226

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2004-41671

$226.00

07/15/2004 09:27:55 AM

D-DCR Cnt=1 Stn=28 SHIRLEY
$200.00 $11.00 $10.00 $5.00

After Recording Return to:
North Rim Homeowners' Association, Inc.
409 NW Franklin Street
Bend, Oregon 97701
Attn: Sue Bussard

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR NORTH RIM

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR NORTH RIM (this "Declaration"), to be effective upon its recording in Deschutes County, Oregon, is made and executed on the date hereinafter set forth by Brooks Resources Corporation, an Oregon corporation, 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 A** attached hereto and incorporated herein by reference, which property was platted pursuant to that certain plat recorded in the real property records of Deschutes County on June 30, 2004, in Volume 2004, Page 39029.

Declarant desires to create a planned community known as North Rim on the land described on **Exhibit A** and on such other land as may be added thereto pursuant to the terms and provisions of this Declaration.

NOW THEREFORE, the Declarant declares that the real property described on attached **Exhibit A**, and any property subsequently annexed into this Declaration (collectively, the "Property"), shall be held, sold, hypothecated, and conveyed subject to the covenants, conditions, and restrictions declared below, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Homesite 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 or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

By recordation of this Declaration in the real property records of Deschutes County, Oregon, Declarant is hereby creating a Class I planned community, pursuant to and subject to ORS 94.550 to 94.785, and applicable successor provisions.

Funds for the maintenance and operation of common maintenance areas will be provided through assessments against those who purchase property within North Rim, 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 North Rim, there will be a system

After recording, return to
Amerititle
15 OREGON AVENUE, BEND

Recorded by Amerititle as an accommodation only. No liability is accepted for the condition of title or for the validity, sufficiency, or effect of this document.

designed to assure that each person who purchases property in North Rim will pay an equitable share of the costs for maintenance and development of the common maintenance areas.

ARTICLE I - DEFINITIONS

Section 1.1 "Architectural and Landscape Review Committee" or "ALRC"

"Architectural and Landscape Review Committee" shall mean the North Rim Architectural and Landscape Design Committee, established pursuant to Section 5.1.

Section 1.2 "Association"

"Association" shall mean North Rim 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 North Rim Homeowners' Association, Inc.

Section 1.4 "Buildable Area"

"Buildable Area" shall have the meaning given that term in Section 5.12 hereof.

Section 1.5 "Builder"

"Builder" shall mean Declarant and any residential building company acquiring Homesites from the Declarant for the purposes of construction and sale of homes.

Section 1.6 "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 1.7 "Common Areas"

"Common Areas" as used herein, shall mean only that portion of the Property, together with all improvements located thereon, that is established for the common use and benefit of property owners within North Rim and identified as "Common Areas" on a plat of any portion of the Property, in an amendment to this Declaration or in a supplemental declaration or Declaration of Annexation, and which shall be conveyed to the Association for the use and benefit of the Owners. The initial Common Areas are identified on the Plat as Common Lots and include a Lodge, sidewalks, open spaces, roads and trails. Until the Turnover Meeting, the Declarant shall have the right to designate Common Areas in the future by recordation of a duly approved amendment to this Declaration or by recordation of a supplemental declaration or

Declaration of Annexation. In addition, the private ways (roads) are initially designated as Common Maintenance Areas, but the Declarant reserves the right at any time in the future (prior to the Turnover Meeting) to designate such private ways and sidewalks (whether relocated or not) as Common Areas. Not later than the Turnover Meeting, Declarant shall convey in fee the Common Areas to the Association, subject to the Association's agreement to continue maintenance thereon. The Common Areas are subject to such easements as may be recorded against them and/or shown on the Plat.

