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AFTER RECORDING RETURN TO:

BRYANT EMERSON & FITCH
PO BOX 457
REDMOND OR 97756

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR OLD MILL ESTATES**

This Declaration of Covenants, Conditions and Restrictions for OLD MILL ESTATES made and entered into this 23 day of JANUARY, 2004 by EAGLE LAND & DEVELOPMENT LLC, an Oregon Limited Liability Company (Declarant)

RECITAL:

WHEREAS, EAGLE LAND & DEVELOPMENT, LLC, an Oregon limited liability company owns 2.78 acres of real property known as OLD MILL ESTATES located in portions of Tract 21 and 22 of Virginia Park, Deschutes County, Oregon except that portion conveyed to the state of Oregon by and through its Department of Transportation by deed recorded October 7, 1999 in Book 1999 page 48848.

WHEREAS, EAGLE LAND & DEVELOPMENT, LLC, has or will file with Deschutes County, Oregon, a subdivision on the above described property entitled OLD MILL ESTATES SUBDIVISION, which contains zero lot line for residential townhomes resulting in common wall for dwellings.

1. **DEFINITIONS**

The following terms shall have the following meanings when used in this Declaration:

- 1.1 **Articles**. "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.
- 1.2 **Assessment**. "Assessment" shall mean any assessment levied against one or more Owners by the Association for payment of expenses relating to the Property and shall include Regular, Special, and Limited Assessments as those terms are defined herein.

Page -1- **DECLARATION OF COVENANTS**

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**FIRST AMERICAN TITLE
INSURANCE COMPANY OF OREGON
P.O. BOX 323
BEND, OR 97709**

RECORDED BY FIRST AMERICAN TITLE
INSURANCE COMPANY OF OREGON AS AN
ACCOMODATION ONLY. NO LIABILITY IS
ACCEPTED FOR THE CONDITION OF TITLE
OR FOR THE VALIDITY, SUFFICIENCY, OR
EFFECT OF THIS DOCUMENT.

BRYANT, EMERSON & FITCH
ATTORNEYS AT LAW
888 WEST EVERGREEN AVENUE
P.O. BOX 457
REDMOND, OREGON 97756-0103
TELEPHONE (541) 548-2151
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- 1.3 Architectural Review Committee. "Architectural Review Committee" shall mean the architectural committee appointed pursuant to Article 8.
- 1.4 Association. "Association" shall mean the non-profit corporation formed or to be formed to serve as the association of Owners as provided in this Declaration and such corporation's successors and assigns.
- 1.5 Board. "Board" shall mean the duly-elected Board of Directors of the Association.
- 1.6 Building Lot. "Building Lot" shall mean a platted or partitioned lot or tract or portion of a lot with a zero lot line residential townhouse located thereon within the Property, with the exception of any tract or lot marked on any Plat of any portion of the Property as common or open space.
- 1.7 Building Structure. "Building Structure" shall mean a building structure which is comprised of zero lot line residential townhouses, or one or more contiguous dwelling units constructed and located on Building Lots, including, without limitation, garage structures located on the same Building Lots, whether attached to or detached from the Building Structure.
- 1.8 Bylaws. "Bylaws" shall mean the Bylaws of the Association, as amended from time to time.
- 1.9 Declarant. "Declarant" shall mean EAGLE LAND & DEVELOPMENT LLC, an Oregon limited liability company, and its successors and assigns if such successor or assign should acquire all of Declarant's rights under the Declaration pursuant to a recorded instrument executed by Declarant.
- 1.10 Improvement. "Improvement" shall mean every structure or improvement of any kind, including but not limited to a fence, wall, driveway, storage shelter, patio, deck, or other product of construction efforts on or in respect to a Building Lot.
- 1.11 Landscaped Areas. "Landscaped Areas" shall mean all portions of a Building Lot other than those portions (i) occupied by a Building Structure or designated as an Outdoor Living Area or (ii) containing paved driveways or walkways.
- 1.12 Limited Assessment. "Limited Assessment" shall mean an assessment levied against an Owner by the Association for costs and expenses incurred by the Association for corrective action performed pursuant to this Declaration which is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's tenants, guests, contractors, or invitees.

- 1.13 Outdoor Living Area. "Outdoor Living Area" shall mean that portion of a Building Lot which is located immediately adjacent to a Building Structure and which is screened, enclosed, or set off in any manner to create a private outdoor living/landscaped area. Outdoor Living Areas shall initially be established by Declarant at the time of construction of the Building Structures and may be modified from time to time by the Owner of the corresponding Building Lot with the approval of the Architectural Review Committee.
- 1.14 Owner. Except as expressly set forth in the final sentence of this subsection, "Owner" shall mean any person or entity, including the Declarant, at any time owning a zero lot line residential townhouse and its portion of a Building Lot or a Building Lot, including any vendee under a recorded land sale contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a zero lot line residential townhouse and its portion of a Building Lot or a Building Lot, including any vendor under a recorded land sale contract who has surrendered possession.
- 1.15 Plat. "Plat" shall mean the plat of Old Mill Estates Subdivision recorded in the Official Records of Deschutes County, Oregon.
- 1.16 Property. "Property" shall mean the real property in Deschutes County, Oregon known as OLD MILL ESTATE, a subdivision located in a portion of Tract 21 and 22 of Virginia Park in Deschutes County, Oregon.
- 1.17 Regular Assessment. "Regular Assessment" shall mean an assessment by the Association against all Owners to provide for front yard maintenance costs and for the payment of all estimated normal expenses of the Association for the performance of the Association's duties as provided in this Declaration.
- 1.18 Special Assessment. "Special Assessment" shall mean an assessment against all Owners in the event that the Regular Assessment for any particular year is or will become inadequate to meet the expenses of the Association.

