



After Recording Return to:
Attn: Win Francis
Francis, Hanson and Martin
1148 NW Hill St.
Bend, OR 97701

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
(CCR's) OF PENCE PLACE SUBDIVISION**

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR PENCE PLACE (this "Declaration"), are effective upon its recording in Deschutes County, Oregon, is made by CASCADE VIEW INVESTMENTS CO., hereinafter referred to as the "Declarant".

WITNESSETH

Declarant is the owner of that certain real property in the City of Bend, Deschutes County, Oregon, described on Exhibit A1 AND A2 attached and incorporated by reference; and

NOW THEREFORE, the Declarant declares that the real property described on attached Exhibit A1 AND A2 (collectively, the "Property") shall be held and conveyed subject to the covenants, conditions, and restrictions declared below, which shall be covenants running with the land and imposed on and intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a community of high standards. Such covenants shall be binding on all parties having any right, title or interest therein, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner.

Funds for the maintenance and operation of common maintenance areas will be provided through assessments against those who purchase property within Pence Place, although to assist with the development, Declarant may from time to time itself provide some improvements. For the protection of all owners of property in Pence Place, there will be a system designed to assure that each person who purchases property in Pence Place will pay an equitable share of the costs for maintenance and development of the common maintenance areas.

ARTICLE I - DEFINITIONS

Section 1.1 "Architectural Guidelines" or "Guidelines"

"Architectural Guidelines" or "Guidelines" shall mean the Pence Place Architectural Rules and Design Guidelines, established and revised pursuant to Section 5.2.

Section 1.2 "Association"

"Association" shall mean the Pence Place Homeowners' Association, Inc., an Oregon nonprofit corporation established for the purposes set forth herein and pursuant to ORS Chapter 65.

Section 1.3 "Board"

"Board" shall mean the Board of Directors of the Pence Place Homeowners' Association.

Section 1.4 "Builder"

"Builder" shall mean the Declarant who will construct and sell the homes.

Section 1.5 "Bylaws"

"Bylaws" shall mean the Bylaws of the Association, as amended from time to time. The Bylaws shall be recorded in the real property records of Deschutes County, Oregon.

Section 1.6 "Common Maintenance Areas"

"Common Maintenance Areas" shall and include the public easements, the entry alleyway, driveways, common foundations, exterior walls, roofs, gutter, downspouts, crickets, eaves, front entry sidewalks and any area that the Board deems necessary or appropriate to maintain for the common benefit of the members. Until the Conversion Date, the Declarant shall have the right to designate additional Common Maintenance Areas or to remove Common Maintenance Areas by recordation of a duly approved amendment to this Declaration or by recordation of a supplemental declaration.

Section 1.7 "Conversion Date"

"Conversion Date" shall be the date upon which Class "B" membership shall cease and be converted to Class "A" membership. Such date shall be the date which is the earliest of (i) the date at which seventy-five percent (75%) of the total Lots within the subdivision have been conveyed to Class "A" members; or (ii) fifteen (15) years after conveyance of the first Lot to a Class "A" member; or (iii) at such earlier time as Declarant may elect in writing to terminate Class "B" membership.

Section 1.8 "County"

"County" shall mean Deschutes County, Oregon.

Section 1.9“Declarant”

“Declarant” shall mean Cascade View Investments Co. and/or its successors and assignees, who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assignee. “Declaration”

Section 1.10 “Declaration”

“Declaration” shall mean this Declaration of Protective Covenants, Conditions, and Restrictions for Pence Place Subdivision and any amendments and supplements thereto made in accordance with its terms.

Section 1.11 “Directors”

“Directors” shall mean the Board of Directors of the Pence Place Home Owners’ Association.

Section 1.12 “Improvement”

“Improvement” shall mean every structure or improvement of any kind, including, but not limited to, a residence, landscaping, fences, wall, driveways, or other product of construction efforts (including painting, alterations, and reconstruction) on or with respect to the Pence Place subdivision.

Section 1.13 “OPCA

“OPCA” shall mean the Oregon Public Community Act.

Section 1.14 “Owner”

“Owner” shall mean the owner of record, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 1.15“Plat”

“Plat” shall mean the duly recorded plat of PENCE PLACE, located in Deschutes County, Oregon recorded in Cabinet “G,” Page 105-106 under Recorder’s No. Volume 2003-84256, Official Records, Deschutes County, Oregon on the date of 12/10/03.

Section 1.16 "Property"

"Property" shall mean the real property described on the attached Exhibit A1 and A2, and such additions thereto as may be brought within the jurisdiction of the Association and be made subject to this Declaration by a Declaration of Annexation and may be referred to as "Pence Place Subdivision"

Section 1.17 "Regular Assessment"

"Regular Assessment" shall mean an assessment against all Owners on a regular basis, initially quarterly, to cover the estimated expense for maintaining the Common Maintenance Area and funding the Reserve Fund.

Section 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.

Section 1.19 "Turnover Meeting"

"Turnover Meeting" shall be the meeting of the Owners called by the Declarant to turn over control of the Association to the Class A members.

Section 1.20 "Unit"

"Unit" shall mean any residential dwelling situated upon a Lot.

ARTICLE II – PENCE PLACE HOMEOWNERS' ASSOCIATION

Section 2.1 Membership

The Declarant and every Owner of a Lot by virtue of ownership of such Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Until the Conversion Date, there shall be two (2) classes of membership, Class A and Class B as described in Section 2.2.

Section 2.2 Voting Rights

The Association shall have two (2) classes of voting membership:

A. Class A

Class A members shall be all Owners with the exception of Declarant (except that beginning on the date on which Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners, including Declarant) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such

persons shall be members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

B. Class B

The Class B members shall be the Declarant, who shall be entitled to three (3) votes for each Lot it owns, until the Conversion Date, at which time the Class B membership shall cease and be converted to Class A membership.