Section 1.8 "Common Maintenance Areas"

"Common Maintenance Areas" shall mean that property and/or Improvements for which the Association bears some responsibility to operate and/or maintain and/or repair and/or replace and/or insure. Common Maintenance Areas include the Common Areas, but also includes other property and/or Improvements owned by third parties. The Association shall not be responsible for insuring and/or replacing real property that it does not own, though it may choose to do so, if the Board, in its sole discretion, deems the same to be in the best interests of the Association. The Common Maintenance Areas shall include the following:

1. The Common Areas;

2. All ornamental lighting on private ways (roads) and Common Areas;

3. The private ways (roads), which Declarant may relocate and/or realign from time to time prior to the Turnover Meeting;

4. Sidewalks, some of which cross individual Homesites;

5. The Native Areas (as defined in Section 1.18)

6. Any areas within public rights of way that are landscaped and/or irrigated by Declarant and/or the Association;

7. Utilities that serve Common Areas and, in the discretion of the Board, that serve Common Maintenance Areas;

8. Any street identification signs, including but not limited to traffic control and parking signs, or homesite markers and address markers installed by Declarant and/or the Association; and

9. Any areas within public rights-of-way, public easements, tracts, public parks or any other property (including improvements) that the Board deems necessary or appropriate to maintain for the common benefit of the Owners.

Until the Turnover Meeting, the Declarant shall have the right to designate additional Common Maintenance Areas (including Common Areas) in the future or to remove Common Maintenance Areas (but excluding Common Areas unless approved by a vote of the

Owners) by recordation of a duly approved amendment to this Declaration or by recordation of a supplemental declaration or Declaration of Annexation.

Section 1.9 "Conversion Date"

"Conversion Date" shall be the date upon which Class "B" membership (as defined in Section 2.2) shall cease and be converted to Class "A" membership (as defined in Section 2.2). Such date shall be the date which is the earliest of (i) the date at which one hundred percent (100%) of the total Homesites existing at any time (including any annexed Homesites) have been conveyed to Class "A" members; or (ii) fifteen (15) years after conveyance of the first Homesite to a Class "A" member; or (iii) at such earlier time as Declarant may elect in writing to terminate Class "B" membership.

Section 1.10 "County"

"County" shall mean Deschutes County, Oregon.

Section 1.11 "Declarant"

"Declarant" shall mean Brooks Resources Corporation and/or its successors and assigns, 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 Homesites acquired by such successor or assign.

Section 1.12 "Declaration"

"Declaration" shall mean this Declaration of Protective Covenants, Conditions, and Restrictions for North Rim and any amendments and supplements thereto made in accordance with its terms.

Section 1.13 "Design Guidelines" or "Guidelines"

"Design Guidelines" or "Guidelines" shall mean the North Rim Architectural and Landscape Design Guidelines, established and revised pursuant to Section 5.2.

Section 1.14 "Directors"

"Directors" shall mean the Board of Directors of the Association.

Section 1.15 "Homesite"

"Homesite" shall mean any of the plots or lots of land indicated upon the recorded subdivision map of the Property or any part thereof creating single-family homesites, with the exception of the Common Areas and the private ways (roads) and areas deeded to a governmental authority or utility, together with all improvements thereon.

Section 1.16 "Improvement"

"Improvement" shall mean every structure or improvement of any kind, including, but not limited to, a Unit, landscaping, screening features, site walls, walls, driveways, fixtures, shelters, or other product of construction efforts (including painting, alterations, and reconstruction) on or with respect to North Rim.

Section 1.17 "Native Area"

"Native Area" shall mean that portion of each Homesite designated in the Design Guidelines as the "Native Area" on which the applicable Owner may not install any Improvements, including landscaping; provided, however, each Owner shall be responsible for the restoration of any Native Area damaged by construction on the Homesite. Such restoration plan shall be subject to the prior, written approval of the ALRC. The Declarant shall install and the Association shall maintain native vegetation in the Native Area. As used herein, "native vegetation" shall mean vegetation that is native to Central Oregon or otherwise grows naturally in and around Central Oregon and is included on the North Rim Native Area Plant List maintained by the ALRC.

Section 1.18 "North Rim"

"North Rim" shall mean the community of North Rim created on the Property.