2. DECLARATION

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

All that certain real property known as OLD MILL ESTATES, a subdivision located in a portion of Tract 21 and 22 of Virginia Park, located in the City of Bend, Deschutes County,

Oregon.

- 2.2 Purpose. The purpose of this Declaration is to provide for maintenance and repair of the monument sign and fence at the entrance and the front yards of each lot and to set forth other terms and conditions governing the use and enjoyment of the Property.
- 2.3 Declaration. Declarant hereby declares that the Property and all lots, parcels and portions thereof are hereby made subject to all of the conditions, covenants, restrictions, and provisions contained in this Declaration.
- 2.4 Limitations on Improvements. Declarant does not elect to limit Declarant's rights to add Improvements not described in this Declaration.
- 2.5 Easements for the Benefit of the Property. There is hereby reserved to Declarant, its employees, agents, representatives and assigns, an easement for access, construction, placement, maintenance and improvement of utilities and drainage over, under and across any portion of the Property, together with easements in roadways and utility lines specified or established within the Property.

3. PROPERTY RIGHTS AND EASEMENTS

- 3.1 Owners' Use and Occupancy. Except as otherwise expressly provided in this Declaration or in the plat in which a Building Lot was platted or partitioned, the Owner of a Building Lot shall be entitled to the exclusive use and benefit of such Building Lot, including without limitation, the Outdoor Living Area thereon (but an Owner's rights with respect to the Landscaped Area on such Owner's Building Lot is subject to the rights of the Association under this Declaration). Declarant, the Architectural Review Committee and any representative of the Association authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Building Lot for the purpose of determining whether or not the use of and/or Improvements on such Building Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Building Lot. Declarant or the Association may grant or assign easements over or with respect to any Building Lot to municipalities or other utilities performing utility services and to communication companies.
- 3.2 Extent of Owners' Rights. The rights and easements of enjoyment in the Common Area created hereby shall be subject to the following and all other provisions of this Declaration:

3.2.1 Association's and Owner's Easements. Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property the following easements over, under and upon the Common Area:

- (a) An easement for installation and maintenance of the monument sign and fencing for the development located on Lots 1 and 18.
- (b) An easement for maintenance of the front yards for each lot.

3.2.2 Utility and Other Municipal Easements. Declarant or the Association may (and, to the extent required by law, shall) grant or assign easements to municipalities or other utilities performing utility services and to communication companies, and the Association may grant free access thereon to police, fire and other public officials and to employees of utility companies and communications companies serving the Property.

3.3 Encroachments. If an encroachment results from construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, an easement for the encroachment shall exist to the extent that any Building Lot encroaches on any other Building Lot. An easement shall continue for the purpose of maintaining the encroachment so long as the encroachment exists. Nothing in this Section 3.6 shall relieve any Owner of liability in case of an Owner's willful misconduct or shall relieve Declarant or any other person of liability for failure to adhere to any plat of any portion of the Property.

3.4 Maintenance Easement. An easement is hereby reserved in favor of the Association and its successors, assigns, contractors, agents and employees over and across each Building Lot and the Landscaped Areas, for purposes of accomplishing the maintenance, repair, and replacement of the exteriors of Building Structures and landscaping and other Improvements located upon the Landscaped Areas.

4. COMMON PARTY WALLS, INSURANCE, DAMAGE OR DESTRUCTION.

4.1 Common Party Walls Declaration. The dividing wall adjacent to the Living Units situated in the same building is hereby declared to a common party wall. The cost of maintaining the common party wall shall be borne equally by the Owners of the adjacent Living Units.

4.2 Damage to Common Party Wall. In the event of damage or destruction of any common party wall from any cause, other than the negligence of an adjacent Owner, the Owners jointly shall repair or rebuild the common party wall, and each Owner,

his successors and assigns, shall have the right to the full use of the common party wall so repaired or rebuilt. If an adjacent Owner's negligence shall cause damage to or destruction of the common party wall and if such damage or destruction is not covered by insurance, such negligent party shall bear the entire cost of repair or reconstruction. If any negligent Owner shall neglect or refuse to pay his share within 15 days after written demand by the adjacent owner, the adjacent owner shall be entitled to have a lien on the Living Unit of the negligent Owner for the amount of such defaulting party's share of the repair or replacement cost. Any lien created may be foreclosed in the same manner as provided in Oregon Revised Statutes.

- 4.3 Drilling Through Common Party Wall. Either adjacent Owner shall have the right to break through the common party wall for the purpose of repairing or restoring sewerage, water, or utilities, subject to the obligation to restore the common party wall to its previous condition at his own expense and the payment to the adjoining Owner of any damages caused thereby.
- 4.4 Destruction of Living Unit. If the Building is damaged, destroyed, or partially condemned, the adjacent owners of the building shall immediately proceed to rebuild and restore the Building so damaged, destroyed, that the same will be returned to substantially the same condition in which the Building existed prior to such damage, destruction, or partial condemnation. Each Living Unit shall have substantially the same vertical and horizontal boundaries as before. If the insurance proceeds are insufficient to rebuild and restore, the adjacent Owners shall be liable for payment of the amount not covered by insurance.
- 4.5 Easement. No Owner shall alter or change a common party wall in any manner, interior decoration excepted. Each common party wall shall always remain in its present location. Each adjacent Owner shall have a perpetual easement in that part of the Living Unit of the adjacent Owner on which the common party wall is located, for common party wall purposes.
- 4.6 Insurance. The adjacent owners shall obtain and maintain at all time the following insurance:
- (a) Property insurance including, but not limited to, fire, extended coverage, vandalism, and malicious mischief, on the adjacent parties' premises including the common property wall for the full insurable value of the premises.
 - (b) Insurance covering the legal liability of the Owners' individually for liability arising out of acts or omissions of that Owner and liability

incident to the ownership or use of the part of the Property as to which that Owner has the exclusive use or occupancy. Liability insurance required under this subsection shall be issued on a comprehensive liability basis.

