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AFTER RECORDING RETURN TO:

30/30  
Steve McGhehey  
PO Box 3500 #305  
Sisters, OR 97759

FIRST AMERICAN TITLE  
INSURANCE COMPANY OF OREGON  
P.O. BOX 323  
BEND, OR 97703

## BYLAWS OF CREEK VIEW COTTAGES HOMEOWNERS ASSOCIATION

### SECTION 1.00 DEFINITIONS

As used in these Bylaws, the terms set forth below shall have the following meaning:

1.01 **"Properties"** or **"Property"** means that certain property in the City of Sisters, County of Deschutes, State of Oregon which is more particularly described as Lots 1 through 8 inclusive, Creek View Cottages, in the City of Sisters, County of Deschutes and State of Oregon, recorded in Plat Book H, Page 178, Plat Records, Deschutes County, Oregon (the "Plat").

1.02 **"Association"** means the non-profit corporation known as Creekview Cottages Homeowners Association.

1.03 **"Board"** means the Board of Directors of the Creek View Cottage Homeowners Association.

1.04 **"Home"** means one dwelling unit situated on one Lot. The terms Home and Lot can be used interchangeably in these bylaws to refer to the separate parcels of land in Creek View Cottages.

1.05 **"Declaration"** means the Declaration of Protective Covenants, Conditions and Restrictions affecting the Plat of Creek View Cottages to which these Bylaws are attached.

1.06 **"Declarant"** means Sisters TMK, LLC.

1.07 **"Lot"** means the individual parcels of land created by the plat of Creek View Cottages.

1.08 **"Owner"** means the legal Owner or contract purchaser of any Lot and Home which is a part of the Property, but excluding those having an interest merely as security for the

performance of an obligation.

## **SECTION 2.00      MEMBERSHIP**

2.01 **Membership.** Upon becoming the Owner of a Lot and Home, the Owner shall automatically be a member of the Association and shall remain a Member until the Owner's ownership ceases for any reason. Membership shall be appurtenant to and may not be separate from ownership of the Home.

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

## **SECTION 3.00      TRANSITIONAL ADVISORY COMMITTEE**

3.01 **Formation.** Not later than 60 days after the Declarant has conveyed the Lots representing 50% of the votes, the Declarant may call a meeting of Owners for the purpose of selecting a transitional advisory committee.

3.02 **Appointment of Members.** The committee shall consist of three (3) Members. The Owners, other than Declarant, shall select two (2) Members. The Declarant shall select one (1) member.

3.03 **Access to Information.** The committee shall have reasonable access to all information and documents which the Declarant is required to turn over to the Association under ORS 94.616.

## **SECTION 4.00      MEETING AND VOTING**

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

4.02 **Organizational and Turnover Meeting.** Not later than 120 days after Lots representing 75% of the votes have been conveyed by Declarant, the interim Board shall call an Organizational and Turnover Meeting of the Owners for the purpose of organizing the Association and electing directors. Notice of such meeting shall be given to all Owners as provided in Section 4.05 hereof and shall state the purpose of the meeting. If the interim Board fails to call the meeting, the meeting may be called and notice given by any Owner. In the event of a lack of quorum at such Organizational and Turnover Meeting, it may be adjourned to the time of the first annual meeting. Nothing in this section shall be construed as preventing the interim Board from calling the Organizational and Turnover Meeting prior to such date, or from calling informal, informational meetings of the Owners. The Organization and Turnover

Meeting shall be the initial meeting of the Association.

**4.03 Annual Meeting.** The annual meeting of the Members for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day during the month of \_\_\_\_\_ or such other month of each year as the Board may designate, or if the Board should fail to designate a date by the first day of December, at 6:00 p.m. then on the second Thursday in December. The first annual meeting shall be held within one year from the date of the Organizational and Turnover Meeting.

**4.04 Special Meetings.** A special meeting of the Association may be called at any time by the President or by any two members of the Board. A special meeting shall also be called upon receipt of a written request stating the purpose of the meeting from Members having 25 percent of the votes entitled to be cast at such meeting. The notice given to the Owners shall contain a statement that the meeting is being held in order for the Declarant to turn over to the Homeowners Association the responsibility for the administration of the Property.

**4.05 Notice of Meetings.** Written notices stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called shall be delivered to each Member not less than 7 nor more than 50 days before the date of the meeting, either personally or by mail. If mailed, such notice shall be deemed delivered when deposited in the US mail, with postage fully prepaid thereon, addressed to the Member at his most recent address as it appears on the records of the Association.

**4.06 Quorum.** At any meeting of the Association, Members having 51 percent of the votes entitled to be cast at such meeting, present in person or by proxy, shall constitute a quorum, except when a larger quorum is required by the Declaration. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of the Member or Members. If any meeting of Members cannot be organized because of a lack of quorum, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time, not less than 48 hours nor more than 30 days from the time the original meeting was called. When the meeting is reorganized, a simple majority of those Members present at the meeting shall constitute a quorum to transact business and the majority vote of those Members present shall be binding on the Association Members.

**4.07 Voting Rights.** The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Home owned. When more than one person holds an interest in a Lot and/or Home, all such persons shall be Members. The vote for such Home or Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Home or Lot.

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

- (a) One hundred twenty (120) days following the conveyance of seventy-five percent (75%) of the Lots and/or Homes, to persons other than Declarant (except a successor to Declarant);
- (b) Three (3) years after the first Lot and/or Home is conveyed to a person other than Declarant, unless the persons is a successor to Declarant; or
- (c) Declarant voluntarily elects to turn over control of the Association to the Members prior to (a) or (b).

Following either (a) or (b), each Owner, including the Declarant, shall be entitled to one vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots.

**4.08 Joint Ownership.** In any case in which two or more persons share the ownership, the vote or consent of any one or more of such persons shall constitute the vote or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which they may vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Secretary of the Association and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

**4.09 Proxies.** Every Member entitled to vote or to execute any waiver or consent may do so either in person or by written proxy duly executed and filed with the Secretary of the Association. No proxy shall be valid after the meeting for which it was solicited and any adjourned meeting thereof, unless otherwise expressly stated in the proxy, and every proxy shall automatically cease upon sale by the Member of the Home or Lot upon which the proxy is based.

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

**4.11 Ballot Meetings.** At the discretion of the Board, any matter which might come before the Association at a meeting, including election of directors, may be determined by proxy ballot rather than at a formal gathering. Ballots shall be sent to all Owners in the same manner as notice of meetings, with a specified deadline for return of ballots. Ballots for such meetings must be properly executed and returned in sufficient quantity to constitute a quorum, and

determination of the matter presented shall be based upon the required percentage of ballots returned, unless approval of a specified percentage of all voting rights is required by law, the Declaration or these Bylaws. The vote of a ballot meeting shall be determined by the Board within 48 hours of the deadline for return of ballots. Within ten (10) days after the ballots have been counted, each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned.