Section 1.19 "Ornamental Area"

"Ornamental Area" shall mean that portion of each Homesite designated in the Design Guidelines as the "Ornamental Area" on which the applicable Owner may install non-native landscaping, provided the same is first approved by the ALRC. The Ornamental Area shall be subject to screening or enclosing requirements established by the ALRC.

Section 1.20 "Owner"

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

Section 1.21 "Phase"

"Phase" shall mean all the Homesites made subject to this Declaration together as part of the same Plat.

Section 1.22 "Plat"

"Plat" shall mean the duly recorded plat of _____, recorded in Cabinet "__," Page ___ under Recorder's No. Volume 2004-_____, Official Records, Deschutes County,

Oregon and any other recorded plats of real property brought within the jurisdiction of the Association and made subject to this Declaration by a Declaration of Annexation.

Section 1.23 "Property"

"Property" shall mean the real property described on the attached **Exhibit A**, 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.

Section 1.24 "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 1.25 "Unit"

"Unit" shall mean any residential dwelling and all related accessory buildings situated upon any Homesite.

ARTICLE II – NORTH RIM HOMEOWNERS' ASSOCIATION, INC.

Section 2.1 Membership

The Declarant and every Owner of a Homesite by virtue of ownership of such Homesite shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Homesite. 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 Homesite owned. When more than one (1) person holds an interest in any Homesite, all such persons shall be members, but the vote for such Homesite shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Homesite.

B. Class B

The Class B member shall be the Declarant, who shall be entitled to one hundred twenty-five (125) votes for each Homesite it owns until the Conversion Date at which time the Class B membership shall be converted to a Class A membership.

Section 2.3 Suspension

All voting rights of an Owner shall be suspended during any period in which such Owner is thirty (30) or more days overdue in the payment of any assessment duly established pursuant to this Article II (provided the suspension shall not be effective unless and until the Association has followed all notice and hearing requirements established by applicable law, if any) or is otherwise in default under this Declaration, the Bylaws or the Rules and Regulations of the Association.

Section 2.4 Turnover Meeting

The Declarant shall call a Turnover Meeting within ninety (90) 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 planned community of North Rim 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 2.5 Immunity of the Board

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

Section 2.6 Clarification of Role of Association

The Association shall have the general powers and duties of a nonprofit corporation pursuant to the Oregon Nonprofit Corporations Act, as well as the specific powers and duties set forth in the provisions of this Article and the other provisions of this Declaration that expressly relate to the Association, as well as pursuant to the Articles of Incorporation of the Association ("Articles") and the Bylaws. However, unless expressly set forth herein or in the Articles or the Bylaws, the Association shall not act in the capacity of settling disputes between Owners or resolving problems that Owners may experience. Disputes or problems experienced by Owners to which the Association has no express authority or role as set forth in this Declaration shall be resolved by private, lawful means chosen by the affected Owners and there shall be no recourse to the Association.

Section 2.7 Transitional 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 planned community of North Rim to administrative responsibility by the Association. Not later than the sixtieth (60th) day after Declarant has conveyed to Owners other than Declarant Homesites representing fifty (50) percent or more of the Homesites then existing in North Rim, 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), or applicable successor provisions.

Section 2.8 Funding

Subject to the terms of this Article II, the Declarant hereby covenants for each Homesite owned within the Property, and each Owner of any Homesite by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (i) annual or periodic assessments or charges; and (ii) special assessments for capital improvements to the Common Areas and 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 2.10. Such assessments will remain effective for the full term (and extended term, if applicable) of this Declaration. 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 Homesite 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 Homesite(s) at the time when the assessment fell due.