4.7 Damage to Building.

- (i) Election not to rebuild. If a living unit is destroyed and the adjacent owners both agree not to rebuild, then the affected lots shall be cleared of debris. Living units of an alternate design compatible with the buildings in the

subdivision may be constructed subject to a majority approval of the homeowners in the subdivision.

5. ADDITIONAL RESTRICTIONS AND DUTIES

- 5.1 Structures Permitted. Except to the extent expressly provided or contemplated in this Declaration, no Improvements shall be erected or permitted to remain on any Building Lot except Improvements designed for residential living and Improvements normally accessory thereto. No building of any kind shall be moved from any other place onto any of the lots in this sub-division or from one lot to another lot without the permission of the Architecture Review Committee. The existing structure located on Lot 11 of the Old Mill Estates sub-division shall remain on the property but will be subject to the terms and conditions of these covenants, conditions and restrictions.
- 5.2 Residential Use. Building Lots shall only be used for residential purposes. Except with the consent of the Board, and as allowed by applicable ordinances, agreements, or land use approvals, including businesses as allowed under the Home Business Provision of the Bend City Code on Homes located in residential area, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Building lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection on any Building Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Building Lot. Nothing in this paragraph shall be deemed to prohibit: (i) activities relating to the rental or sale of Building Structures or Building Lots, (ii) the right of Declarant or any contractor or homebuilder to construct Building Structures on any Building Lot, to store construction materials and equipment on such Building Lots in the normal course of construction, and to use any Building Structure as a sales or rental office or model home for purposes of sales or rental in the Property, and (iii) the right of an Owner to maintain Owner's professional personal library, keep Owner's personal business or professional records or accounts,

handle Owner's personal business or professional telephone calls or confer with business or professional associates, clients or customers, in Owner's Building Structure. The Board shall not approve commercial activities otherwise prohibited by this Section unless the Board determines that only normal residential activities would be observable outside of the Building Structure and that the activities would not be in violation of applicable ordinances.

- 5.3 Offensive or Unlawful Activities. No noxious or offensive activities shall be carried on upon any Building Lot nor shall anything be done or placed on any Building Lot which interferes with or jeopardizes the enjoyment of other Building Lots or which is a source of annoyance to residents. No unlawful use shall be made of a Building Lot or any part thereof, and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. Without limiting the generality of the foregoing, no heat pump or other heating, ventilating, or air conditioning equipment, the operation of which produces noise at a level higher than 80 decibels, shall be allowed on or in any Building Lot or Building Structure.
- 5.4 Use of Outdoor Living Areas. Outdoor Living Areas shall be used exclusively for patios, low-profile decks, and private planting and landscaping areas.
- 5.5 Parking. Parking of boats, trailers, motorhomes, trucks (except pickups of 1 ton weight or less), truck campers, motorcycles, or other recreational vehicles or similar equipment and vehicles shall not be allowed on any part of the Property or on public streets adjacent thereto, excepting only within areas designated for such purposes by the Board in accordance with the terms of this Declaration or within the confines of an enclosed garage, the plans of which comply with applicable ordinances, agreements, or land use approvals and have been reviewed and approved by the Architectural Review Committee prior to construction, and no portion of the same may project beyond the screened area. Temporary parking of recreational vehicles or trucks are allowed for loading and unloading purposes but not to exceed 48 hours.
- 5.6 Vehicles in Disrepair. No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Building Lot or street within the development for a period in excess of 48 hours. A vehicle shall be deemed in an "extreme state of disrepair" when the Board reasonably determines that its presence offends the occupants of the neighborhood. Should any Owner fail to remove such vehicle within five days following the date on which notice is mailed to such Owner by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.

- 5.7 Signs. No signs shall be erected or maintained on any Building Lot except signs which are approved as to appearance and location by the Architectural Review Committee. The restrictions contained in this paragraph shall not apply to:
- 5.7.1 Political Signs. The temporary placement of "political" signs on any Building Lot by the Owner thereof; or
- 5.7.2 Declarant's Sales Office and Model Home Signs. The placement by Declarant or Declarant's agents of one or more signs identifying the name of Declarant and/or the location of a sales office or model home.
- 5.7.3 For Sale Signs.
- 5.8 Rubbish and Trash. No Building Lot shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. If any default under this Section 5.8 exists for a period longer than ten (10) days after written notice of such default is mailed to the responsible Owner by the Association, the Association shall have, in addition to any other rights under this Declaration, or at law or in equity, the remedies specified in Section 9.
- 5.9 Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Building Lot at any time as a residence, either temporarily or permanently.
- 5.10 Front Yard Maintenance. In order to maintain uniformity and to keep all front yards in a neat and attractive manner, the Association shall be responsible for the maintenance of the front yard of each residence lot, and shall arrange for the grass, hedges, shrubs and vines on each lot to be mowed, trimmed and cut at regular intervals so as to maintain the front yards in a neat attractive manner. Trees, shrubs, vines and plants which die shall be promptly replaced by the Association at the expense of the property owner.
- 5.11 Rear and Service Yards. Each owner shall maintain the rear yards of each residence as follows:
- (a) Grass, hedges, shrubs, vines, mass plantings of any type on each lot shall be kept mowed, trimmed and cut at regular intervals so as to maintain same in a neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed.