## **SECTION 5.00      DIRECTOR AND MANAGEMENT**

**5.01    Number and Qualifications.** The affairs of the Association shall be governed by a Board composed of three (3) persons who shall be Members of the Association, except for the interim directors who need not be Members.

**5.02    Interim Directors.** Upon the filing of the Articles of Incorporation, the Declarant shall appoint the interim Board which may consist of one (1) director but not more than three (3) directors, who shall serve until replaced by the Declarant or by the Owners as provided below.

**5.03    Election and Tenure of Office.** At the Organizational and Turnover Meeting described in Section 4.02, the interim directors shall resign and the Members shall elect at least three (3) directors. The term of office for one director shall be fixed at one (1) year and the term for the other two directors shall be two (2) years. The two directors with the most votes shall be entitled to serve the two-year terms. Thereafter, the successors to each director shall serve for terms of two (2) years each. All directors shall hold office until their respective successors shall have been elected by the Members or as provided in Section 5.04. Election shall be by secret ballot.

**5.04    Vacancies.** A vacancy on the Board shall exist on the death, resignation or removal of any director, or if the authorized number of directors is increased, or if the Members fail to elect the full authorized number of directors to be voted for at any meeting called for that purpose. Vacancies on the Board may be filled by a majority of the remaining directors, even though less than a quorum, or by a sole remaining director. Each director so appointed shall hold office for the balance of the unexpired term and until his successor is elected. Vacancies on the interim Board shall be filled by the Declarant.

**5.05    Removal of Directors.** All or any number of the Directors, other than interim directors, may be removed, with or without cause, by a vote of a majority of the number of votes entitled to be cast at an election of directors at a meeting of Members called expressly for that purpose. The Declarant may remove any interim director at any time.

**5.06    Powers.** The Board shall exercise for the Association all powers, duties and authority vested in or delegated to the Association, except those reserved to the Members in the Declaration, Articles of Incorporation or by these Bylaws.

**5.07    Annual Meetings.** Meetings of the Board shall be held at such place as may be

designated from time to time by the Board or other persons calling the meeting. Annual meetings of the Board shall be held without notice immediately following the adjournment of the annual meeting of the Members.

**5.08 Special Meetings.** Special meetings of the Board for any purpose or purposes may be called at any time by the President or by any two directors. Notice of the time and place of special meetings shall be given orally or in writing at least 24 hours before the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objection to the transaction of any business because the meeting is not lawfully called or convened.

**5.09 Quorum and Vote.** A majority of the directors shall constitute a quorum for the transaction of business. A minority of directors in the absence of a quorum, may adjourn from time to time but may not transact any business. The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board unless a greater number is required by law, the Declaration, the Articles of Incorporation or these Bylaws.

**5.10 Liability.** Neither the Board nor any member thereof nor any officer of the Association shall be liable to the Association or to any Member for any damage, loss or prejudice suffered or claimed on account of any action or failure to act on the part of the Association, its officers, Board of Directors or any member of its Board of Directors, provided only that the Board member or officer has, in accordance with the actual knowledge possessed by him, acted in good faith.

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

**5.12 Managing Agent or Manager; Contract with Declarant.** On behalf of the Association, the Board may employ or contract for a managing agent or a manager at a compensation to be established by the Board. The Board may delegate to the managing agent or manager such duties and powers as are appropriate to the office. Any agreement for professional management of the Association providing for services by the Declarant, shall provide for termination by either party without cause or payment of a termination fee upon 30 days written notice. The term of any such agreement shall not exceed one year, renewable by agreement of the parties for successive one-year periods.

**5.13 Open Meetings.** All meetings of the Board of Directors shall be open to all Owners and comply with the following:

(a) Meetings of the Association and the Board of Directors shall be conducted according to the latest edition of Robert's Rules of Order published by the Robert's Rules Association.

(b) A decision of the Association or the Board of Directors may not be

challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied.

(c) A decision of the Association and the Board of Directors is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

**5.14 Other Powers.** The Board shall have such other powers and duties not specified herein, as may be allowed by law.

## **SECTION 6.00      OFFICERS**

**6.01 Designation and Qualification.** The officers of the Association shall be the President, the Secretary and the Treasurer and such Vice Presidents and subordinate officers as the Board shall from time to time appoint. The President shall be a member of the Board, but the other officers need not be directors. Officers need to be Members of the Association. Any two offices may be held by the same person except the offices of President and Secretary.

**6.02 Election and Vacancies.** The officers of the Association shall be elected annually by the Board to serve one year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board shall elect a successor to fill the unexpired term.

**6.03 Removal and Resignation.** Any officer may be removed upon the affirmative vote of a majority of the directors whenever in their judgment the best interests of the Association will be served thereby. The removal of any officer shall be without prejudice to the contract rights, if any, of the officer so removed. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary of the Association.

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

**6.05 Vice Presidents.** The Vice Presidents, if any, shall perform such duties as the Board shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Senior Vice President as designated by the Board.

6.06 **Secretary.** The Secretary shall keep or cause to be kept a Book of Minutes of all meetings of Directors and Members. The Secretary shall give or cause to be given notice of the meetings of the members and of the Board as is required by these Bylaws or by law. The Secretary shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws. If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

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

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

## **SECTION 7.00      GENERAL PROVISIONS**

7.01 **Required Board Actions.** The Board shall do the following acts.

a. Obtain such forms of property, liability, bonding and other insurance as necessary and prudent and as provided and required under the Declaration. Perform such other duties with respect to insurance as may be required by law. The Board of Directors shall, if reasonably available, seek inclusion of the terms and provisions described in ORS 94.690, as it may be amended, for such policies, which provide as follows:

1. A waiver of subrogation by the insurer as to any claim against the Board of the Association, any Owner or any guest of an Owner;
2. A waiver by the insurer of its right to repair and reconstruct instead of paying cash;
3. That no policy may be canceled, invalidated or suspended because of any action of an Owner;
4. That no policy may be canceled, invalidated or suspended because of



the conduct of any director, officer or employee of the Association unless the insurer gives the Association a prior written demand that the Association correct the defect and allows the Association a reasonable time to make the correction; and

5. That any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.

b. Assess and collect from any Owner all assessments and other charges in the manner described in the Declaration.

c. Supervise all officers, agents and employees of the Association, and see that their duties are properly performed.

d. Keep all funds received by the Association and use such funds only for purposes described in the Declaration of these Bylaws.

e. From time to time, and at least annually, prepare a budget for the Association and provide, within thirty (30) days after adopting the annual budget, a summary of the budget to all Owners. If the Board fails to adopt a budget, the last adopted annual budget shall continue in force.

f. Keep records of the receipts and expenditures of the Association and make the same available for examination by Members at convenient hours.

g. Maintain an assessment roll showing the amount of each assessment against each Owner, the amounts paid upon the account and the balance due on the assessments.

h. Keep correct and complete minutes of the meetings of its Members, Board and committees.

i. Develop a program for maintenance, upkeep, repair and replacement of any common property on the exteriors of the Members' Homes and the method of payment therefore and any approval procedures for vouchers.

j. Adopt, amend, change, or delete at any meeting of the Board, rules and regulations of the Association. The Board shall have authority to enforce the rules and regulations, including the right to impose a fee or assessment for such violation.