Section 2.9 Annual Assessment or Charge for Homesites

Subject to the terms of this Article, each Homesite is hereby subject to an assessment in an amount not to exceed an amount 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 2.9, the "reserve fund" for matters described under Section 2.10, 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 will be paid by the Owner or Owners of each such Homesite in advance in monthly, quarterly or annual installments, commencing as provided in this Section 2.7. The rate at which each Homesite 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. Said rate may be adjusted from time to time by the Board 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 Homesite shall be uniform except as specifically provided herein or as provided in any Declaration of Annexation for North Rim. 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 Homesite has been paid for a particular assessment period. No Homesite Owner shall have any right to any common profits of the Association. All Homesites in a Phase (including those owned by Declarant) become subject to assessment on the day the first Homesite in that Phase is conveyed to an Owner other than Declarant. Notwithstanding any other terms contained herein, the Declarant shall have the right (i) to abate or pro-rate the initial imposition of annual assessments for the first Phase for a period of time determined by Declarant; and/or (ii) to abate or pro-rate annual assessments for Homesites sold prior to the date on which all intended subdivision improvements and/or improvements to Common Maintenance Areas are completed, all in Declarant's reasonable discretion.

Section 2.10 Declarant Responsibility

So long as there is Class B membership, Declarant hereby covenants and 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 2.11 Establishment of Maintenance Fund

The Association shall establish a maintenance fund composed of annual maintenance assessments and shall use the proceeds of such fund in providing for the operating expenses and normal, recurring maintenance expenses of the Association. Those items to be

funded by such assessments may include, by way of clarification and not limitation, any and all of those items listed in Section 3.2.

Section 2.12 Reserve Funds

A. Reserve Fund for Replacing Common Maintenance Areas.

Declarant shall in addition establish a reserve fund in the name of the Association for replacement, in whole or in part, of the Common Areas and any Improvements located in, on, or under 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, including exterior painting, if any. The reserve account need not include those items that could reasonably be funded from the maintenance fund. Declarant may elect to defer payment of accrued assessments for reserves for a Homesite owned by Declarant until the date the Homesite 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 Homesite, which assessment shall be spread equally over the Homesites. 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), if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds, 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. 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. The Board shall set future assessments for the reserve fund annually. 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 2.10.B.a, or other sources of reliable information.

B. Reserve Study.

a) Prior to conveying the first Homesite, the Declarant shall conduct an initial reserve study, which shall comply with the requirements for reserve studies set forth in Section 2.10.B.b. below and applicable law.

b) The Board shall annually commission or 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) the estimated remaining useful life of each item as of the date of the reserve study; (c) the estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and (d) 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 2.13 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 by resolution from time to time but in no event greater than the highest rate of interest 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, legal (if any) 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 Homesite and/or Unit.

Section 2.14 Subordinated Lien to Secure Payment and Other Obligations

To secure the payment of the maintenance charge and all other assessments (including for reserves) established hereby and to be levied on individual Homesites as provided in this Article II and they payment of interest, late charges, attorneys' fees or other charges against Owners provided for in this Declaration and/or the Bylaws and all other obligations of a Homesite Owner under this Declaration and the Bylaws, there is hereby reserved a lien for the benefit of the Association on each Homesite, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to any prior recorded deed of trust securing payment for the subject Homesite and/or the Unit on such Homesite; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Homesite upon which there is an outstanding valid and subsisting first mortgage lien, the Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage lien holder by prepaid U.S. registered mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lien holder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. The provisions of ORS 94.709 (or applicable successor provisions) shall apply to the Association's lien. Sale or transfer of a Homesite shall not affect the assessment lien. However, the sale or transfer of any Homesite 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 Homesite from liability for any assessments thereafter becoming due or

from the lien thereof. No sale, foreclosure or transfer shall extinguish the personal obligation of the Owner who owned the Homesite at the time the delinquent assessment and/or payment became due. The lien described herein shall include not just assessments but also interest, late charges, attorneys' fees, costs or other amounts imposed hereunder or under the Bylaws, regardless of whether the same are characterized as assessments.

Section 2.15 Additional Assessments

In addition to the periodic assessments described in this Article II, the Association shall have the authority to assess an Owner's Homesite(s) for costs and expenses incurred by the Association for corrective action that 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 Homesite, and the personal obligation of the Owner in the manner described in Section 2.6 for annual and special assessments.