- (b) No weeds, vegetation, rubbish, debris, garbage, objects, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate upon any portion of a lot, which would render it unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or to the occupants of any such property in the vicinity thereof.
 - (c) Service yards (garbage, clotheslines, etc.) shall be completely screened such that the elements screened are not visible at any time from the street or any adjoining property.
- 5.12 Antennas and Satellite Disks. Exterior antennas, exterior satellite receivers and transmission disks shall not be permitted to be placed upon any Building Lot except to the rear of building and not to exceed 24" in total height above the ridge of roofline.
- 5.13 Interior Walls. Each Owner shall ensure that the wall(s) separating such Owner's dwelling unit from other dwelling units within the same Building Structure are not punctured or otherwise breached by such Owner or Owner's lessees, invitees, contractors, or family members.
- 5.14 Exterior Alteration and Painting. No alteration shall be made in the exterior designs or color of any structure unless such alteration including any addition is first approved in writing by the Architectural Review Committee. Zero lot line townhouse consisting shall be the same color and have the same roofing and any change of color or roofing material shall be agreed upon by the owners of the zero lot townhouse and approved by the Architectural Review Committee. If the owners are unable to agree on the roofing material or color then the Architectural Review Committee shall decide the issue.
- 5.15 Exterior Lights. No exterior lighting fixtures shall be installed on any lot without adequate and proper shielding of fixtures to avoid casting an unreasonable amount of light beyond that Owner's lot boundaries. The determination of whether a lighting fixture is in violation of this paragraph shall be within the discretion of the Architectural Review Committee.

6. THE ASSOCIATION

- 6.1 Organization. Declarant shall, before the first Building Lot is conveyed to an Owner other than Declarant, organize the Association as a nonprofit corporation under the Oregon Nonprofit Corporation Act under the name "Old Mill Estates Homeowners Association, Inc." or such similar name as Declarant shall designate. The Articles

shall provide for the Association's perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. Such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles and Bylaws as if they had been drafted to constitute the governing documents of the unincorporated association.

- 6.2 Membership. Every Owner of one or more Building Lot shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Building Lot, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.
- 6.3 Voting Rights. A member shall be entitled to one (1) vote for each building lot owned.
- 6.4 Powers and Obligations. The Association shall have, exercise and perform all of the following powers, duties and obligations:
- 6.4.1 Declaration. The powers, duties and obligations granted to the Association by this Declaration.
- 6.4.2 Statutory Powers. The powers and obligations of a nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act and of a homeowners association of a planned community pursuant to the Oregon Planned Community Act, as either or both may be amended from time to time.
- 6.4.3 General. Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property. The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles or Bylaws made in accordance with such instruments and with the Oregon Nonprofit Corporation Act.

- 6.5 Liability. Neither the Association nor any officer or member of the Board shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of the Board, provided only that the officer or Board member has acted in good faith in accordance with the actual knowledge possessed by him or her.
- 6.6 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three (3) directors, who shall serve as the Board until replaced by Declarant or until their successors have been elected by the Owners at the turnover meeting described in this Section. Declarant shall call a meeting by giving notice to each Owner as provided in the Bylaws for the purpose of turning over administrative responsibility for the Property to the Association not later than one hundred twenty (120) days after Building Lots representing 100% of the voting power of the Association have been sold and conveyed to Owners other than Declarant, with such voting power based on all of the Building Lots anticipated to be developed within the Property (including all phases as supplemented from time to time by annexation pursuant to this Declaration). If Declarant does not call the meeting required by this Section within the required period, then 20% of the Owners may call such a meeting and give notice as required by this Section. At the turnover meeting, the interim directors shall resign and their successors shall be elected by the Owners (including Declarant) as provided in this Declaration and the Bylaws. At the turnover meeting, Declarant shall also deliver to the Association those items specified in ORS 94.616(3). After the turnover meeting, Declarant or its representative shall be available to meet with the Board as provided under ORS 94.616(4).
- 6.7 Association Rules and Regulations. The Association from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of Building Lots and the Common Area and Landscaped Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and occupants of all Building Lots upon the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws.
- 6.8 Special Duties of the Association. Without limiting the generality of the general powers and duties of the Association set forth in Section 6, the Association shall have the power and obligation to conduct and perform the following duties, the costs of which shall be borne as provided in Article 7:

6.8.1 Maintenance of Building Exteriors, Common Area, and Landscaped Areas.

(a) By the Association.

(1) The Association shall be responsible for the maintenance of the front yard Landscaped Areas which shall include, among other things, maintaining, repairing and replacing grass, sod, trees, shrubs and bushes in a neat, clean and attractive condition.

(b) By the Owner.

(1) Each Owner shall be responsible for maintenance of the exteriors of their Structures. Maintenance of the exteriors of Building Structures shall include the painting, staining, restaining, repairing and replacing of all exterior surfaces, including roofs (but excluding the repair and replacing of exterior doors); storm windows, storm doors and screen doors; maintaining, repairing and replacing exterior lighting fixtures, the exterior portions of chimneys, rain gutters, down spouts, and sprinkler timing devices; and cleaning of the exterior surfaces of skylights as well as the maintenance and repair of all underground sprinkler systems. The decision as to the nature and extent of maintenance that is required for a particular Building Structure and the timing of such maintenance shall be determined by each lot Owner, or joint lot Owners of zero lot line properties and if joint Owners are unable to agree on such maintenance, then the Architectural Review Committee shall decide the issue.