**7.02 Seal.** The Board may, by resolution, adopt a corporate seal.

**7.03 Notice.** All notices to the Association or to the Board shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time. All notices to Members shall be sent to the Member's Home or to such other address as may be designated by

the Member from time to time in writing to the Board.

**7.04 Conflicts.** These bylaws are intended to comply with the Oregon Nonprofit Corporation law, the Declaration and the Articles of Incorporation. In case of any irreconcilable conflict, such statute and documents shall control over these Bylaws.

**7.05 Annual Financial Statement.** The Board shall cause the preparation of the annual financial statement of the Association and cause the distribution of such financial statements within ninety (90) days after the end of the Association's fiscal year, to each Owner and, upon written request, any mortgagee. The annual financial statement shall consist of a balance sheet and income and expense statement for the preceding fiscal year.

## **SECTION 8.00      AMENDMENTS TO BYLAWS**

**8.01 How Proposed.** Amendments to these Bylaws shall be proposed by either a majority of the Board or by Members having at least thirty percent (30%) of the votes entitled to be cast for such amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon.

**8.02 Adoption.** The proposed amendment may be adopted by the membership at a regularly scheduled meeting or special meeting of the Members called for that purpose, at which a quorum is present, by a majority vote of Owners present in proxy or by proxy at such meeting and the written consent of the Class B member, if any; provided, however, that those provisions of these Bylaws which are governed by the Declaration or the Articles of Incorporation of this Association may not be amended except as provided in those documents. In addition to the foregoing, any amendment shall not be effective unless (i) certified by the president and secretary of the Association as having been adopted in accordance with the Bylaws and this section and (ii) recorded in the office of the recording officer if the Bylaws to which the amendment relates were recorded.

## **SECTION 9.00      MAINTENANCE AND REPAIR**

**9.01 Maintenance for Homes.** The Board of Directors shall determine what exterior maintenance, upkeep and repair shall be necessary for each Home as provided in the Declaration.

**9.02 Method of Payment.** Such maintenance, upkeep and repair of the Homes shall be paid by the funds collected from assessments against the Lots and Owners, in the manner provided for in the Declaration.

**9.03 Employment of Personnel.** The Board of Directors shall employ such personnel as may be necessary for the maintenance, upkeep and repair of the Homes.

These Bylaws were adopted by Declarant as provided in the Declaration to which these Bylaws are attached.

These Bylaws are effective as of the date the Articles of Incorporation for the Association are filed with the Secretary of State for the State of Oregon.

617\027 creek view cottages bylaws.wpd

AFTER RECORDING RETURN TO:

Mr. Steven E. McGhehey  
Ponderosa Properties  
PO Box 3500 #305  
Sisters, OR 97759

**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR CREEK VIEW COTTAGES**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CREEK VIEW COTTAGES (the "Declaration"), is made on the date hereinafter set forth by Sisters TMK, LLC, an Oregon limited liability company, its successors and assigns ("Declarant").

WITNESSETH:

Declarant is the owner of certain real property in the City of Sisters, County of Deschutes and State of Oregon, more particularly described on the attached and incorporated by this reference **Exhibit A** (the "Property"). The Property has been subdivided into eight (8) Lots, by plat recorded December 21, 2006 in Plat Book H at Page 178, Plat Records, Deschutes County, Oregon (the "Plat").

A Home (defined below) will be built on each of the eight (8) Lots. Each Home will also have an attached garage, except Lot 7 which shall have a detached garage. The Homes on Lots 1 and 2 shall share a common wall and the Homes on Lots 3 and 4 shall share a common wall.

Declarant hereby declares that all of the Property, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property, and be binding on all persons, their heirs, successors and assigns, having any right, title or interest in Lots 1 through 8 as shown on the Plat of Creek View Cottages, and shall inure to the benefit of each Owner of a Lot and such Owner's heirs, successors and assigns.

ARTICLE I  
DEFINITIONS

Section 1. **"Association"** means the non-profit corporation known as Creek View Cottages Homeowners Association.

Section 2. **"Board"** means the Board of Directors of the Creek View Cottages Homeowners Association.

Section 3. **"Bylaws"** means the Bylaws of the Association which are attached hereto as **Exhibit B**.

Section 4. **"Master Declaration"** means that certain Declaration of Covenants, Conditions, Restrictions and Easements recorded on August 25, 1999 in Book 1999, Page 41448, as amended by instrument recorded on November 20, 2002 in Book 2002, Page 65002, Official Records, Deschutes County, Oregon. The Master Declaration provides for assessments of common areas by the Master Association and each Owner shall be responsible for such assessment when made.

Section 5. **"Owner"** means the legal or fee simple Owner or contract purchaser of any Lot and/or Home which is part of the Property and any successor or assign, but excluding those having an interest merely as security for the performance of an obligation.

Section 6. **"Properties"** or **"Property"** means Lots 1 through 8 including improvements constructed thereon.

Section 7. **"Declaration"** means this Declaration of Protective Covenants, Conditions and Restrictions.

Section 8. **"Home"** means one dwelling unit situated on a Lot (defined below). Each Lot will have a Home and garage located on it. The term Home can also be used in this Declaration to refer to each separate Lot in Creek View Cottages.

Section 9. **"Declarant"** means Sisters TMK, LLC, an Oregon limited liability company and its successors or assigns.

Section 10. **"Member"** means an Owner of a Lot who also belongs to the Association by reason of such ownership of a Lot.

Section 11. **"Lot"** means the individual parcels of land created by the plat of Creek View Cottages on which a Home and a garage will be or are constructed.

Section 12. **"Tract A"** means the common property shown on the Plat and which is

partially subject to a Water Feature Easement as recorded on the plat of Pine Meadow Village, Phase I. Tract A shall be maintained by the Master Association.

