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# Deschutes County Clerk

## Certificate Page



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**DECLARATION OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR  
TANAGER VILLAGE**

These Covenants, Conditions, and Restrictions are made this 17<sup>th</sup> day of January, 2007, by ASPEN BUILDERS & CONTRACTORS, L.L.C., An Oregon Limited Liability Company, dba TANAGER HOMES AND TANAGER CUSTOM HOMES, hereinafter referred to as "Declarant", as Owner of the real property in the City of Bend, Deschutes County, State of Oregon described in Exhibit A attached hereto and incorporated by reference herein.

10/11/4  
The property described in Exhibit A is hereby subject to these Covenants, Conditions and Restrictions and will be known as Tanager Village.

Tanager Village is being developed as a residential community. Except where this Declaration for Tanager Village conflicts with any applicable government municipal regulations, this Declaration shall be binding upon all property subject to this Declaration and its Owners and their successors in interest as set forth herein. In the event any of the development standards or use restrictions of this Declaration should conflict with a more restrictive standard or requirement set by an applicable zoning ordinance of the City of Bend and/or Deschutes County, the more restrictive standard or requirement of the applicable City of Bend and/or Deschutes County ordinances shall apply.

Section 1. DEFINITIONS

1.1 Tanager Village. The term Tanager Village shall mean all of the real property now or hereafter made subject to this Declaration.

1.2 Declarant. The term "Declarant" shall mean Aspen Builders & Contractors, L.L.C., an Oregon Limited Liability Company, or its successors in interest.

1.3 Block. The term "Block" shall mean those areas designated as Blocks on subdivision or partition maps according to the records of City of Bend and/or Deschutes County.

1.4 Lot. The term "Lot" shall mean each Lot described on a subdivision plat or partition map to any alteration thereof as may be made by a valid Lot line adjustment.

1.5 Declaration. The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Tanager Village.

1.6 Homesite. The term "Homesite" shall mean a Lot as defined herein.

1.7 Owner. The term "Owners" shall mean and refer to either all holders of fee title to any Lot, or any other person or persons entitled to possession of the Lot pursuant to a contract or lease.

1.8 Improvements. The term "Improvements" shall include, but not be limited to, any buildings, outbuildings, private road, driveways, parking areas, fences, and barriers, retaining walls and stairs, decks, hedges, windbreaks, planting, planted trees and shrubs, signs, storage areas and all other structures or exterior landscaping (including any irrigation systems), vegetation or ground cover of every type and every kind above the land surface.

1.9 Streets. The term "Streets" shall mean any street, highway or other thoroughfare within or adjacent to Tanager Village and show on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.

1.10 Properties. The term "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the Tanager Village Subdivision.

## Section 2. PROPERTY SUBJECT TO THE COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TANAGER VILLAGE.

2.1 General Declaration Creating Tanager Village. Declarant hereby declares that all of the real property located in Deschutes County, Oregon described in Exhibit "A" is and shall be subject to the Covenants, Conditions, and Restrictions set forth in this Declaration for the purpose of protecting the desirability and attractiveness of the said real property. All of the Covenants, Conditions, and Restrictions shall run with all of the land subject to this Declaration and shall be binding upon and inure to the benefit of Declarant, all Owners, and their successors in interest.

### 2.2 Addition of Other Real Property by Declarant.

(a) Declarant may, at any time during the term of this Declaration, add all or portion of land now or hereafter owned by Declarant to the property which is covered by this Declaration. Upon recording of a notice shall apply to the added property in the same manner as if it were originally covered by this Declaration. Thereafter, to the extent this Declaration is made applicable thereto, the rights, powers, and responsibilities of Declarant and Owners of Lots within such added property shall be the same as those regarding the property described in Exhibit "A".

(b) The notice of addition of real property referred to above shall contain at least the following provisions:

(1) A reference to this Declaration stating the date of recording and the recording information where the Declaration is recorded.

(2) A statement that the provisions of this Declaration or some specified part thereof shall apply to such added real property.

(3) A legal description of such added real property.

(4) Such other of different covenants, conditions, and restrictions as Declarant shall, in its discretion, specify to regulate and control the use, occupancy, and Improvement of such added real property.