If any Owner fails to maintain the exterior of their structure consistent with the maintenance of the exterior of the surrounding structures, the Architectural Review Committee may require the Owner to perform such maintenance and if Owner fails to comply, such maintenance may be enforced by the Association as set forth in Section 9.

(2) In addition to the foregoing, the Owners of the Building Lots shall be responsible for repairing, replacing, restoring or cleaning of: (i) glass (other than cleaning of the exterior surfaces of skylights) and (ii) rear yard landscaping and other Improvements (including, without limitation, decks and patios) located within the Outdoor Living Areas; exterior window and door casements, sashes and frames; window screens, storm windows, storm doors or screen doors; walkways and driveways; electrical and mechanical doorbells and knockers; and air conditioning and heating equipment and devices. The Owners of Building Lots shall also be responsible for

maintaining, repairing and replacing the interiors of their respective dwelling units within the Building Structures, including without limitation, maintaining, repairing and replacing electrical wiring and fixtures, plumbing pipes and conduits, all fixtures and appliances (whether built-in or free-standing), air conditioning, heating, sewage disposal and interior fire protection systems and all amenities and hardware located within the interiors of the Building Structures. Each Owner of a Building Lot shall also be responsible for removal of snow and ice from that Owner's Building Lot. The Owners of the Building Lots are also responsible for any necessary repairs or replacements of the underground sprinkler systems on such Owner's Building Lot.

6.8.2 Insurance.

(a) By the Association. The Association may obtain, and maintain in effect, from reputable insurance companies authorized to do business in the State of Oregon, public liability and property damage insurance in such amounts and in such forms as the Board deems advisable to provide adequate protection for bodily injury, including deaths of persons, and property damage, whether caused by the negligence of the Association or otherwise. Additionally, the Association may obtain, and maintain in effect, from such companies fire and extended coverage casualty insurance (including coverage for damage resulting from vandalism and malicious mischief) with respect to property owned by the Association (including any insurable Improvements thereon) in an amount equal to 100% of the replacement cost thereof. The casualty coverage may be obtained on a "blanket" basis. The Association may obtain such other and further policies of insurance as it deems advisable. The casualty insurance to be obtained by the Association pursuant to this Section 6.8.2(a) shall include the following terms, if these are reasonably available:

- (i) A waiver of subrogation by the insurer as to any claims against the Board, any Owner, or any guest of an Owner;
- (ii) A waiver by the insurer of its right to repair and reconstruct instead of paying cash;
- (iii) A provision that no policy may be canceled, invalidated, or suspended because of any action of an

Owner;

- (iv) A provision 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
 - (v) A provision that any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.
- (b) By the Owners. Each Owner of a Building Lot shall obtain, and maintain in effect, from reputable insurance companies authorized to do business in the State of Oregon, public liability and property damage insurance with respect to such Building Lot in an amount of not less than \$500,000.00 per person, per occurrence. Additionally, each Owner shall obtain, and maintain in effect, from such companies fire and extended coverage casualty insurance (including coverage for damage resulting from vandalism and malicious mischief) with respect to all insurable Improvements located on such Building Lot, other than the Building Structure thereon, in an amount equal to 100% of the replacement cost thereof. Each Owner shall also be responsible for obtaining fire and extended coverage casualty insurance with respect to that Owner's personal property. No Owner shall obtain any of the insurance coverages described in Section 6.9.2(a), nor shall any insurance coverage obtained by an Owner (or such Owner's mortgagee) be brought into contribution with insurance obtained by the Association.

7. ASSESSMENTS

- 7.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Building Lot owned by it within the Property, does hereby covenant, and each Owner of any Building Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant, to pay to the Association all assessments or other charges as may be fixed, established and

collected from time to time in the manner provided in this Declaration or the Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 9.6, shall be a charge on the land and shall be a continuing lien upon the Building Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below. No Owner may avoid such personal obligation by abandonment of Owner's Building Lot.

7.2 Regular Assessments.

7.2.1 Commencement. Regular Assessments against a Building Lot shall commence on a date selected by the Board of Directors, provided that the Board shall provide the Owner of the Building Lot first becoming subject to Regular Assessments thirty-day advance notice of the date on which Regular Assessments commence for that Building Lot.

7.2.2 Amount of Annual Regular Assessment. The total annual Regular Assessment against all Building Lots shall be based upon an annual budget prepared by the Board with respect to projected expenses of the Association, including, without limitation, the following:

- (a) maintenance and repair of entry common area and Structures any other Common Area and the front yard maintenance for each of the lots in the OLD MILL ESTATE.
- (b) premiums for all insurance policies which the Association is required or permitted to maintain pursuant to this Declaration;
- (c) professional management fees and expenses, employee salaries, and legal and accounting costs;
- (d) any deficits remaining from the previous fiscal year of the Association;
- (e) reasonable contingency reserves of the Association established at the discretion of the Board (in addition to those funds contained in the Common Property Reserve Account); and

- (f) such other and further costs, expenses, obligations, and liabilities as the Board, in its discretion, may incur for the management, operation, and maintenance of the Property and the Association in accordance with this Declaration.