## ARTICLE II USE OF THE PROPERTY

**Section 1. Use of Home; Leases.** All Homes situated on Lots 1 through 8 shall be used for residential purposes only and for no other purpose; provided the rental or lease of a Home for residential purposes is allowed. All rental or lease agreements shall be in writing and shall provide that the terms of the rental agreement or lease shall be subject in all respects to the provisions of the Declaration, Bylaws and Articles of Incorporation, and the Master Declaration and that any failure by the lessee or tenant to comply with these terms shall constitute a default under the lease or rental agreement.

**Section 2. Master Declaration and Easements.** The Property is subject to the terms and conditions of the Master Declaration, which provides, in part, for a homeowners association assessment for Pine Meadow Village, which assessment is in addition to the assessment for the Association for Creek View Cottages as provided in this Declaration and the attached Bylaws.

The Property is also hereby declared to be subject to the easements shown on the Plat, to easements for maintaining and repairing the improvements on each Lot as stated in this Declaration or on the Plat, and to easements for access over each and every Lot to allow the Association to maintain and repair the landscaping and the sprinkler systems and any other items provided for in this Declaration, and ingress and egress easement for inspection, maintenance and repair of a Home located on a Lot which is the responsibility of the Association as provided in this Declaration or the Bylaws. All easements are deemed covenants running with the land for the use and benefit of the Owners and their Lots and the Association and where appropriate are burdens on the Lots over which an easement may run.

- (a) Notwithstanding anything expressed or implied to the contrary, the Property shall be subject to easements for the installation, repair and maintenance of utilities, common sprinklers and drainage facilities necessary for the development of the Property. In addition, as shown on the Plat, certain Lots are and shall be subject to public and private utility easements, storm drainage easements and an easement for a Private Way (defined in Section 1 of Article IV).
- (b) With respect to any easements as set forth herein, no structure, planting or other material shall be placed or permitted to remain within any easement area which may damage or interfere with the installation, repair or maintenance of utilities or other facilities for which the easement was intended, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in the easement areas shall be

maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

- (c) The Association and its agents and contractors are granted ingress/egress easements over the Lots in order to maintain, repair, and install landscaping, the sprinkler systems on the Property, or any other facilities (including the exterior of any Homes) which will be owned, operated, maintained or repaired by the Association on behalf of the Owners as provided in this Declaration .
- (d) Declarant has installed a 1,000 gallon underground propane storage tank (the "Tank") and gas lines from such Tank to each Home in Creek View Cottages. Declarant hereby grants, creates and establishes for the benefit of all Owners and the Association and as a burden on all Lots easements over the Lots for all gas lines and an easement to and from the Tank on Lot 4 on which Declarant has installed such Tank and such easements include the right to enter upon any Lot for the purposes of maintenance, repair or replacement of the gas lines or the Tank, as applicable. At turnover, Declarant will transfer all rights, title and interest in the Tank to the Association and Declarant shall have no further obligation for the Tank or the utility lines or any other improvements made in connection with the Tank. Declarant has also installed or will install a sub-meter on each Owner's Home, and each Owner shall pay its pro-rata share of the propane used by the Owner. Each sub-Meter on each Home is leased and each Owner will be responsible for such lease payment. The maintenance or repair of each sub-meter and any gas lines within a Home shall be the sole responsibility of each Owner. The Tank and the utility lines up to each sub-meter on each Home shall be repaired and maintained by the Association and shall be part of the Association budget.
- (e) The Declarant hereby reserves to itself a blanket easement over upon, through, and under the Property, including without limitation, all Lots, for all purposes reasonably required in carrying out the development of any improvements, including without limitation ingress and egress, the construction, alteration, completion, warranty work, if any, and decoration of Homes and other improvements developed on the Property .
- (f) There are certain utility lines located under the Private Way. The City of Sisters may require the owner of Lot 7, Pine Meadow Village - Phase I in connection with the development of Lot 7 to hook-up with such utility lines within the Private Way and in such event this may cause construction to occur within the Private Way. If any such construction occurs within the Private Way the Owner of Lot 7 shall be solely responsible for the costs of construction and may not enter onto the Property except with the written consent of the Board, which to the extent not prohibited by the City of Sisters, may impose such conditions for such access,

such as an indemnity and hold harmless agreement to be executed by the owner of Lot 7 and the repair or replacement of any improvements that are damaged during such hook-up process to the same or better condition prior to any such work.

**Section 3. Use Restrictions.** The following use restrictions and servitudes are in addition to all other restrictions, covenants, conditions, easements and other requirements contained in this Declaration and the Bylaws or the Master Declaration:

- (a) No animals or fowls shall be raised, kept, or permitted within the Property, except domestic dogs and cats or other household pets may be kept within a Home/Lot but not to exceed 2 pets. No animals of any kind shall be bred or raised for commercial purposes and an Owner may not have more than 2 pets without Board approval. Those Owners keeping pets will abide by municipal sanitary regulations governing pets. An Owner may be required to remove a pet after receipt of two notices in writing from the Board of violations of any such laws, rules, and regulations governing pets. Dogs shall be kept on lease or under direct control of an Owner. A dog shall not be allowed to run loose on the Property.
- (b) No house trailers, motor homes, pickup campers, mobile homes, boats or like recreational vehicles shall be parked on the Property, unless parked inside a garage.
- (c) No commercial activities of any kind shall be carried on in any Home or in any other portion of the Property except activities relating to the sale or rental of Homes. This provision, however, shall not be construed so as to prevent or prohibit an Owner from maintaining the Owner's professional personal library, keeping the Owner's personal business or professional telephone calls or conferring with business or professional associates in a Home/Lot.
- (d) Each Owner shall promptly at all times maintain in good condition and appearance the exterior portions of the Owner's Home and all landscaping located on the Owner's Lot, unless any of the foregoing is maintained by the Association and shall not allow the accumulation of debris, filth, rubbish or garbage on the Owner's Lot.
- (e) Trash and recycling receptacles are to be stored in each Home's garage at all times excepting the day of collection. The Board may make rules and regulations concerning disposal of garbage and the use of garbage areas by the Owners. All Owners must comply with such rules and regulations.
- (f) In addition, the Board from time to time may adopt, modify, or revoke rules and regulations governing the conduct of any person and the operation and use of all or any part of the Property as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. Such Board



action to impose rules and regulations may only be modified by vote of not less than seventy-five (75%) percent of each class of Members voting in person or by proxy, at a meeting duly called for such purpose. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Secretary promptly to each Owner and shall be binding upon all Owners and occupants of all Homes.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. **The Membership.** Upon becoming the legal Owner or contract purchaser of a Lot and/or Home, the Owner shall automatically be a member of the Association ("Member") and shall remain a Member until his ownership of a Lot and Home ceases for any reason. Membership in the Association shall be appurtenant to and may not be separate from the ownership of a Lot.