### Section 3. ARCHITECTURAL REVIEW COMMITTEE

3.1 Responsibility. The Architectural Review Committee (ARC) will be responsible for the approval of plans for construction. The following specifications are required for the development or improvement of any building or structure, or other improvements on any Lot, including, but not limited to, landscaping and exterior painting:

(a) The minimum size of the single dwelling shall not be less than 1,200 square feet;

(b) The style of the homes constructed shall be cottage style homes to be approved by the ARC;

(c) The minimum roof pitch shall be equal to 6/12 pitch;

(d) No LP siding and any material similar to LP siding shall be used. Bat and Board siding is acceptable;

(e) Any arches on the front of the newly constructed residence shall include three distinct finish materials;

(f) All windows are required to be trimmed; and

(g) No loud colors will be acceptable and any color combination must be approved by ARC.

3.2 Membership. The Architectural Review Committee shall consist of two (2) members and one (a) manager of Aspen Builders & Contractors, L.L.C., dba Tanager Homes and Tanager Custom Homes. By a majority vote, the committee may designate a representative to act for it. In case of death or resignation of any committee member, the remaining member or members shall have full authority to designate a successor. Neither the members of the committee or its designated representative shall be entitled to any

compensation for services performed by said members. In the event that the deaths or resignations of all members of the committee shall occur without successors having been appointed, the majority of the owners shall have full power to designate successors.

3.3 Action. Except as otherwise provided herein, a majority of the Architectural Review Committee shall have power to act on behalf of the committee without the necessity of a meeting and without the necessity of consulting the remaining members of the committee. The committee may render its decisions only by written instrument setting forth the actions taken by the members consenting thereto.

3.4 Failure to Act. In the event the committee, or its designated representatives, fails to approve or disapprove plans and specifications within 30 days after the same have been submitted to it in writing, approval will not be required and these provisions shall be deemed to have been fully complied with.

3.5 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 rights to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

3.6 Liability. No member of the Architectural Review Committee shall be liable to any Owner for any damage, loss, prejudice suffered or claimed on account of any actions or failure to act on the part of the committee or any member, provided that the committee members acted in good faith and were not guilty of gross negligence.

#### Section 4. RESTRICTIONS

4.1 Occupancy. No owner shall occupy, use or permit his Lot or any part thereof to be used for any purpose other than a private, single family residence for the Owner, except that an Owner may rent the residence for periods of not less than month-to-month.

4.2 Improvements. Each Lot within Tanager Village shall be maintained in a clean and attractive condition. In addition, each Lot shall be fully landscaped (including, front, side, and back yards) no later than, (a) six (6) months after posting "Notice of Completion", or (b) six (6) months from date dwelling is occupied, whichever occurs first.

4.3 Approval Required. No improvement shall be erected, laced, altered, maintained, or permitted to remain on any land subject to this Declaration until final plans and specifications have been approved in writing by the Architectural Review Committee.

4.4 Appearance. All garbage, trash, cuttings, refuse, garbage, and refuse containers, clothes drying apparatus, and other service facilities located on the Lot shall

be screened from view of the street and adjoining property owners in a manner approved by the Architectural Review Committee.

4.5 Construction and Alteration. Nothing shall be altered or constructed in or removed from or placed on a Lot except with the prior written consent of the Architectural Review Committee.

4.6 Nuisances. No obnoxious, offensive, or commercial activity or pursuit shall be carried on upon any Lot therein nor shall anything be done thereon which may be an annoyance or nuisance to the other Owners. Boundary fences, walls, or hedges shall be kept in good condition and repair. Each Lot and its landscaping shall be kept neat and tidy, and free of weeds, pests, and diseases. Lawns must be cut sufficiently and maintained year round so that they do not become eyesores and detrimental to the values of other properties. Trees and shrubs shall be trimmed and pruned and not allowed to encroach on any other Lot, sidewalk or street.