7.2.3 Allocation of Assessments. All Regular Assessments shall be allocated equally among all Building Lots then subject to assessment such that the Regular Assessment for one Building Lot then subject to assessment shall equal the dollar amount calculated by dividing the total sum of the Regular Assessments allocated to Building Lots then subject to assessment by the number of Building Lots then subject to assessment.

7.2.4 Notice of Regular Assessments and Time for Payment Thereof. Regular Assessments shall be made on a quarterly or at such other times as determined by the Board. Subject to amendment by the Board, the Association shall give written notice to each Owner as to the amount of the Regular Assessment with respect to each Building Lot on or before December 15 for each year for the calendar year commencing January 1 of the next year. The Regular Assessment shall be due and payable as the Board shall determine.

7.3 Special Assessments. In addition to the Regular and Assessments authorized hereby, the Board shall have the authority to levy Special Assessments to satisfy any actual or projected deficiency between the expenses of the Association and the amounts realized through Regular and Assessments. Special Assessments shall be allocated equally among the Owners of Building Lots. Special Assessments are payable as the Board may from time to time determine, within thirty (30) days after mailing notice thereof to affected Owners.

7.4 Limited Assessments. The Association may levy against any Owner a Limited Assessment equal to the costs and expenses incurred by the Association, including legal fees, for corrective action performed pursuant to this Declaration which is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's tenants, guests, contractors, or invitees.

7.5 Statement of Account. Upon payment of a reasonable fee, which shall be established by the Board but shall not exceed \$50.00, and upon written request of any Owner or any mortgagee, prospective mortgagee, or prospective purchaser of a Building Lot, the Association shall issue a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Building Lot, and the amount of the current monthly Assessments and the dates that such Assessments become or became due,

which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid Assessments which become due prior to the date of making such request shall be subordinate to the lien of a mortgagee which acquired its interest subsequent to requesting such statement. If a prospective purchaser makes such request, the lien for such unpaid Assessments shall be released automatically if: (i) the statement is not furnished within the 20-day period provided herein; (ii) an additional written request is made by such purchaser and is not complied with within 10 days; and (iii) the purchaser subsequently acquires the Building Lot.

8. ARCHITECTURAL REVIEW COMMITTEE

- 8.1 Architectural Review. No Improvement including but not limited to construction, re-construction, additions, remodeling, painting of structure, re-roofing, fencing, shall be commenced, erected, placed, altered or maintained on any Building Lot until the design plans and specifications (including, without limitation, site plans, building plans (including elevations), grading plans, landscape plans, lighting plans, and color and/or material samples) showing the nature, shape, heights, materials, colors and proposed location of the Improvement have been submitted to and approved in writing by the Architectural Review Committee. Improvements shall be consistent with the Design Guidelines established by the Architectural Review Committee, as amended from time to time. It is the intent and purpose of this Declaration to achieve a high standard of quality of workmanship and materials and to assure harmony of external design with existing Improvements and location with respect to topography and finished grade elevations.
- 8.2 Procedure. In all cases which require Architectural Review Committee approval or consent pursuant to this Declaration, the provisions of this Article 8 shall apply. The procedure and specific requirements for Architectural Review Committee approval or consent may be set forth in Design Guidelines adopted from time to time by the Architectural Review Committee. The Architectural Review Committee may charge a reasonable fee to cover the cost of processing an application for its approval.
- 8.3 Committee Decision. The Architectural Review Committee shall render its decision on an application for approval of the design of an Improvement or any other proposal submitted to it for approval or consent within 15 working days after it has received a complete written application therefor. A complete application shall specify the approval or consent requested and be accompanied by all material reasonably required or desired by it to make an informed decision on such application. If the Architectural Review Committee fails to render approval or disapproval of such

application within 30 working days after the Architectural Review Committee has received a complete application, or if no suit to enforce the terms of this Declaration has been commenced within one year after completion of construction of the Improvement, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with.

- 8.4 Committee Discretion. The Architectural Review Committee may, at its sole discretion, withhold consent to any proposed Improvement if the Architectural Review Committee finds the proposed Improvement would be inappropriate for the particular Building Lot or incompatible with the design standards that the Architectural Review Committee intends for Old Mill Estates. Consideration of siting, shape, size, color, design, height, solar access, impairment of the view from other Building Lots within Old Mill Estates, effect on the enjoyment of other Building Lots disturbance of existing terrain and vegetation and any other factors which the Architectural Review Committee reasonably believes to be relevant, may be taken into account by the Architectural Review Committee in determining whether or not to approve or condition its approval of any proposed Improvement.
- 8.5 Membership; Appointment and Removal. The Architectural Review Committee shall consist of as many persons, but not less than three, as Declarant may from time to time appoint. Declarant may remove any member of the Architectural Review Committee from office at any time and may appoint new or additional members at any time. The Association shall keep on file at its principal office a list of the names and addresses of the members of the Architectural Review Committee. Declarant may at any time delegate, but shall, in any event, delegate at or prior to the turnover meeting described in Section 6.6, to the Board of Directors of the Association the right to appoint or remove members of the Architectural Review Committee. If Declarant fails to delegate to the Board of Directors the right to appoint or remove members of the Architectural Review Committee by the date of the turnover meeting, or if Declarant fails to appoint an Architectural Review Committee, the Board of Directors shall assume responsibility for appointment and removal of members of the Architectural Review Committee. If the Board of Directors has assumed the responsibility for appointment of the members of the Architectural Review Committee and fails to make such appointments, the Board of Directors shall serve as the Architectural Review Committee.
- 8.6 Majority Action. Except as otherwise provided herein, a majority of the members of the Architectural Review Committee shall have the power to act on behalf of the Architectural Review Committee, without the necessity of a meeting and without the necessity of consulting or notifying the remaining members of the Architectural Review Committee. The Architectural Review Committee may render its decision

only by written instrument setting forth the action taken by the members consenting thereto.