Section 2.3Suspension

All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any assessment duly established pursuant to this Article II or is otherwise in default under this Declaration, the Bylaws or the Rules and Regulations of the Association.

Section 2.4Turnover Meeting

The Declarant shall call a Turnover Meeting within one hundred twenty (120) days following the Conversion Date for the purposes of turning over control of the Association to the Class A members. The Declarant shall give notice of the Turnover Meeting to each Owner as provided in the Bylaws. The Turnover Meeting shall be conducted in accordance with the Bylaws of the Association. At the Turnover Meeting, the Declarant shall turn over to the Association the responsibility for the subdivision of Pence Place and of the Association and the Association shall accept such administrative responsibility. At the Turnover Meeting, the Owners shall elect a Board in accordance with the Bylaws. At the Turnover Meeting, the Declarant shall deliver to the Association those items and documents required by ORS 94.616 or applicable successor provisions. In order to facilitate an orderly transition, during the three-month period following the Turnover Meeting, the Declarant or an informed representative shall be available to meet with the Board on at least three mutually acceptable dates to review the documents delivered pursuant to this Section 2.4. Not later than ninety (90) days after the Turnover Meeting, the Association shall provide Declarant with an estoppel certificate (i) certifying that Declarant has satisfied all of its obligations owed to the Association, including, without limitation, any obligations arising out of or related to this Declaration, or (ii) identifying with specificity the extent to which any such obligations remain unsatisfied.

Section 2.5Transitional Advisory Committee

Declarant or the Owners shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant for the Pence Place Subdivision to administrative responsibility by the Association. Not later than the sixtieth (60th) day after Declarant has conveyed to Owners other than Declarant Lots representing fifty (50) percent or more of the Lots in the Property, the Declarant shall call a meeting of Owners for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of three (3) or more members. The Owners, other than Declarant, shall select two (2) or more members. Declarant may select no more than one (1) member. The Transitional Advisory Committee shall have reasonable access to all information and documents that Declarant is required to turn over to the Association under ORS 94.616(3).

Section 2.6Funding

Subject to the terms of this Article II, the Declarant hereby covenants for Each Lot owned within the Property, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, agrees to pay to the Association: (i) annual or periodic assessments or charges; and (ii) special assessments for Common Maintenance Areas, such assessments to be established and collected as hereinafter provided. The annual or periodic assessments shall include any reserve assessments necessary to establish and maintain any reserve funds created under Section 2.9. Such assessments will remain effective for the full term (and extended term, if applicable) of the within covenants. The annual and special and other assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot(s) at the time of the assessment. The personal obligation for delinquent assessments shall not pass to the successors in title of such Owner unless expressly assumed by them, in writing as an Annual Assessment or Charge for Lots.

Subject to the terms of this Article, each Lot is hereby subject to an assessment as determined by the Board (until such assessment charge shall be modified as provided in the Bylaws of the Association), for the purpose of creating a fund to be designated and known as the "maintenance fund" for matters described under Section 2.8, the "reserve fund" for matters described under Section 2.9, as well as any other funds contemplated under this Declaration, or any other fund called for by this Declaration or a Declaration of Annexation. Charges and assessments for funding such funds shall be paid by the Owner or Owners of each such Lot in advance in monthly, quarterly or annual installments, commencing as to all Lots upon the recordation of this Declaration. The rate at which each Lot will be assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined by the Board at least thirty (30) days in advance of each assessment period. The Board may adjust rates from time to time as the needs of the Association may, in the judgment of the Board, require. The annual assessment (excluding additional assessments pursuant to Section 2.13 and/or Section 2.15) for each Lot shall be uniform except as specifically provided herein. The Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessment for a particular Lot has been paid for a particular assessment period. No Lot Owner shall have any right to any common profits of the Association.

Section 2.7Declarant Responsibility

So long as there is Class B membership, Declarant agrees that in the event that the annual maintenance fund revenues are insufficient to pay the operating expenses of the Association, it shall provide the funds necessary to make up the deficit, within thirty (30) days of receipt of request for payment thereof from the Association, provided that if the deficit is the result of the failure or refusal of an Owner or Owners to pay their annual maintenance assessments, the Association shall diligently pursue all available remedies against such defaulting Owners, including the immediate institution of litigation to recover the unpaid assessments, and shall reimburse the Declarant the amounts, if any, so collected.

Section 2.8 Purposes of Assessment Fund

The Association shall establish a fund composed of annual assessments which shall be used for the benefit of all members of the Association to provide for recurring maintenance charges for the Common Maintenance Areas and the members' health, safety, aesthetics, welfare, recreation and meetings as related to Property. The Board, for the benefit of the Owners, shall provide and shall use the assessment fund for such uses and benefits that are to be provided by the Association which may include, by way of clarification and without limitation, the following:

The Association shall be responsible for:

- a) Contract services to mow, seed, edge, fertilize, rake and maintain the unit's lawns, rocked and composted areas including the land between the curb and the sidewalks
- b) To employ a service for snow removal for the alleyway, driveways and front sidewalks when needed
- c) The maintenance, repairs, and enhancement of the Common Maintenance Areas and any Improvements therein. This shall include the perpetual maintenance, repair, and enhancement for any fences, columns, exterior walls, roofs, eaves, gutters, down spouts (including those eaves and down spouts that cross the property lines), crickets, alleyway, bollards, driveways, rock retaining walls, concrete retaining walls, interior sidewalks (not the city sidewalks), mailboxes, signs and monuments that serve or benefit the Property; to the extent not maintained by governmental authorities. The Association shall not be responsible for the repair and replacement of decks, solar heating panels, windows, window screens, storm windows, storm doors, screen doors, and sprinkler timing devices. 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 solely within the discretion of the Board.
- d) Perpetual maintenance of storm water drainage which serves the Property;
- e) Board of Director legal and accounting expenses for maintaining the HOA books and enforcement of the CCR's
- f) If so decided by the HOA, the services of a professional person or management firm to manage the Association or any separate portion thereof

2.9 Purpose of the Reserve Fund

Declarant, shall establish a reserve fund in the name of the Association for replacement, in whole or in part, for the Common Maintenance Area for which the Association is responsible pursuant to this Declaration, that will normally require replacement in more than three (3) and fewer than thirty (30) years.