Section 2.16 Limited Assessments

In addition to the other assessments set forth herein, the Association shall have the authority to levy assessments to satisfy the common expenses of a particular project or effort undertaken by the Association that benefits some, but less than all, of the Homesites (such assessments, "Limited Assessments"). Limited Assessments shall be levied against the Owners of those Homesites that benefit from the project or effort undertaken by the Association. An example, for illustrative purposes only and not as a limitation, of a project or effort giving rise to a Limited Assessment, is maintenance or repair of a tract of property that benefits and serves certain Homesites, but not other Homesites.

Section 2.17 Reallocation Upon Annexation of Property

If additional property is annexed to the Property, the Association shall, during the next annual budget cycle, recompute the budget based upon the additional Homesites and Common Areas and Common Maintenance Areas and recompute all applicable assessments for each Homesite. New Homesites shall be subject to assessment from the time of annexation of such Homesites to the Property even though such assessment may not be levied for several months, pending the reallocation during the next annual budget cycle. The Association shall send notice of any applicable assessment to the Owners of new Homesites not later than the next occurring annual assessment. Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than thirty (30) days after the date the notice is mailed or at such other time or times as the Association may specify in the notice in accordance with this Declaration or the Bylaws. If additional property is annexed to the planned community of North Rim during the Association's fiscal year, the Association shall send notice of and shall collect adjustments to assessments for Homesites that were within the Property prior to the annexation. Notice of the adjustment in the assessments shall be sent to such Owners with the next occurring annual assessment. To the extent that any adjustment results in a credit with respect to

assessments payable by an Owner, such credit shall be applied toward the next occurring payment or payments of the applicable assessment.

Section 2.18 Association Maintenance Standards

The Association shall maintain the Common Maintenance Areas to such standards as the Board may establish from time to time in its sole and absolute discretion.

Section 2.19 Professional Management

The Association may be professionally managed. In the event that the Board or the Owners elect to use a professional manager, the same shall be selected and hired by the Association Board. After the Turnover Meeting, the Board shall not engage any professional manager if any member of the Board has any financial (whether direct or indirect) or familial relationship with such manager unless such member (the "Interested Member") has disclosed the relationship and a majority of the Board other than the Interested Member has approved the contract. As used herein, familial relationship shall mean and include the following (whether natural or adopted): spouses, parents (including in-laws), siblings (including in-laws), children, grandparents, grandchildren, aunts, uncles, nieces, nephews, and first cousins. If a professional manager is engaged, the Board shall annually review the scope of and compensation provided by, the management contract.

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.

Section 3.2 Purpose of Maintenance Fund

The Board, for the benefit of the Owners, shall provide and shall pay for out of the maintenance fund provided for in Article II above the following:

A. Labor, supplies and operating costs associated with running the Association and performing its obligations hereunder, including the operation of Common Maintenance Areas;

B. Normal, recurring maintenance of the Common Maintenance Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for landscaping) and the Improvements to such Common Maintenance Areas, such as fences, columns, walls, grounds, landscaping, lights, irrigation systems and entry monuments, provided that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Maintenance Areas;

C. Repairs and enhancement of the Common Maintenance Areas;

D. Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Homesites and/or Owners, if any;

E. Payment of expenses for utilities serving Common Maintenance Areas for which the Association is responsible or the Board deems to be in the best interest of the Association;

F. The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager; provided that a management agreement entered into prior to the Turnover Meeting shall not have a term in excess of three (3) years and shall be terminable without penalty if the Board gives not less than thirty (30) days written notice of termination to the other party not later than sixty (60) days after the Turnover Meeting. The management agreement may provide that if it is not terminated as provided in the foregoing sentence, it will renew automatically for successive one-year periods, until terminated by either party (i) without cause, effective as of the next scheduled renewal date, by providing not less than thirty (30) days' written notice to the other party; or (ii) with cause, effective upon the date of written notice, by providing such notice to the other party;

G. Legal and accounting services for the benefit of the Association or otherwise deemed necessary by the Board, including, without limitation, payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the Property;

H. Payment of all reasonable and necessary expenses in connection with the collection and administration of assessments and Association funds;

I. A policy or policies of insurance insuring the Association and/or its Board and officers against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board, including a policy or policies of insurance as provided in Article IV;

J. Workers compensation insurance to the extent necessary to comply with any applicable laws;

K. Such fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable; and

L. Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, assessments, fees or costs, which (i) the Board

is required to obtain or pay for pursuant to the terms of this Declaration or by law; (ii) are necessary to fulfill the obligations of the Association hereunder; (iii) in the Board's opinion shall be necessary or proper for the enforcement of this Declaration; (iv) are necessary or desirable in the opinion of the Board to keep the Property neat and in good order; or (v) the Board considers to be of general benefit to the Owners or occupants of the Property.