4.7 Vacant Lot. The Owner of a vacant Lot shall maintain the landscaping in a groomed and attractive manner so that the Lot does not become an eyesore and detrimental to the values of other properties. If a Lot is not properly maintained, the Declarant or homeowners association, if any, shall notify the Owner of the violation. The notice shall be sent to the Owner at his last known address. Owner shall have fifteen (15) days from date of notice to correct the violation. If the violation is not corrected within fifteen (15) days the Declarant or homeowners association, if any, may complete the work at Owner's expense. If the cost is not reimbursed to the Declarant or homeowners association within thirty (30) days from written notification to the Owner, the Declarant or homeowners association may file a lien against the Owners Lot. Said lien shall bear interest at the rate of fifteen percent (15%) per annum until paid and then the lien shall be subject to foreclosure as provided by this Declaration and Oregon law.

4.8 Signs. No sign of any kind shall be displayed to public view on or from any Lot without the Declarant's prior written consent, provided, however, that an Owner may display not more than one (1) "for sale" sign per Lot. Said sign shall be limited in size to not more than four (4) square feet.

4.9 Exterior Lighting or Noise Making Device. No exterior lighting or noise making device shall be placed on any Lot or any portion thereof without prior written consent of the Architectural Review Committee.

4.10 Antennas. No television antenna, radio antenna, satellite antenna, or other device shall be placed on any Lot without prior consent of the Architectural Review Committee.

4.11 Limitation on Transfer. No Owner shall transfer either by conveyance, contract of sale or lease any interest in his Lot without the prior consent of the Architectural Review Committee.

4.12 Utilities. No above-ground utilities, pipes, or wires shall be used to connect Improvements with supplying facilities.

4.13 Parking. A minimum of two (2) parking places must be provided for each Lot. No boats, trailers, buses, motor homes, commercial vehicles, trucks larger than one ton, disabled vehicles or other similar vehicles shall be parked or stored on any Lot or in any street in a position whereby said vehicles will be visible from the street or from the homes on other Lots.

4.14 Fence, Sign, and Utility Easements. Declarant hereby reserves a nonexclusive easement as shown on official plats of Tanager Village for the purpose of the installation, maintenance and repair of a fence, entrance sign, utilities, and a rock or brick sign standard.

4.15 Utilities Easement. Certain Lots within Tanager Village are subject to a utility line easement as shown on official plats. This is a nonexclusive easement for the installation, maintenance and repair of underground utilities. No Improvement or structure of any kind, except a boundary fence, shall be permitted on the easement. Any landscaping or fencing placed upon the easement shall be done only in accordance with any applicable standards established by the City of Bend and/or Deschutes County. Neither the City of Bend nor Deschutes County, nor Declarant shall be responsible restoring any landscaping or fencing in the event the City of Bend and/or Deschutes County are required to enter upon the easement for the purposes set forth herein.

4.16 Lot Area, Width, Set-Back Lines. Lot area, width, and building set-back lines shall be in accordance with the requirements of the applicable City of Bend and/or Deschutes County Zoning and Land Use Regulations, and as shown on the Plat of Tanager Village.

4.17 Livestock, Poultry, and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

4.18 Sight Distance at Intersection. Regarding corner Lots, no fence, wall, or shrub planting which obstruct sight lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or, in the case of a rounded corner lot, 25 feet from the intersection of the extended street property lines. However, the applicable standards of the City of Bend or Deschutes County shall apply if such standards are more restrictive.

These site line distance limitations shall apply on allots within the first ten (10) feet of a street right-of-way line. No trees shall be permitted to remain within such distances unless the foliage line is maintained at sufficient height to prevent obstruction

of such sight lines, or, if the City of Bend and/or Deschutes County sight line limitations standard is more restrictive, the more restrictive standard shall apply.

4.19 Walls and Fences. Except as otherwise provided in Section 4.18 above, side and rear set back spaces may have a fence constructed to a height of six (6) feet and may be a solid fence. No boundary line hedge or shrubbery shall be permitted with a height of more than six (6) feet. No wall or fence of any height shall be constructed on any Lot until after the height, type, design and approximate location therefore, shall have been approved in writing by the Architectural Review Committee. The heights or elevations of any wall or fence shall be measured from the existing elevations of the property at or along the applicable points or lines.