The Association will be responsible to determine when to replace or repair such items in the Common Maintenance Area as but not limited to:

- a) Perpetual maintenance, repair, and enhancement for any exterior painted surfaces, roofs, eaves, crickets, including those eaves and downspouts that cross the property line.
- b) Perpetual maintenance, repair, and enhancement for the alleyway, driveways, and sidewalks. The reserve account need not include those items that could reasonably be funded from the maintenance fund.

The decision as to the nature and extent of replacement or maintenance that is required for a particular Building or concrete Structure and the timing of such maintenance shall be solely within the discretion of the Board.

A. Assessments for the Reserve Fund

Under this Section assessments shall begin accruing from the date the first Lot assessed is conveyed. Declarant may elect to defer payment of accrued assessments for reserves for a Lot until the date the Lot is conveyed; provided, however, the Declarant may not defer such payment beyond the date of the Turnover Meeting. The book and records of the Association shall reflect the amount owing from the Declarant for all reserve assessments. For purposes of funding the reserve fund, the Association shall impose an assessment to be called the "Reserve Fund Assessment" against each Lot, which assessment shall be spread equally over the Lots. The reserve fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section. However, after the Turnover Meeting (as required by ORS 94.616 or applicable successor provisions), the Board may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses. Funds borrowed under this Section must be repaid later from assessments if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. The Association shall administer the reserve fund and shall make periodic payments into the account. Any funds established for any of the purposes mentioned in this Section shall be deemed to be a reserve fund notwithstanding that it may not be so designated by the Board. The amount of the reserve fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner. The reserve portion of the initial assessment determined by the Declarant shall be based upon the initial reserve study described in Section 2.9B, or other sources of reliable information.

B. Reserve Study.

Prior to conveying the first Lot, the Declarant shall conduct an initial reserve study, which shall comply with the requirements for reserve studies set forth below. The Board shall annually conduct a reserve study, or review and update an existing study, to determine the reserve fund account requirements and may adjust the amount of payments as indicated by

the study or update and provide for other reserve items that the Board, in its discretion, may deem appropriate. The reserve study shall include:

- a) Identification of all items for which reserves are required to be established;
- b) Estimated remaining useful life of each item as of the date of the reserve study;
- c) Estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and a thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on the reserve fund, to meet the maintenance, repair, and replacement schedule.

Section 2.10 Non-payment of Assessments: Remedies of the Association

Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the rate set by the Board from time to time but in no event greater than the highest rate allowed by Oregon law at the time of the non-payment. The Association shall have the authority to impose late charges to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions and the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of Owner's Lot and/or Unit and all costs of collection including attorney fees.

Section 2.11 Subordinated Lien to Secure Payment

To secure the payment of the maintenance charge and all other assessments (including for reserves) established hereby and to be levied on individual Lots as provided in this Article II and all other obligations of a Lot Owner under this Declaration, there is hereby reserved a lien for the benefit of the Association on each Lot, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary. The provisions regarding the attachment, notice, recordation, and duration of liens established on real property under OPCA shall apply to the Association's lien. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments that became due before such sale or transfer. No sale, foreclosure or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall have the right to file notices of liens in favor of such Association in the real property records of Deschutes County, Oregon.

Section 2.11 Additional Assessments

In addition to the periodic assessments described in this Article II, the Association shall have the authority to assess an Owner's Lot(s) for costs and expenses incurred by the Association for corrective action which is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's family members, tenants, guests, contractors or invitees,

including, without limitation, a breach of this Declaration. Each such additional assessment, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land, a continuing lien upon the Lot, and the personal obligation of the Owner in the manner

ARTICLE III - GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS

Section 3.1 Interim Board

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 the Powers and Duties of Board

The Board, for the benefit of the Owners, shall Exercise all the powers of the association not reserved to the Owners, the general powers and duties of the Board shall include but not limited to, the specific powers and duties provided for herein and in the Bylaws of the Association and the powers and duties of an Oregon non-profit corporation and OPCA. In addition to the above powers the Board shall have the powers to:

- a) Execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.
- b) Borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.
- c) Enter into contracts, maintain one (1) or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.
- d) Make reasonable rules and regulations for Pence Place, and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Owners.
- e) Within ninety (90) days after the end of the fiscal year, to distribute to each Owner and, upon written request, any mortgagee of a Lot, a copy of the annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year.
- f) Make all books and records of the Association available for inspection by Owners at reasonable times and intervals.
- g) Adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.
- h) Enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.
- i) Collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.

- j) The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.
- k) Meetings for owners as determined by the Board
- l) All other activities necessary or desirable in the opinion of the Board to keep the Property within City regulations, Brooks existing CCR's or would help maintain or increase the value of the overall property, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the Board in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith. Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, assessments, fees or costs which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law, which are necessary to fulfill the obligations of the Association hereunder, or which in the Board's opinion shall be necessary or proper for the enforcement of this Declaration.

