETA LAKE** as platted and recorded in Document 2005 - \_\_\_\_\_ Lane County Oregon Deed Records; thence North 66° 00' 40" East for 45.73 feet; thence North 13° 44' 35" East for 18.98 feet; thence North 66° 00' East for 25.29 feet; thence South 13° 44' 35" West for 44.27 feet; thence South 66° 00' 40" West for 48.99 feet; thence along a 330.00 foot radius curve to the left (the chord of which bears North 42° 07' 12" West 21.04 feet) a distance of 21.05 feet to the point of beginning in Lane County, Oregon

**Property Benefited by the Access, Utility and Maintenance Easement Across Lot 32 (the "Benefited Property"):**

Beginning at the Northwest corner of Lot 32, **THE RESERVE AT HECETA LAKE, PHASE I**, as platted and recorded in Document Number 2005 - \_\_\_\_\_ Lane County Oregon Deed Records, said point is on the Easterly right-of-way line of Lake Point Drive; thence along said Easterly right-of-way line along a 330.00 foot radius curve to the left (the chord of which bears North 54° 20' 23" West 87.24 feet) a distance of 87.50 feet; thence along a 270.00 foot radius curve to the right (the chord of which bears North 54° 53' 18" West 66.25 feet) a distance of 66.42 feet; thence North 64° 40' 40" East for 111.36 feet; thence North 12° 32' 20" West for 101.46 feet; thence North 18° 23' West for 197.20 feet; thence North 76° 47' 30" East for 248.44 feet; thence South 22° 29' 30" East for 384.08 feet; thence South 66° 00' 38" West for 306.65 feet to the point of beginning in Lane County, Oregon.

**EXHIBIT D**

**(Units Containing Wetlands)**

The Units designated on the Plat of Phase 1 as Lots 1, 2, 3, 5, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 32, 33, 34, 35, 36, 37, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55 and 56 contain wetlands.

EXHIBIT D