Section 2. **Classes of Membership.** The Association shall have two classes of voting members.

Class A. Class A Members shall be all Owners, with exception of Declarant. Class A Members shall be entitled to one vote for each Lot and/or Home owned. When more than one person holds an interest in a Lot and/or Home, all such persons shall be Members. The vote for such Lot and/or Home shall be exercised as the Owners determine, but in no event shall more than one vote be allowed with respect to any one Lot and/or Home.

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

- (a) One hundred twenty (120) days following the conveyance of seventy-five percent (75%) of the Lots and/or Homes, to persons other than Declarant (except a successor to Declarant); or
- (b) Three (3) years after the first Lot and/or Home is conveyed to a person other than Declarant, unless the person is a successor to Declarant; or
- (c) Declarant voluntarily elects to turn over control of the Association to the Members prior to (a) or (b).

Declarant may transfer its rights and obligations under this Declaration to another party at any time until the Class B membership terminates. Upon termination of the Class B

membership, Declarant may not transfer its rights and obligations under this Declaration. Upon such transfer to a successor Declarant, the Declarant shall have no further rights or obligations under this Declaration, or to any Owner under this Declaration.

A copy of the bylaws (the "Bylaws") are attached hereto as **Exhibit B** and are deemed automatically adopted by Declarant as the Bylaws of the Association upon the date of filing of the articles of incorporation for the Association.

#### ARTICLE IV COVENANT FOR ASSESSMENTS

**Section 1. Creation of Lien and Personal Obligation of Assessments.** The Declarant for each Owner within the Property, hereby covenants, and each Owner of Lots 1 through 8 by acceptance of a deed or a contract to convey title therefor, whether or not it shall so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association if part of any approved budget the following or any other items necessary: (i) annual assessments or charges which may be used for maintaining, replacing and repairing the landscaping on each Lot, for reserves for painting, and costs of maintenance and repair of the reciprocal Private Way ("Private Way"); (ii) special assessments as the Board may deem necessary that do not exceed \$500 per Lot, unless approved by the Members as herein provided; and (iii) any interest, late charges, costs and reasonable attorney's fees for unpaid assessments and whether or not a lien is filed or a suit or action is filed. Any special assessment in excess of \$500 per Lot shall require the vote of each class of Members as provided in Section 4 of this Article.

(a) At the turnover meeting of the Members, the majority of the Members shall determine which items shall be included in the budget for the Association. Once the budget items are determined by the Members, the Board shall have the authority to prepare each annual budget as provided in the Bylaws. Notwithstanding anything to the contrary in this Declaration, the Association shall include in each annual budget the cost of the maintenance, replacement and repair of the following: (i) the landscaping throughout the Property (except Tract A), (ii) the Private Way, (iii) the sprinklers throughout the Property, (iv) the insurance premium for liability insurance in amounts of coverage as determined by the Board, (v) the Tank and the gas lines.

(b) At the turnover meeting, the Members shall also elect the directors to serve on the Board. There shall be at least three (3) board members as provided in the Bylaws.

(c) If any Owner fails to pay any assessment or charge, then the Board may record a common expense or Association lien ("Association Lien") which shall be a charge or lien on the Home/Lot and shall be a continuing lien upon the Home/Lot against which each such assessment is made until the assessment is paid in full. The cost of recording the Association Lien shall be paid by the Owner of the Home/Lot against which the Association Lien is recorded. Every such assessment made by the Association together with interest, costs, expenses and reasonable attorneys' fees, shall also be the personal obligation of the person or persons who own such Lot

and/or Home at the time the assessment fell due or any successors in title who expressly assume them. No Owner may waive liability for an assessment by abandonment of the Owner's Lot and/or Home.

**Section 2. Purpose of Assessment.** The Association's Board of Directors shall from time to time and at least annually prepare an operating budget for the Association, taking into account the following:

- (a) Expenses of administration.
- (b) Costs of funding reserves as provided in Section 3 of this Article.
- (c) Any deficit in common expenses for any prior period.
- (d) Any other items properly chargeable as an expense of the Association.
- (e) Any other items agreed upon as common expenses by Owners.

Notwithstanding the foregoing, the Declarant and the initial Board shall not be obligated to prepare a budget nor to assess any assessments, but may elect to do so. After turnover of the Association to the Owners, then the Board elected after the turnover meeting shall prepare the budget and establish an assessment for maintaining any items approved by the Members, such as painting or roof repair and in any event the items in Section 1 of this Article shall be included in the budget, including without limitation, the repair, replacement or maintenance of, the landscaping, the Private Way, the sprinkler system, and the Tank and gas lines, along with the cost of administration. Declarant shall have no obligation to contribute any additional funds to the Association, and shall only pay the assessments levied against the Lots owned by Declarant.

**Section 3. Reserve Fund.** Following approval by the majority of the Members at the Turnover meeting or any subsequent annual meeting or special meeting, the Board shall have the right to include in the budget an amount necessary to maintain an adequate reserve fund for the repair and replacement of any of the following: the exterior painting or staining of the Homes, the roofs, the Private Way, the landscaping, and the sprinklers (the "Reserve Fund"). If a Reserve Fund is established for any item, the Board shall assess each Home equally for the Reserve Fund. The Board shall obtain or update any reserve study as may be required by law. The Board shall administer the Reserve Fund as required by this Declaration or law. An Owner shall have no right to a refund from the Reserve Fund, all of such sums shall belong to the Association when made by each Owner.

**Section 4. Special Assessments.** In addition to the annual assessments authorized above or for the Reserve Fund, the Association may levy a special assessment for the any purpose including, without limitation, painting the Homes, or repair or replace the roofs of the Homes, acquiring additional equipment, facilities or other capital improvements for the general use and

benefit of all the Members of the Association or for any other commonly used facilities such as the Private Way. Any special assessment in excess of \$500 in any calendar year shall be levied equally against Lots 1 through 8 and require a vote of sixty percent (60%) of the votes of each class of Members.

Section 5. **Fund.** The Association shall keep all funds, except reserves which shall be placed in the Reserve Fund, received by it in an account to be known as the "Maintenance Fund." The Association shall segregate its Reserve Fund and its Maintenance Fund in accordance with standard accounting practices, but a separate account at a bank is not necessary so long as the funds are clearly segregated on the books of the Association. The Association shall use each fund for such purposes relating to the maintenance, repair, replacement, care and upkeep of that part of the Property which is the responsibility of the Association.