ARTICLE IV: OWNERS' RESPONSIBILITIES

Section 4.1 Responsibilities

Owners have the following responsibilities:

- a) The HOA through Maintenance and the Reserve Fund will maintain and replace of the exterior improvements of the town homes. However each homeowner is responsible for any damage done to the structure or improvements on their property. They will repair, replace, restore, including without limitation: glass, landscaping, decks, exterior doors; exterior window casements, sashes and frames, window screens, storm windows, storm doors.
- b) To maintain the integrity of the entire vertical firewall from foundation to the roof in their residence.
- c) To maintain the structural integrity and waterproofing of the foundation, including the concrete stem walls within their Lot
- d) Maintain their own solar heating system at their own expense
- e) Any damage done to a common utility such a Pacific Power pedestal by an owner, renter or guest will be the financial responsibility of that owner to repair.

Section 4.2 Prohibited Activities

Neither the Association nor any Owner shall conduct any of the following activities within Pence Place:

- a) the removal of any tree greater than six (6) inches diameter at breast height, measured 4.5 feet above ground without the written opinion of a certified Arborist that the tree is diseased and will not survive, or the tree poses a substantial threat of property damage or personal injury, and the written consent of the Board;
- b) the modification, grading, excavation, filling or other activities which would alter the topography or vegetative cover without the written consent of the Board;
- d) the disposal or placement of any debris, refuse, soil, rock, landscape debris or other deleterious materials;
- e) storage, repair, or disposal of any motor vehicle;
- f) motor vehicle access (except on roads or roadways as may be necessary for repairs or maintenance approved by the Board or in conjunction with maintenance of utilities)

ARTICLE V ARCHITECTURAL REVIEW

Section 5.1 Architectural Review Committee

A committee to be known as the Architectural Review Committee (the "ARC") shall be established consisting of the number of members as determined by the Board, except that the ARC shall consist of not less than three (3) members. ARC members need not be members of the Association.

- a) The members of the ARC shall be appointed, terminated and/or replaced by the Declarant so long as there is Class B membership. Thereafter the Board shall appoint the members of the ARC. After the Conversion Date, members of the ARC may be terminated and/or replaced by the Board with or without cause. Individuals may serve as members of the Board and members of the ARC simultaneously.
- b) The purpose of the ARC is to enforce the architectural standards of the community and to approve or disapprove plans for Improvements proposed for the Lots.
- c) The ARC shall act by simple majority vote, and shall have the authority to delegate its duties or to retain the services of a professional engineer, architect, designer, inspector or other person to assist in the performance of its duties; provided, however, if the costs of a professional engaged by the ARC is to be borne by a particular Owner whose plans are being reviewed, the Owner shall first be apprised in writing of the estimated costs thereof.
- d) The ARC may establish an appeal procedure from time to time. After an Owner has exhausted all appeal remedies, if any, provided by the ARC, he may appeal the ARC's final decision to the Board. The Board shall have discretion as to whether to hear any such appeal, and in the event it elects not to hear an appeal, the ARC's decision in such matter shall be final. In the event that the Board hears an appeal, the Board's decision shall be final.
- e) No approval of the ARC required hereunder shall be valid unless and until the same is granted in writing.

Section 5.2 Architectural Guidelines

Subject to the terms of this Section 5.2, the Board shall adopt and may from time to time, amend, modify or revise written Architectural Rules and Design Guidelines (the "Architectural Guidelines" or "Guidelines"). Adoption of the Architectural Guidelines may occur without the consent of anyone prior to conveyance of the first Lot to an Owner other than the Declarant. Amendments, modifications, or revisions to the Architectural Guidelines may be made by the Declarant, without the consent of anyone prior to conveyance of the first Lot to an Owner other than the Declarant. Thereafter the ARC shall have the right to amend, modify, or revise the Architectural Guidelines, subject to the approval of the Board. No such amendments, modifications, or revisions shall affect any prior ARC approval.

Section 5.3 Scope of Review

No building, fence, wall, patio, deck, outbuilding, landscaping, pool, athletic facility or other structure or Improvement shall be erected, altered or added onto upon any portion of the Property without the prior written consent of the ARC, provided however, that all Improvements erected, altered, added onto or repaired by Declarant shall be exempt from the provisions of this Article V. The Guidelines may include restrictions on, and ARC review shall include a review of, materials, colors, design, location and such other items as the ARC shall determine from time to time in its sole discretion.

Section 5.4 Submission of Plans

Before the initiation of construction upon any Lot (including material changes to landscaping), the Owner thereof shall first submit to the ARC a complete set of plans and specifications for the proposed Improvements, including site plans, grading plans, landscape plans, floor plans depicting room sizes and layouts, exterior elevations, specifications of materials and exterior colors, and any other information deemed necessary by the ARC for the performance of its function pursuant to the procedure outlined in the Architectural Guidelines (if any). In addition, the Owner shall submit the identity of the individual or company intended to perform the work and projected commencement and completion dates and funds in the amount of the applicable review fee. The review fee schedule shall be established by the ARC from time to time and shall set forth the review fee for various review/approval requests. The ARC shall have the right to amend the schedule, adjusting the fee amounts, from time to time, in its reasonable discretion. The initial review fee for a new dwelling shall be \$200, but shall be subject to increase from time to time by the ARC in its reasonable discretion. The Association's Board shall have the authority to disapprove any fees that it deems unreasonable.