4.20 Temporary Structures and Mobile Homes. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be erected, placed or used on any Lot at any time, either temporarily or permanently. No prefabricated or mobile home shall be permitted on any Lot unless approved in writing by the Architectural Review Committee.

4.21 Licensed Contractors. The principal structure on each Lot shall be constructed by a licensed contractor only. No amateur home building will be allowed within the subdivision.

4.22 Firearms and Related Activity. No firearm, crossbow, bow and arrow, or air gun, including without limitation, BB type or pellet guns shall be used within the subdivision.

4.23 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind where it can be viewed from any street or adjacent house.

4.24 Water and Sewer Supply. No individual water supply system or sewage disposal system shall be permitted on any Lot.

4.25 Severability. Invalidity of any use of these covenants by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

## Section 5. DURATION AND AMENDMENT OF THIS DECLARATION.

5.1 Duration. The Covenants, Conditions, and Restrictions of Tanager Village shall continue to remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject however, to the right to amend and repeal as provided herein) for a period of thirty years from the date this Declaration is recorded. However, unless within one year from the date of said



termination, there shall be recorded an instrument directing the termination of this Declaration signed by Owners of not less than fifty-one percent (51%) of the Lots then subject to this Declaration, this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without further notice for an additional period of ten years and thereafter for successive periods of ten years unless within one year prior to the expiration of such period the Covenants, Conditions, and Restrictions for Tanager Village are terminated as set forth above in this section.

5.2 Amendment. This Declaration or any provision thereof, or any Covenant, Conditions and Restrictions contained herein, may be terminated, extended, modified or amended, as a whole of said property or any part thereof with the written consent of the Owners representing seventy-five percent (75%) of total votes, provided that only fifty-one percent (51%) of the total votes shall be required to amend the Declaration regarding age restrictions, limitations on occupancy or limitations on rental or leasing of Owner's residences. All amendments shall be recorded in Deschutes County, Oregon.

5.3 Recordation. Any amendment, deletion, or repeal of this Declaration shall not become effective until recorded in the Official Records of Deschutes County, Oregon.

## Section 6. ENFORCEMENT.

6.1 Enforcement. The Declarant, Architectural Review Committee, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

6.2 In the event that legal suit or legal action is instituted for the enforcement of this Declaration or for any remedy for the breach of this Declaration, the prevailing party shall recover that party's reasonable attorney's fees incurred in such suit or action (or any appeal therefrom) as adjudged by the trial or appellate court.

## Section 7. EFFECT OF DECLARATION

The Covenants, Conditions, and Restrictions of this declaration shall run with the land included in Tanager Village and shall bind, benefit, and burden each Lot in Tanager Village, including any additions thereto. The terms of this Declaration shall inure to the benefit and shall bind Declarant and all Owners of any Lot in Tanager Village, their successors, assigns, heirs, administrators, executors, mortgagees, lessees, invitees or any other party claiming or deriving any right, title, or interest or use in or to any real property in Tanager Village. The use restrictions set forth in Section 4 of this declaration shall be binding upon all Owners, lessees, licensees, occupants and users of the property

known as Tanager Village and their successors in interest as set forth in this declaration, including any person who holds such interests as security for the payment of any obligation including any mortgagee or other security holder in actual possession of any Lot by foreclosure or otherwise and any other person taking title from such security holder.

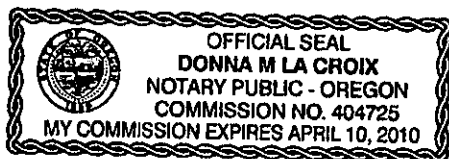
IN WITNESS WHEREOF, the Declarant has executed this Declaration this 17<sup>th</sup> day of January, 2007.

ASPEN BUILDERS & CONTRACTORS, LLC  
dba Tanager Homes and Tanager Custom Homes

By: [Signature]

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of January, 2007, by Greg Anderson of ASPEN BUILDERS & CONTRACTORS, LLC, an Oregon Limited Liability Company, on behalf of the company.



[Signature]  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 10 APRIL 2010

EXHIBIT A  
LEGAL DESCRIPTION

Lots 1 through 32 TANAGER VILLAGE, Deschutes County, Oregon