Section 6. **Subordination of the Lien to Mortgage.** The Association Lien for any assessments provided for shall be subordinate to the lien of any first mortgage which was recorded before the assessment became due or to the real property taxes irrespective of the date assessed. Sale or transfer of any Home/Lot shall not affect or impair the Association Lien.

#### ARTICLE V COLLECTION OF ASSESSMENT; ENFORCEMENT

Section 1. **Abatement and Enforcement of Violations.** The Board shall take prompt action against any violator to enforce the provisions of this Declaration, the Master Declaration, the Bylaws or the rules and regulations adopted pursuant thereto, including prompt action to collect any unpaid assessment. In addition, any aggrieved Owner may bring an action against any other Owner to recover damages or to enjoin, abate, or remedy any noncompliance or breach of this Declaration, the Master Declaration, the Bylaws or any rule or regulation of the Association by another Owner by appropriate legal proceedings.

In addition to any other right or remedy at law or in equity, the Association, acting through the Board, shall have the right to:

- (a) Record a lien against the Home/Lot if an Owner fails to pay assessments of the Association;
- (b) Enter a Home/Lot where a violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any condition, other than construction, that may exist contrary to the intent and meaning of the provision hereof, and the Board and Association shall not be deemed in any manner liable for trespass, waste or nuisance or other claim for damages by an Owner;
- (c) Remove or alter construction not allowed by the Association under Article

VII by appropriate legal proceedings; and

- (d) Record its Lien against the Home/Lot for all its assessments and costs and expenses that it may incur to abate any violation of this Declaration, the Master Declaration, the Bylaws or the Association's rules and regulations or any other applicable document.

**Section 2. Interest; Late Charge; Fines.** Interest shall accrue on any assessment or fine, or portion thereof not paid within ten (10) days of the due date at the rate of 12 percent per annum, compounded monthly, until paid. The Board may, if it deems appropriate, also impose late charges for late payments of assessments. The amount of the late charge shall be determined by the Board. After giving notice and an opportunity to be heard, the Board may also levy reasonable fines for violations of the Declaration, Master Declaration, Bylaws and rules and regulations adopted pursuant thereto. Such fine may become a lien against a Home/Lot as provided in Article IV. If an Owner fails to properly maintain or repair a Home or perform a replacement, the Board upon ten (10) days written notice to an Owner may cause such maintenance or repair or replacement to be performed at the sole cost and expense of the Owner. Such Owner shall immediately reimburse the Association for any such costs, plus interest and an administrative fee of fifteen percent (15%) of the cost, as well as any costs of collection, such as attorney fees.

**Section 3. Acceleration of Assessment.** In the event that an Owner fails to pay an installment of an assessment within ten (10) days of its due date, the Board may, after ten (10) days written notice, declare the defaulting Owner's entire annual or special assessment immediately due and payable, record its Lien, and any applicable late charges and interest shall accrue ten (10) days' from the due date on the entire assessment at 12 percent per annum, compounded monthly, until paid.

**Section 4. Creation of Lien, Actions to Foreclose Lien and Money Judgments.** The Board may create and record its Lien if an Owner fails to pay the assessments provided for in this Declaration. The Association's Lien shall also include any interest, charges, or costs or fees (including the Association's legal fees) or assessments, accruing before and after the date of recording. The Board may bring suit to foreclose its Lien against a Home/Lot. The proceedings to create and foreclose the Association Lien shall conform as nearly as possible to the proceedings to create and foreclose liens stated in ORS 94.704 thru ORS 94.733, now or as hereafter amended. In any such foreclosure suit, the Board shall be entitled to the appointment of a receiver to collect the rent. The Board acting on behalf of the Association, shall have the power to credit bid all sums due it pursuant to its Association Lien, this Declaration or the Bylaws, at the foreclosure sale, and to acquire the Home/Lot at the foreclosure sale and thereafter hold, lease, mortgage and convey the Home/Lot, on behalf of the Association. The Board may bring an action to obtain a money judgment against an Owner for damages for the Owner's breach or noncompliance with the provisions of the Declaration, Master Declaration, Bylaws or rules and regulations adopted pursuant thereto. The Board may bring an action to

obtain a money judgment for unpaid assessments against the Owner personally obligated to pay the same. The action to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the Association Lien as security for the same.

**Section 5. Sale or Transfer.** Any sale or transfer of a Home/Lot pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure shall not relieve such Home/Lot from liability for any charges or assessments thereafter becoming due from date of recording of the Association Lien for any such subsequent charge or assessment.

**Section 6. Attorney Fees.** In the event the Association shall attempt to collect any money due hereunder, or bring any suit or action to enforce this Declaration or to foreclose an Association Lien, the Owner shall pay to the Association all costs and expenses including, without limitation, a foreclosure title report and reasonable attorneys' fees incurred by it in connection with such collection and whether or not an action or suit is filed by the Association. Suit or action includes any proceeding of special or limited jurisdiction, including without limitation, any proceeding pursuant to the U.S. Bankruptcy Code.

#### ARTICLE VI INTERIOR/EXTERIOR MAINTENANCE OF HOMES

**Section 1. Maintenance for Homes.** Each Owner, at the Owner's sole cost and expense, shall repair and maintain the interior of the Owner's Home and all decks attached to a Home or to any other decks or patios located on an Owner's Lot. The Association shall have no responsibility for maintenance and repair of decks or patios. An Owner shall not allow trash or debris to accumulate around an Owner's Home or on the Lot and shall exercise reasonable efforts to keep same free of trash and debris. Each Owner shall also be responsible for the maintenance, repair, and replacement of the exterior of an Owner's Home, including without limitation, painting, siding, roof, window cleaning and gutters, except for any of the foregoing items which the Association is required to maintain, repair or replace as stated in this Declaration or which the Members of the Association have determined shall be maintained and repaired by the Association. The Association shall not be responsible for any action of an Owner, or its guests, invitees or tenants which causes damage to these items. In such event, the Owner shall be solely responsible to repair the damage to such items. The monthly assessment that each Member will pay, may be determined initially by the Declarant, and shall be payable from date of sale of each Home/Lot if so determined by the Declarant and each month thereafter until such time as initially approved as stated in Article IV by the Members and thereafter by the Board of Directors at the duly called annual meetings to set the assessments for the Association fees, based upon the budget for the Association. The Board may establish procedures, such as rules and regulations for maintenance and repair by the Association and the Owners. If there is a dispute about the Association's or an Owner's obligations under this Section 1, the Association or the Owner may submit the dispute to arbitration under Section 7 of Article XI.