- 8.7 Liability. The scope of the Architectural Review Committee's review is not intended to include any review or analysis of structural, geophysical, engineering or other similar considerations. Neither the Architectural Review Committee nor any member thereof shall be liable to any Owner, occupant, builder, or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Architectural Review Committee or a member thereof, provided only that the member has, in accordance with the actual knowledge possessed by the Architectural Review Committee or by such member, acted in good faith.
- 8.8 Nonwaiver. Consent by the Architectural Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.
- 8.9 Appeal. After Declarant has delegated appointment of the members of the Architectural Review Committee to the Board of Directors of the Association, any Owner adversely affected by an action of the Architectural Review Committee may appeal such action to the Board of Directors of the Association. Appeals shall be made in writing within ten (10) days after the Architectural Review Committee's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Board of Directors of the Association within 15 working days after receipt of such notification.
- 8.10 Effective Period of Consent. The Architectural Review Committee's consent to any proposed Improvement shall automatically be revoked one year after issuance unless construction of the work has been commenced or the Owner has applied for and received an extension of time from the Architectural Review Committee.
- 8.11 Estoppel Certificate. Within 15 working days after written request therefor is delivered to the Architectural Review Committee by any Owner, and upon payment to the Architectural Review Committee of a reasonable fee, if any, fixed by the Architectural Review Committee to cover costs, the Architectural Review Committee shall provide such Owner with an estoppel certificate executed by a member of the Architectural Review Committee and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof, either: (a) all Improvements made or done upon or within such Lot by the Owner comply with this Declaration, or (b) such Improvements do not so comply. If the estoppel certificate states that the Improvements do not comply, such certificate shall also identify the noncomplying

Improvements and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any mortgagee or other encumbrancer, shall be entitled to rely on such certificate with respect to the matters set forth therein, such matters being conclusive as between Declarant, the Architectural Review Committee, the Association and all Owners, and such purchaser or mortgagee.

- 8.12 Construction by Declarant. Improvements constructed by Declarant on any property owned by Declarant are not subject to the requirements of this Article 8.

9. ENFORCEMENT

- 9.1 Use of Property. In the event any Owner shall violate any provision of this Declaration, the Bylaws, or any rules or regulations adopted by the Association governing the use of the Building Lots, then the Association, acting through the Board, may notify the Owner in writing that the violations exist and that such Owner is responsible for them, and may, after affording the Owner reasonable notice and opportunity to be heard, do any or all of the following: (i) suspend the Owner's voting rights for the period that the violations remain unabated, or for any period not to exceed 60 days for any infraction of its rules and regulations, (ii) impose reasonable fines upon the Owner, in the manner and amount the Board deems appropriate in relation to the violation, which fines shall be paid into the Homeowner Association Account or (iii) bring suit or action against such Owner to enforce this Declaration. Nothing in this Section, however, shall give the Association the right to deprive any Owner of access to and from such Owner's Building Lot.

- 9.2 Nonqualifying Improvements and Violation of General Protective Covenants. In the event any Owner constructs or permits to be constructed on such Owner's Building Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on such Owner's Building Lot, then the Association, acting through the Board, may notify the Owner in writing of any such specific violations of this Declaration and may require the Owner to remedy or abate the same in order to bring the Owner's Building Lot, the Improvements thereon and the Owner's use thereof into conformance with this Declaration. If the Owner is unable or unwilling to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree on a mutually acceptable solution within the framework and intent of this Declaration, after the Owner has been afforded notice and opportunity to be heard, within sixty (60) days after such notice, then the Association, acting through the Board, shall have, in addition to any other rights or remedies provided in this Declaration, at law or in equity, the right to do any or all of the following:

- 9.2.1 Fines. Impose reasonable fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation.
- 9.2.2 Remove Cause of Violation. Enter the offending Building Lot (which entry shall not subject the Association, the directors of the Association or any agent or representative thereof to liability for trespass, conversion or any other claim for damages) and remove the cause of such violation, or alter, repair or change the item which is in violation of the Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Homeowners Association Account, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings; and/or
- 9.2.3 Suit or Action. Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.
- 9.3 Default in Payment of Assessments; Enforcement of Lien. If an Assessment or other charge levied under this Declaration is not paid within thirty (30) days after its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date until paid at the rate set forth below and, in addition, the Association may exercise any or all of the following remedies:
- 9.3.1 Suspension of Rights; Acceleration. The Association may suspend such Owner's voting rights until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any Assessment or any other amounts owed by such Owner to the Association immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from such Owner's Building Lot.
- 9.3.2 Lien. The Association shall have a lien against each Building Lot for any Assessment levied against such Building Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Building Lot from the date on which the Assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 87.352 to 87.382 shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Association, through its duly authorized agents, may bid on the Building Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and

convey the Lot. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the date the first installment of the Assessment becomes due.

9.3.3 Suit or Action. The Association may bring an action to recover a money judgment for unpaid Assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in Section 10.3.2. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

9.3.4 Other Remedies. The Association shall have any other remedy available to it by law or in equity.

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

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

9.6 Interest, Expenses and Attorneys' Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the "prime rate" or "reference rate" offered by Bank of America as of the due date therefor, or at such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board not to exceed 30% of such assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to

foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by the Association in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof.