Section 5.5 Plan Review

Upon receipt by the ARC of all of the information required by this Article V, it shall have twenty-one (21) days in which to review said plans. The proposed Improvements will be approved if, in the sole opinion of the ARC: (i) the Improvements will be of an architectural style and material compatible with the other structures in the Property; (ii) the Improvements will not violate any restrictive covenant or encroach upon any easement or cross building setback lines; (iii) the Improvements will not result in the reduction in property value, use or enjoyment of any of the Property; (iv) the individual or company intended to perform the work has provided proof that it is

licensed under the laws of the State of Oregon and has procured insurance reasonably acceptable to the ARC; and (v) the Improvements will be substantially completed, including all cleanup, within three (3) months of the date of commencement (twelve (12) months for the construction of a complete house). If the ARC fails to issue its written approval, or rejection, within twenty-one (21) days of its receipt of the last of the materials or documents required to complete the Owner's submission, the ARC's approval shall be deemed to have been granted without further action.

Section 5.6 Non-Conforming Structures

If there shall be a material deviation from the approved plans in the completed Improvements, such Improvements shall be in violation of this Article V to the same extent as if erected without prior approval of the ARC unless the Owner subsequently obtains ARC approval for such deviation, which approval may be granted or denied in the ARC's sole discretion. The ARC, the Association or any Owner may maintain an action at law or in equity for the removal or correction of the non-conforming structure and, if successful, shall recover from the Owner in violation all costs, expenses and fees incurred in the prosecution thereof, which, if incurred by the Association, shall constitute an assessment against the applicable Lot(s).

Section 5.7 Immunity of ARC Members

No individual member of the ARC shall have any personal liability to any Owner or any other person for the acts or omissions of the ARC if such acts or omissions were committed in good faith and without malice. The Association shall defend any action brought against the ARC or any member thereof arising from acts or omissions of the ARC committed in good faith and without malice.

Section 5.8 Limited Review

Any review and approval made by the ARC is limited to compliance with the intent of the architectural standards of the neighborhood as may from time to time be established by the Board and/or the Architectural Guidelines. The review and approval made by the ARC is not to be construed as superseding, replacing, or modifying any review, approval, or permit required by any local, state or federal jurisdictional agencies. It is the applicant's responsibility to obtain and comply with any permits that may be required by any local, state, or federal jurisdictional agency. Nor shall any such review or approval be deemed an assurance or statement of compliance with any applicable laws, ordinances or regulations.

Section 5.9 Address for Notice

Until the Time of Conversion, requests for ARC approval or correspondence with the ARC shall be addressed to Pence Place Architectural Review Committee, c/o Francis and Martin LLP, Attn: Win Francis, 1148 NW Hill Street, Bend, Oregon 97701, or such other address as may be designated from time to time by the ARC in a writing addressed to all Owners. No correspondence or request for approval shall be deemed to have been received until actually received by the ARC in a form satisfactory to the ARC.

Section 5.10 **Completion of Improvements**

Once construction has commenced, each Owner shall have twelve (12) months during which to substantially complete construction, including all cleanup, of the initial Unit and three (3) months thereafter to complete the installation of landscaping on the Lot. ARC approval shall be deemed invalid if construction does not commence on the approved Improvement within three (3) months of approval or such longer period of time as may be specified by the ARC. The ARC shall have the right to grant extensions for any deadline in this Section 5.10 with respect to any Lot when it deems the same reasonable under the circumstances.

ARTICLE VI- EASEMENTS

Section 6.1Declarant's Easement to Correct Drainage

Declarant hereby reserves for the benefit of Declarant and any Builder a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant or any Builder to correct or maintain any drainage facilities within the Property.

Section 6.2Entry Easement

If the Owner of any Lot fails to maintain the Lot as required herein, fails to comply with any requirements hereunder, or if there is an emergency, the Association and/or the ARC shall have the right to enter upon the Lot as provided herein. The Association shall have the right to enter upon the Lot to make emergency repairs without providing advance notice. The Association shall have the right to enter upon the Lot to do other work reasonably necessary for the proper maintenance and operation of the Lot after providing one (1) days' written notice to the Owner. In the event that the failure to comply is related to Article V and/or the Guidelines, the ACC shall have the right to enter upon the Lot to do the work reasonably necessary to bring the Lot into compliance by providing one (1) days' written notice to the Owner. In each case that notice is required, such notice may be made by a posting on the front door of the Unit located on the particular Lot. Entry upon the Lot as provided herein shall not be deemed a trespass, and neither the Association nor the ARC shall be liable for any damage so created unless such damage is caused by the Association's or the ARC's willful misconduct or gross negligence.

Section 6.3Reserved Easements

Easements for installation and maintenance of utilities, storm water and/or buffers with adjacent property are reserved as may be shown on the recorded Plat or any replat of the Property. Within these easement areas, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may hinder or change the direction of flow of drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein 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.

Section 6.4 Temporary Completion Easement

All Lots shall be subject to an easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of the property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon Lots adjacent to the property, provided that such easement shall terminate twenty-four (24) months after the date such Lot is conveyed to the Owner by the Declarant and for the Association for Maintenance.

Section 6.5 Maintenance Easements

An easement is hereby granted and reserved in favor of the Association and its successors, assigns, contractors, property managers, agents and employees over, across and upon any Common Maintenance Areas or other areas of the Property necessary or appropriate for purposes of accomplishing the maintenance, repair, replacement or other obligations of the Association as stated within this declaration.

ARTICLE VII - USE, OCCUPANCY, CASUALTY, AND INSURANCE

Section 7.1 Residential Use

All Lots and Units shall be used only for single-family residential purposes in accordance with, and subject to, the other provisions of this Declaration. Each Owner shall be responsible for compliance by all of such Owner's visitors, tenants or invitees, whether such visitor, tenant or invitee is occupying the Owner's Lot and/or Unit or otherwise visiting or using any portion of the Property, with all provisions of this Declaration, any and all rules and regulations, and all applicable laws.