The judgment of the Board in the expenditure of funds and what constitutes a proper expense under Section 2.9 and this Section 3.2 shall be final and conclusive so long as such judgment is exercised in good faith.

Section 3.3 Powers and Duties of Board

The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws of the Association and the powers and duties of a non-profit corporation pursuant to the Oregon Nonprofit Corporation Act and a homeowners association pursuant to ORS 94.630:

A. To execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.

B. To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.

C. To 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. To protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.

E. To make reasonable rules and regulations for North Rim, including the operation of the Common Areas, 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, or with respect to a rule applicable to less than all of the Property, by the Owners in the portions affected.

F. Within ninety (90) days after the end of the fiscal year, the Board shall prepare or cause to be prepared an annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year and distribute a copy of such financial statement to each Owner and, upon written request, to any mortgagee of a Homesite.

G. To make available for inspection by Owners within sixty (60) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals.

H. To 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.

I. To enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.

J. To collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.

K. To grant easements, licenses and concessions through or over the Common Areas.

Section 3.4 Board Powers Exclusive

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. The foregoing shall not be construed so as to prohibit the Board from delegating some or all of its contracting or other day-to-day management authority to a professional manager(s) and/or an officer(s), provided the Board maintains supervisory authority over such manager(s) and/or officer(s) and such manager(s) and/or officer(s) operate within a budget approved by the Board.

Section 3.5 Maintenance Contracts

The Board, on behalf of the Association, may enter into contracts by which the Association agrees to perform services that the Association is not otherwise required to perform. Such contracts may be with any Owner or other person or entity and shall be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association. Without limiting the generality of the foregoing and by way of example, the Association may contract to resurface an Owner's driveway at the same time as the Association is completing road projects on Common Maintenance Areas.

Section 3.6 Indemnification

The Association shall indemnify every officer, director, or member of a committee established under the Bylaws against all expenses, including attorneys' fees and costs, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as an expense funded by maintenance assessments, maintain adequate officers' and directors' liability insurance to fund this obligation.

ARTICLE IV - COMMON MAINTENANCE AREAS

Section 4.1 Improvements

The Declarant has or will construct the following Improvements to the Common Maintenance Areas (which shall become Common Maintenance Areas upon completion): Entry monument(s), including landscaping, irrigation and lighting; utilities to serve Common Areas, and, in the discretion of the Board, Common Maintenance Areas; landscaping, irrigation, street lighting, street signs within street rights of way, and mail station(s) located in the lodge; some ornamental lighting on roads and Common Areas; a lodge; trails as shown on a Plat; and roads and sidewalks. The foregoing shall not be construed so as to require that such Improvements be built to any specified design or other standards, except applicable Deschutes County or State of Oregon codes and requirements. Notwithstanding the foregoing, the Declarant does not choose to limit its right to add Improvements not described in this Declaration to the planned community of North Rim, whether on Common Maintenance Areas or not. Until the Turnover Meeting, Declarant shall have the right to use the lodge for sales and other purposes, including Association and ALRC management.

Section 4.2 Association to Hold

Declarant shall convey the Common Areas to the Association, free and clear of financial liens and encumbrances not later than the Turnover Meeting. The Association shall own all Common Areas in fee simple and assume all maintenance obligations with respect to any Common Maintenance Areas, including any Common Areas that may be hereafter established. Nothing contained herein shall create an obligation on the part of Declarant to establish any additional Common Area. Following the conveyance of the Common Areas to the Association, the dedication, mortgage, or conveyance of any Common Areas shall require the affirmative vote of at least seventy five percent (75%) of the outstanding votes.