Section 2. **Right to Special Assessment for Damages Lien.** In the event that the need for maintenance or repair is caused through the willful or negligent acts of an Owner or the Owner's tenant or the acts of family, guests or invitees of the Owner, the Board may assess the Owner for the cost of the maintenance or repair as a special assessment, which may be added to the regular assessment to which such Home and Owner are subject. The Board may require payment upon demand or may arrange a payment plan with the Owner. If not paid when due, then the Association may record its Lien as provided in Article V.

## ARTICLE VII INSURANCE AND BONDS

Section 1. **Insurance.** Each Owner shall secure and maintain the following insurance coverage for their own House.

- (a) **Fire and Extended Coverage.** A policy or policies of Property insurance equal to full replacement value (i.e., 100 percent of current insurance replacement cost) of all building improvements, exclusive of land, foundation, excavation, and other items normally excluded from coverage. The insurance policy or policies must protect against loss or damage by fire and other hazards that are normally covered by the standard extended coverage policy and endorsements as well as those covered by the standard "all rights" endorsement. If at all possible, the policy will also contain an "agreed amount and Inflation Guard" endorsement and such other endorsements as the Board may determine are necessary.
- (b) **Liability Coverage.** A comprehensive policy or policies insuring the Association, the Owners individually, the Board and the manager, if any, against liabilities to the public, the Owners and their invitees or tenants, incident to the supervision, control or use of the Property. The policy or policies shall provide coverage for bodily injury and property damage, and limits of liability under such insurance shall not be less than \$1,000,000 in a combined single limit basis. The Board may make recommendations to the Owner.

The policy or policies in this Section 1 must provide for at least ten (10) days' written notice to the Association before the insurer can cancel or substantially modify it. The Owners of Lots 1 and 2 and Lots 3 and 4 shall carry such other insurance as appropriate due to the fact that they each share a party wall as described in this Declaration.

Section 2. **Additional Policy Provisions.** The Board may, in its discretion, provide coverage against other risks and obtain such other provisions as the Board deems appropriate or desirable for the Association. The Board for the Association shall obtain liability insurance and this shall be a common expense, and be assessed as provided in Article IV.

Section 3. **Settlement of Loss.** All losses under Association policies shall be settled

exclusively with the Board or its authorized representative. Proceeds of Association policies shall be paid to the Association.

Section 4. **Owners' Obligations.** Each Owner shall promptly inform the Board of any loss, claim or damage which may be covered under a policy maintained by the Association.

Section 5. **Review of Insurance Policies.** At least annually, the Board shall review all insurance carried by the Association.

## ARTICLE VIII ARCHITECTURAL CONTROL

Without prior written approval from the Board, no Owner shall:

- (a) Erect or construct any fence, wall or other structure or improvements on the Owner's Lot, other than fences existing at completion of the development on the Property; provided, however, an Owner may erect fences to be located between a detached garage and the Home, subject only to Board approval concerning the height which will not exceed 6 feet, and the type of materials to be used. The permissible materials include, without limitation, cedar fence, brick wall, or stone wall; or
- (b) Install television antennae (except a small (no more than 18") satellite dish), air conditioning or heating machines on Homes, exterior window guard, a separate propane tank on an Owner's Lot, awnings or shades, exterior lights or noise making devices, exterior posters or signs (other than signs for sale of a Home or lease of a Home), fencing, dog runs, any exterior structure or any other similar item; or
- (c) Otherwise modify or change the exterior appearance of a Home.

In seeking the approval of the Board, the Owner shall submit a written statement of the proposed structure, alteration, device or modification, together with plans and specifications, if applicable, showing the dimensions, materials and location of the same.

The Board shall review and consider the proposal on the basis of its potential harmony with the existing appearance of the Property, its potential effect on the attractiveness of the Property, its potential effect on the other Owners and any other criteria that the Board, in its sole and absolute discretion, deems relevant. The Board's approval may be withheld in the Board's sole and absolute discretion.

## ARTICLE IX MORTGAGES



Section 1. **Definitions.** The following terms shall have the following meanings:

- (a) "Mortgage" means a recorded mortgage or trust deed creating a lien against a Home.
- (b) "Eligible mortgage holder" means a holder of a first mortgage on a Home who has requested notice of certain matters from the Association in accordance with Section 3 below.

Section 2. **Notice to Association.** At the request of the Board, each Owner shall promptly supply to the Board the name and addresses of the mortgagee or mortgagees of their Home.

Section 3. **Notice to a Holder, Insurer or Guarantor of a Mortgage.** A holder, insurer or guarantor of a mortgage on a Home, who submits a written request to the Association stating the name and address of the holder, insurer or guarantor and the address of the mortgaged Home shall be entitled to timely written notice of the following:

- (a) Any condemnation or casualty loss that affects a material portion of the Property or the Home secured by its mortgage.
- (b) Any sixty (60) day delinquency in the payment of assessments or charges owned by the Owner of any Home on which it holds the mortgage.
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond (if any) maintained by the Association; and
- (d) Any proposed action that requires the consent of a specified percentage of eligible mortgage.

Section 4. **Consent to Termination of the Association.** Except with respect to termination of the Association as a result of destruction, damage or condemnation of the Property, any termination of the Association shall require the approval of eligible mortgage holders representing one hundred percent (100%) of the votes of Homes that are subject to mortgages held by the eligible mortgage holders. This approval shall be in addition to such other approvals and procedures as may be required by the Declaration or Bylaws.

Section 5. **Consent to Amendment of Documents.** The approval of eligible mortgage holders representing at least fifty-one (51%) percent of the votes of the Homes that are subject to mortgages held by eligible mortgage holders shall be required for any amendments of a material nature to the Declaration or for any amendments of a material nature to the Declaration or Bylaws.

Section 6. **Right to Reserve Written Notice of Meetings.** A holder of a first mortgage shall, upon written request to the Association, be entitled to receive notice of all meetings of the Association and shall be entitled to designate a representative to attend all such meetings.

## ARTICLE X PARTY WALLS

Section 1. **General Rules for Party Walls.** The general rules of law in Oregon shall apply to any party walls between Lots 1 and 2 and Lots 3 and 4, respectively. Each wall which is built as a part of the original construction of the improvements on Lots 1 and 2 and Lots 3 and 4, which are located within the Property and placed on, or immediately adjacent to and parallel with, the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this section, the general rules or law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. **Sharing of Repair and Maintenance.** Each party wall shall be maintained in a good and safe condition. The cost of reasonable repair and maintenance of each side of a party wall located on a Lot shall be the responsibility of the Owner who owns the Lot.