Section 7.2 Commercial, Institutional, or Other Non-Residential Uses

No commercial, institutional, or other non-residential use (including residential day care facilities) shall be conducted on any Lot without the written approval of the Board. Any such use must comply with applicable law, including, without limitation, zoning requirements. The decision of the Board shall be final and conclusive. The Board may review, and repeal, any such approval from time to time at the discretion of the Board if, in the opinion of the Board, the use has changed or increased to a level not consistent with the original approval. In no event shall the decision of the Board as to permissibility of a requested non-residential use be construed as a representation of the legal permissibility of such use.

Section 7.3 Declarant or Builder Use

The provisions of this Article shall not apply to the use of any Lot or Unit by the Declarant or any Builder as i) a model home, sales office, or construction office; or ii) the use of any Lot as a site for a sales office trailer or construction office trailer.

Section 7.4 Owner Insurance

Each Owner of a Lot shall obtain, and maintain in effect, from a reputable insurance company authorized to do business in the State of Oregon, a homeowner's policy with personal liability (inclusive of bodily injury and property damage) of limits not less than two hundred thousand dollars (\$200,000.00). Additionally, each Owner shall obtain and maintain in effect, from such companies, fire and extended coverage casualty insurance with respect to the Owner's Unit in an amount equal to one hundred (100) percent 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. The Association shall have the right, but not the obligation, to request evidence that any Owner has procured the required insurance. Upon written request from the Association, an Owner shall present a certificate of insurance evidencing the required coverages. The Association shall have the right, but not the obligation, to increase the coverage limits established by this Section 6.4 from time to time to reflect increases in the cost of living. Such increases shall require neither an amendment to this Section 6.4, nor a vote of the Owners, and shall be affected, if at all, by providing written notice to each Owner not less than thirty (30) days prior to the effective date of such increases.

Section 7.5 Casualty

In the event of damage to or destruction of a Unit, the Owner of the Unit shall repair, reconstruct, and rebuild the damaged or destroyed portions of the Unit to substantially the same condition that existed prior to the damage or destruction. All repair, reconstruction, or rebuilding shall begin within six (6) months following the damage or destruction, and shall be diligently pursued to completion within twelve (12) months following the damage or destruction, unless work is delayed by causes beyond the reasonable control of the Owner. If an Owner fails to repair such damage timely, the Association shall have all rights of enforcement and remedies set forth under this Declaration. If an Owner fails to repair such damage timely, the Association shall have all rights of enforcement and remedies set forth under this Declaration. The ARC shall have the right to extend the deadlines contained in this Section 6.5 if it deems the same reasonable under the circumstances; provided, however, in no event may any Owner leave his or her Unit or Lot in a condition that poses a health or safety hazard. Notwithstanding the foregoing terms of this Section 6.5, an Owner may elect not to reconstruct a Unit that has been more than fifty percent (50%) destroyed, provided the Owner demolishes the remaining portions of the Unit and removes all debris from the Lot within six (6) months of the date of the casualty and thereafter keeps the Lot in good and safe condition and repair; and provided further, any later reconstruction of a Unit shall be completed within twelve (12) months of the date of commencement of construction and shall be subject to ARC review and approval procedures.

ARTICLE VIII - PROPERTY RIGHTS

Section 8.1 Owner's Use and Occupancy

Except as otherwise provided herein, by applicable law or by the terms of any instruments recorded against the applicable Lot, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot. Declarant, the ARC 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 Lot for the purpose of determining whether or not the use of and/or

Improvements on such Lot are then in compliance with this Declaration; provided that, except in the case of emergency, the Owner is first provided with one day's written notice, which notice may be posted upon the Unit. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Lot.

Section 8.2 Effect of Declaration

Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, restrictions and covenants herein described or to this Declaration shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees, or trustees of said parcels as fully and completely as if those easements, restrictions and covenants were fully related and set forth in their entirety in said documents.

Section 8.3 Rezoning Prohibited

No Lot shall be rezoned to any classification allowing commercial, institutional or other non-residential use without the prior written consent of the Board and of the Declarant so long as Declarant owns a Lot, which may be withheld in the Board's or Declarant's sole discretion, as applicable. Declarant or the Board may enforce this covenant by obtaining an injunction against any non-approved rezoning at the expense of the enjoined party.

Section 8.4 Lot Consolidation and Division

No Lot may be consolidated with another Lot and no Lot may be subdivided without the approval of the Declarant, prior to the conversion date, or the HOA.

Section 8.5 Drainage Alteration Prohibited

The surface water drainage contours of each Lot shall conform to the approved grading plan established by the Declarant or any Builder. No Owner shall fill or alter any drainage swale established by the Declarant or any Builder, nor shall any Owner install landscaping or other improvements that divert surface water runoff from the drainage patterns, swales and easements established by the Declarant or any Builder. Each Owner shall take steps to assure that its Lot has adequate drainage and does not cause runoff to be directed onto any adjacent property.

ARTICLE IX- USE RESTRICTIONS/BUILDING STANDARDS

Section 9.1 Required Lighting, Exterior Lighting and Noise-making Devices

Except as provided in this Section 9.1 or as otherwise approved by the ARC, no exterior light or noise-making devices, other than security and fire alarms, shall be installed or maintained on any Lot. All exterior lighting shall comply with applicable law, including any City of Bend ordinances and Brooks Resources existing CCR's for College Park Subdivision Phases I and II, and must be approved by the ARC. Notwithstanding the foregoing, exterior ornamental lighting shall be permitted, provided the same uses no greater than a 10 watt white light bulb and does not materially negatively impact adjacent properties, and provided further, that in the event of disputes over the impact of such lighting on adjacent properties, the determination of the ARC shall be definitive.

Section 9.2 Nuisances

No noxious or offensive activity shall be carried out upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting the generality of the foregoing, "noxious or offensive activity" shall include the generation of noxious odors or noise. The Board shall have the sole authority to determine nuisances and its decision shall be final and conclusive.