- 9.7 Nonexclusiveness and Accumulation of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of any other remedy permitted hereunder. The remedies provided in this Declaration are not exclusive, but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of this Declaration by appropriate legal proceedings.

10. CASUALTY AND CONDEMNATION

- 10.1 Casualty. The Association shall be responsible for repairing, reconstructing, and rebuilding all damage to or destruction of: (i) the structural components of the Building Structures, subject to the provisions of this Section 10 and of Section 7.5. The Association shall rebuild and/or restore the damaged or destroyed portions of the structural components of the Building Structures to substantially the same condition in which these existed prior to such damage or destruction, unless Owners of at least 70% of the Building Lots and at least 70% of first mortgagees of Building Lots agree that the damaged or destroyed portions shall not be rebuilt and/or restored. Rebuilding and/or restoration shall begin within sixty (60) days following the damage or destruction. If the proceeds of the insurance policies held by the Association are insufficient to fund the full cost of rebuilding and/or restoration, the difference between the amount of such proceeds and such cost shall be charged to all Owners by means of a Special Assessment. If the required number of Owners and first mortgagees of Building Lots agree that the damaged or destroyed portions of the Building Structures shall not be rebuilt and/or restored, the proceeds of the insurance policies held by the Association shall be distributed on an equitable basis among the Owners of the affected Building Lots in such manner as the Board shall determine. The Association shall represent the Owners in any proceeding, negotiations, settlement, or agreement relating to the payment of proceeds under any insurance policies held by the Association.

- 10.2 Total Condemnation. In the event of condemnation of the whole of the Property, the compensation to be paid to Owners of Building Lots shall be negotiated and finalized, including, if required, by representation in any proceeding, by the Association, subject to ratification of such compensation by the Owners of at least 75 percent of the Building Lots at a special meeting called for that purpose, whether or not proceedings are necessary, and compensation, less expenses involved, if any, in obtaining the compensation shall be paid to the Association and then distributed among the Owners in equitable proportions and payable to any mortgagee to the extent required to obtain a discharge of mortgage. Notwithstanding the award for the condemnation of the whole Property, the rights of each Owner shall be separate to negotiate and finalize such Owner's personal compensation for Improvements made to the Building Lots, cost of moving, and other similar items personal to each Owner.
- 10.3 Partial Condemnation. In the event of a partial condemnation of the Property which includes some Building Lots, each Owner whose Building Lot is condemned shall deal with the condemning authority with regard to compensation therefor, and the compensation for such Building Lots shall be paid to such Owner (or the mortgagee of that Owner's Building Lot). The Association shall negotiate compensation relating to any Common Property. The cost, if any, of restoring the balance of the Property so that it may be used shall be determined by the Association and the Association shall negotiate with the condemning authority with regard to compensation for this expenditure. Any moneys received by the Association for any such reconstruction shall be held in trust by the Association for the purpose of such reconstruction.

11. MISCELLANEOUS

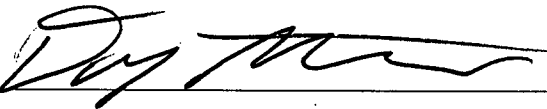
- 11.1 Term. The covenants, conditions and restrictions of this Declaration shall run until December 31, 2033, unless amended as herein provided. After December 31, 2033, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by members holding at least 75% of the voting power of the Association which is recorded in the deed records of Deschutes County.
- 11.2 Amendment and Repeal.
- 11.2.1 This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of Owners holding not less than 75% of the voting power of the Association.

- 11.2.2 Any such amendment or repeal shall become effective only upon recordation in the deed records of Deschutes County of a certificate of the president or secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that said amendment, amendments or repeal have been approved in the manner required by this Declaration.
- 11.2.3 In no event shall an amendment under this Section create, limit or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Building Lot or any uses to which any Building Lot is restricted unless the Owners of the affected Building Lots unanimously consent to the amendment.
- 11.3 Regulatory Amendments. Notwithstanding the provisions of Section 11.2, until the turnover meeting described in Section 6.6, Declarant shall have the right to amend this Declaration or the Bylaws in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, 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 which insures, guarantees or provides financing for a planned community or lots in a planned community.
- 11.4 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.
- 11.5 Right of Enforcement. Except as otherwise provided herein, any Owner of any Building Lot covered by this Declaration shall have the right to enforce any or all of the provisions hereof against any property covered by this Declaration and the Owners thereof.
- 11.6 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

- 11.7 Joint Owners. In any case in which two or more persons share the ownership of any Building Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.
- 11.8 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Building Lot 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.
- 11.9 Non-Waiver. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the rights to enforce any such provision or any other provision of said restrictions.
- 11.10 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the general plan and scheme of the Property.
- 11.11 Restrictions Severable. Each of the provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.
- 11.12 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
- 11.13 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

IN WITNESS WHEREOF, the undersigned as Declarant, has hereunto set its hand and seal
this 23 day of JANUARY, 2004.

EAGLE LAND & DEVELOPMENT LLC,
An Oregon limited liability company

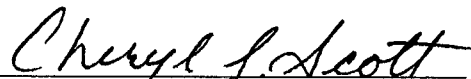
By 

STATE OF OREGON)
 : ss.
County of Deschutes)

The foregoing instrument was acknowledged before me on this 23 day of January,
2004, by Douglas E. Strain, _____, and
_____, who are the members of the EAGLE LAND & DEVELOPMENT,
LLC, an Oregon limited liability company, on behalf of the limited liability company.



Before me:


Notary Public for Oregon