Section 3. **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owners who have used the party wall may restore it, and if the other Owners hereafter make use of the party wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions. The Owner repairing or reconstructing a party wall shall have the right of access over the adjacent Owner's Lot to the extent necessary to effect the repair or reconstruction. The Owners of Lots 1 and 2 and of Lots 3 and 4 shall carry such insurance as is necessary to protect the other Owner from loss or damage, such as by fire or other casualty and any necessary general liability insurance.

Section 4. **Weatherproofing.** Notwithstanding any other provision of this section, an Owner who by his negligent or willful act causes the party wall to be exposed to the weather shall bear the whole cost of furnishing the necessary protection against the weather.

Section 5. **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land of the affected Lots and shall pass to such Owner's successors in title.

Section 6. **Encroachments.** If any portion of a party wall or other part of a building or structure now or hereafter constructed upon a Lot, encroaches upon any part of the Lots or Lots used or designated for use by another Lot Owner, an easement for the encroachment and for the maintenance of same is granted and reserved and shall exist and be binding upon the Declarant and upon all present and future owners of any part of said Lot for the benefit of the present and

future owners of such encroaching building or structure for the purposes of occupying and maintaining the same; in the event of a structure consisting of more than one living unit becomes partially or totally destroyed or in need of repair and replacement, mutual and reciprocal easements are granted and reserved in and upon each dwelling unit and Lot for the repair, maintenance or replacement. No such easement shall exist, however, in respect to an encroachment caused by construction of any improvements on any Lot after completion of construction of the original improvement hereon by the Declarant.

Section 7. **Affected Lots.** The only Lots in the Property which are affected by this Article X are Lots 1, 2, 3 and 4.

Section 8. **Painting/Roof Repairs.** In order to maintain and repair the respective Homes on Lots 1 and 2 and Lots 3 and 4 in a neat and attractive fashion, the Owners shall cooperate in the exterior maintenance and repair of the Houses which share a party wall, except the Owners shall not share in the cost of maintenance and repair of any decks, porches, patios, windows, or exterior doors, which shall be the sole responsibility of each Owner and the Owners shall not be responsible for any exterior maintenance or repair which is performed by the Association. The Owners of Lots 1 and 2 shall so cooperate with each other and the Owners of Lots 3 and 4 shall so cooperate with each other. To the extent not performed by the Association, the exterior repairs and maintenance shall include without limitation, painting the exterior of the two Homes and roof repairs or replacements. To the extent necessary the cost of such exterior maintenance, repair or replacement shall be shared equally by the Owners of Lots 1 and 2 for their Homes and by the Owners of Lots 3 and 4 for their Homes. If the two Owners of their respective party wall Home cannot agree with each other about the maintenance or repair, one or both may request that the Board make such determination of whether a repair, replacement or maintenance is necessary. The Board shall render its decision within thirty (30) days of such request and the decision shall be final and binding. If any Owner fails to perform as determined by the Board or fails to pay its share of the cost of any approved maintenance, repair or replacement (e.g. new roof), the Board may impose a special assessment against the Owner who fails or refuses to pay. If the Owner does not pay, the Board shall have all rights and remedies as provided in this Declaration or Bylaws to collect such sum from such Owner, including the filing of its Lien.

## ARTICLE XI GENERAL PROVISIONS

Section 1. **Waiver.** Failure by the Association or by any Owner to enforce any covenant or restriction be deemed to be a waiver of the right to do so thereafter.

Section 2. **Severability.** Invalidation of any one of these terms, conditions, covenants or restrictions in this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. **Amendment.** The covenants and restrictions of this Declaration shall run

with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless all of the Owners and mortgagees of the Homes agree to terminate this Declaration and the Association as provided herein. Otherwise, this Declaration may be amended by an instrument in writing and any amendment must be approved by a vote or agreement of the Owners representing at least seventy-five (75%) percent of the total votes in the Association. Any approved amendment must be signed by the president and secretary of the Association and recorded in the Official Records of Deschutes County, Oregon. Notwithstanding any other term or provision of this Declaration, Declarant reserves the right to amend this Declaration without consent of any other Members or mortgagees until at least six (6) of the eight (8) Lots are sold to persons other than Declarant.

Notwithstanding anything to the contrary herein, the Declarant, so long as it owns a single lot and prior to turnover to the Association, reserves the right, at any time, to amend this Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, 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 other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to ensure, guaranty, or provide financing in connection with the development of the Property and the sale of the Lots.

**Section 4. Indemnification.** The Association shall indemnify any director, officer, employee or agent who was or is a part or is threatened to be made a party to any proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that he is or was a director, officer, employee or agent of the Association against expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement by reason of the suit, action or proceeding if he acted in good faith and in a manner reasonably believed to be in the best interest of the Association. With respect to any criminal action or proceedings, the Association will indemnify only if the director, officer, employee or agent had no reasonable cause to believe his conduct was illegal. Payment under this provision may be made during the pendency of the claim, action, suit or proceeding when incurred, subject only to the right of the Association to seek reimbursement of any such payments, should it be proven at a later time that the person had no right to such payments.

**Section 5. Joint Owners.** In any case in which two or more persons share the Ownership of any Home, regardless of the form of Ownership, the responsibility of the persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire Ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the

Association, and the vote of right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

**Section 6. Lessees and Other Invitees.** Lessees, tenants, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his Home and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner himself.

**Section 7. Arbitration.** Any Owner or the Association may elect to arbitrate any dispute regarding this Declaration by filing for arbitration in accordance with Deschutes County Circuit Court in accordance with its arbitration rules and procedures, except for the enforcement of any rights of the Association are not subject to arbitration unless the Association expressly consents in writing and such rights include without limitation, enforcement of the rules and regulations, its assessments, its liens, and any other matter provided for in the Master Declaration, this Declaration or the Bylaws. Any arbitration shall be final and binding on the parties. The costs of arbitration shall be shared among all parties who participate in the arbitration. In the event of an arbitration, the losing party shall pay to the prevailing party its attorney fees, costs and expenses, the losing party and amount thereof shall be determined by the arbitrator as part of the award or judgment.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 22 day of December 2006.

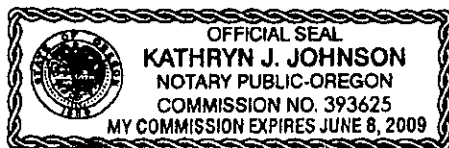
SISTERS FMK, LLC

By: Richard L. Carpenter

Richard L. Carpenter, Member

STATE OF OREGON )  
 ) ss.  
County of DESCHUTES )

The foregoing instrument as acknowledged before me by Richard L. Carpenter, Member of Sisters TMK, LLC, an Oregon limited liability company.



Kathryn J. Johnson  
Notary Public for OREGON  
My Commission Expires: 6/8/09

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