Section 9.3 Development Activity

Notwithstanding any other provision herein, Declarant and its successors and assigns, including Builders, shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and the construction and sale of dwelling units on the Property.

Section 9.4 Temporary Structures and Buildings

a) No structure of a temporary character, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding, and no prefabricated or relocated structure shall be used on any Lot at any time as a residence, either temporarily or permanently. This restriction shall not be interpreted to limit the right of Declarant or any Builder to use trailers or outbuildings as sales offices, construction offices, material storage facilities, or sanitation facilities.

b) Detached Buildings. No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Lot without the prior consent of the ARC. Every detached accessory building, inclusive of such structures as storage buildings, greenhouses, doghouses, or children's playhouses shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition.

Section 9.5 Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven on the Property or carried by any person or by any other means displayed within the Property except as provided below:

- a) "For Sale" Signs. An Owner may erect one (1) sign not exceeding two (2) feet by three (3) feet in dimension, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of the ground advertising the property for sale.
- b) "For Rent" Signs. An Owner may erect one (1) sign not exceeding three (3) square feet in area advertising the property for rent. Such signs shall be visible from the front of the Unit only, and shall be displayed from within the Unit. No such sign shall be erected within a lawn or landscape area on any Lot, or attached to the outside of the Unit.
- c) Declarant's Signs. Signs or billboards may be erected by the Declarant or any Builder, and are exempt from the provisions of this Section 8.5.
- d) Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and shall be removed within fifteen (15) days after the election.
- e) Subdivision Identification Signs. Signs, monumentation or billboards may be erected by the Declarant or the Association to identify the subdivision, with approval from the local jurisdictional authority and Brooks Resources, if applicable.

Section 9.6 Vehicles, Storage and Use of Outdoor Areas on the Property

- a) No campers, boats, boat trailers, recreational vehicles, commercial vehicles, trucks weighing more than 10,000 pounds GVW, or other types of non-passenger vehicles, equipment, implements, or accessories shall be kept or stored or parked on any Lot or on public streets adjacent thereto, unless it is stored in the owner's garage and not visible from any of the units or street or with the Board's approval. For the purpose of loading and unloading, from time to time, recreational vehicles may be parked in front of a Lot or in the driveway for a Lot for up to 48 hours at any one time for loading or unloading purposes, but in no event more than 120 hours during any calendar month. This is subject to parking restrictions contained herein or posted on streets
- b) No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in the streets within the Property, or in any driveway or yard adjacent to a street, or that is not screened from view.
- c) 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 on the Common Area 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 the Association mails notice to such Owner, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.
- d) No Parking Signage. Parking of vehicles is prohibited within the Property that is signed or otherwise marked for "No Parking" by the Association or a governmental authority. The Association shall have the right to tow any vehicles in violation of this Section at the vehicle owner's expense.)

Outdoor Living Areas shall be used exclusively for patios, low-profile decks, and private planting and landscaping area.

e) Antennas and Satellite Disks. Exterior antennas, exterior satellite receivers and transmission disks shall not be permitted to be placed upon any Building Lot except as approved by the Architectural Review Committee and Brooks existing CCR's for the College Park Subdivision

Section 9.7 Pets, Livestock and Poultry

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for cats, dogs or other generally recognized household pets of a reasonable number, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further, than no more than three (3) animals may be kept on a single Lot. No animal shall be allowed to run at large

Section 9.8 Garbage and Refuse Disposal; Wood Piles

No Lot or any other portion of the Pence Place Subdivision shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept, or disposed of, on any Lot except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubble, debris, or recyclable materials shall be stored, kept, placed or maintained on any Lot where it is visible from any street except on the day designated for removal of garbage, rubbish, or recyclable materials, and on which days only such cans, bags, containers, and receptacles may be placed in the alleyway at a location determined by Bend Garbage and Recycling and agreed to by the Board. On collection day, the owner(s) of the designated trash pickup section of the alleyway shall allow the other owners to place their garbage cans at the nearest collection point no earlier than 8:00am. Each owner is responsible to remove his garbage receptacle from view before the following day.

Section 9.9 General Landscaping and Exterior Maintenance

Each Lot Owner shall keep all shrubs, trees, grass, and plantings of every kind on his or her Lot cultivated, pruned, free of trash, and other unsightly material. The HOA will contract for ongoing maintenance of the grounds. The owner will be responsible for the watering of the plants and lawn. The Declarant, the Association, shall have the right at any reasonable time to enter upon any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings as deemed necessary; and to paint, repair, or otherwise maintain any improvements in need thereof, and to charge the cost thereof to the Lot Owner; provided, however, except in the case of emergency, the Declarant, the Association shall first provide the Owner with at least one (1) day's prior written notice, which notice may be given by a posting on the front door of the Unit located on such Lot.

ARTICLE X- GENERAL

Section 10.1 Remedies

If any default by any Owner under the provisions of the Declaration, Bylaws or rules and regulations of the Association shall occur, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the OPCA, the Bylaws and

said rules and regulations, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest from the due date until paid at the rate set by the Board from time to time, from the due date until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner. Without limiting the generality of this Section 9.1, any and all costs incurred by the Association and/or the ARC in remedying an Owner's violation of this Declaration shall be an assessment against such Owner's Lot.

Section 10.2 **Terms and Amendments**

The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded (the "Initial Term"), after which time they shall be automatically extended for successive periods of ten (10) years each, unless a signed petition containing the signatures of at least seventy-five percent (75%) of the votes outstanding is presented to the Board or other duly appointed and authorized persons, which shall authorize the Board, or other duly appointed and authorized persons, to execute and properly record a notice of termination of this Declaration in the real property records of Deschutes County, Oregon. This Declaration may be amended at any time during the first thirty (30) year period or any extension thereof, by a signed petition or vote containing the signatures of at least seventy-five percent (75%) of the votes outstanding, and the consent of the Declarant so long as the Declarant is a Class B Member, being presented to the Board, or other duly appointed and authorized persons, which shall authorize the Board, or other duly appointed and authorized persons, to execute and properly record an instrument amending this Declaration. Subject to the provisions of Section 11.4, notwithstanding any provisions hereof to the contrary, the Declarant may, at its sole discretion and without consent being required of anyone, modify, amend or repeal this Declaration at any time before the closing of the sale on the first Lot, provided said amendment, modification, or repeal is in writing and properly recorded in the Deed Records of Deschutes County, Oregon.

Declarant further reserves the right at any time to amend this Declaration, or any amendment hereto, in order to correct errors so long as there is Class B membership in the Association. In no event shall an amendment pursuant to this Section create, limit, or diminish Declarant's special rights without Declarant's written consent or change the boundaries of any Lot or any use to which any Lot is restricted unless the Owners of the affected Lots consent to the amendment.

Section 10.3 **Severability**

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

Section 10.4 **Rights and Obligations**

The provisions of this Declaration and the Articles of Incorporation and Bylaws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the Articles of Incorporation and Bylaws, whether or not mention thereof is made in said deed.

Section 10.5 **Personal Pronouns**

a) All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Section 10.6 **Statutory References**

a) All references to particular statutory provisions in this Declaration shall be deemed to refer to such statutory provisions or their successor provisions, if applicable.

Section 10.7 **Headings**

a) The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 10.8 **Conflicts**

a) If there is a conflict between the terms of this Declaration and any Bylaws, rules, regulations or Articles of Incorporation of the Association, this Declaration shall control.

Section 10.9 **Partial Invalidity**

The invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

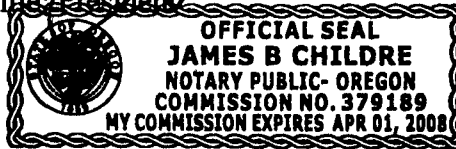
IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of this 15TH day of SEPTEMBER, 2003.

DECLARANT:

CASCADE VIEW INVESTMENTS
CO. _____,
an Oregon S Corporation

By: _____
Name: Jay Layton
Title: President

STATE OF OREGON }
COUNTY OF DESCHUTES }



The foregoing instrument was acknowledged before me the 15TH day of SEPTEMBER 2003, by JAY LAYTON, the PRESIDENT of CASCADE VIEW INVESTMENTS Oregon limited liability company, on behalf of the company.

Notary Public, State of Oregon
My Commission Expires: 4/1/08

EXHIBIT "A1 and A2"

Appendix

Agreement with the City of Bend for the Pence Place Town Homes' Firewalls and Eaves that Cross the Property Lines Easements

The owners of the Lots 1 through 16 of Pence Place subdivision shall maintain the following elements of their structure: roof overhangs including those eaves that cross property lines, abutting walls and interior fire walls and other elements necessary for the construction of Pence Place single family zero lot line town homes.

1. The Elements of the Pence Place town homes will have to be maintained by the owners of the said Lots. The owners of each building site of the Lots shall share equally in the maintenance of the Elements except as otherwise hereinafter provided. For those elements that the owner of the Lot is individually responsible but requires access from an adjacent owner, such as repair or maintenance of an interior wall the adjacent owner shall allow an easement and access with reasonable notification.

2. The obligation herein created shall be attached to and will run with the land and shall be binding on all successors in interest to the Lots it being the intent of the parties hereto, to create a continuing obligation on the part of each owner of the lots present or future, to share in the maintenance of the Elements. The easements, including the eaves of the units that cross the property lines, shall be permanent and irrevocable easements.

3. If a lot owner or his agent disturbs the Elements in any way, such owner shall bear the full cost and responsibility of returning the respective Elements to the condition it was prior to such disturbance. In the event such owner refuses or neglects to restore said Elements, the other Lot owner may have such repairs made and assess the Lot owner for the cost of such repairs, except those common elements required by the state building code as defined in ORS 455.010 shall be maintained without exception.

4. In the event that Elements repairs are required, the cost will be divided equally between both Lot owners, as provided above.

5. Structural elements identified or necessary for lateral stability, including but not limited to horizontal and vertical strapping, foundation tie downs and plywood sheathing, shall not be altered without the analysis and approval of a structural engineer registered in the State of Oregon and by permit for the governing jurisdiction.

6. The above agreements may be amended at any time by both of the owners of the said Lots, with exception for the requirement to maintain those elements required by the state building code in #3 and #5 above.

7. The parties shall hold harmless, defend and indemnify the City of Bend and City's officers, agents and employees against all claims, demands, actions and suits including attorney's

fees and costs brought against any of them arising out of the failure to properly design, locate, construct or maintain the Elements.

8. In exchange for their promises under this agreement the parties acknowledge that this agreement is executed in part to comply with the applicable state specialty codes.

9. The parties shall notarize their signatures to this agreement and following approval and signature by the jurisdiction having authority shall immediately record the agreement with the Deschutes County Recorder's Office. This document shall become part of the CCR's of Pence Place.

10. In the event the integrity of the firewall is compromised in anyway and the owners' of the unit or the homeowner's association do not make the repair in a period of time the City of Bend considers reasonable then the City can enforce this maintenance agreement and hold responsible the parties responsible for the firewall maintenance as per this declaration.

11. The responsible individual within the City of Bend Building Department must approve any modification to this document that involves the Pence Place firewalls or easements that involve structural elements that cross property lines, such as the roof eaves.