Section 4.3 Liability Insurance; Casualty Insurance

From on and after the date on which title to or responsibility for any Common Areas or Common Maintenance Areas vests in the Association, the Association shall purchase and carry (i) insurance for all insurable improvements in the Common Maintenance Areas against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, which insurance shall cover the full replacements costs of any repair or reconstruction in the event of damage or destruction from any such hazard if the insurance is available at reasonable cost; and (ii) a general comprehensive public liability insurance policy for the benefit of the Association, covering occurrences on the Common Areas and in the Common Maintenance Areas and all damage or injury caused by the negligence of the Association, which policy limits shall be as determined by the Board of the Association, but shall include public liability insurance of at least One Million Dollars ($1,000,000.00) per occurrence. The Association shall use its best efforts to see that such policy shall contain, if available, cross-liability endorsements or other appropriate provisions for the benefit of the Board, the Owners and other insureds, as their interests may be determined by the Board, ensuring all

against liability to each other insured as well as third parties. Any proceeds of insurance policies owned by the Association shall be received, held in a segregated account and distributed to all interested parties, as their interests may be determined. The insurance coverage obtained and maintained by the Association may not be brought into contribution with insurance bought by Owners or their mortgagees.

Section 4.4 Condemnation

If there is a condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the Association shall represent the Owners in negotiations with the condemning authority. The funds payable with respect thereto shall be payable to the Association and shall be used by the Association to purchase additional Common Areas to replace that which has been condemned or to take whatever steps it deems reasonably necessary to repair or correct any damage suffered as a result of the condemnation. If the Board of Directors of the Association determines that the funds cannot be used in such a manner due to the lack of available land for additional Common Areas or for whatever reason, any remaining funds may be distributed to each Owner based on an equal amount per Homesite.

Section 4.5 Maintenance of Common Maintenance Areas

The Association will permanently maintain, repair and replace as necessary:

A. All Common Maintenance Areas (including Common Areas); and

B. The improvements installed pursuant to Section 4.1, to the extent the same benefit the Association and/or the Owners.

Section 4.6 Prohibited Activities

Neither the Association nor any Owner shall conduct any of the following activities within any Common Maintenance Area or any Common Area: i) the removal of any tree without the written approval of the Architectural and Landscape Review Committee; ii) the removal of any other vegetation without the written consent of the ALRC; iii) the modification, grading, excavation, filling or other activities which would alter the topography or vegetative cover of any Common Maintenance Area or Common Area without the written consent of the ALRC; v) the disposal or placement of any debris, refuse, soil, rock, landscape debris or other deleterious materials; vi) parking, storage, repair, or disposal of any motor vehicle; and vii) motor vehicle access (except on roads or roadways or as may be necessary for repairs or maintenance approved by the Board or in conjunction with maintenance of utilities). The prohibitions contained in this Section 4.6 shall not apply to the activities of Declarant or to any Homesites owned by Declarant.

ARTICLE V - ARCHITECTURAL REVIEW

Section 5.1 Architectural and Landscape Review Committee

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

A. The members of the ALRC shall be appointed, terminated and/or replaced by the Declarant until the earlier to occur of the following: (i) the date of expiration of the Initial Term of this Declaration; or (ii) the date on which Declarant records an instrument in the real property records of Deschutes County stating that it is turning over control of architectural review, including appointment of ALRC members, to the Association, which shall occur no earlier than the date of the Turnover Meeting, but which may occur later than the date of the Turnover Meeting. Thereafter the Board shall appoint the members of the ALRC. After Declarant has turned over control of architectural review, members of the ALRC 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 ALRC simultaneously.

B. The purpose of the ALRC is to enforce the architectural and design standards of the community and to approve or disapprove plans for improvements proposed for the Homesites.

C. The ALRC 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, landscaper, inspector or other person to assist in the performance of its duties.

D. The ALRC shall establish an appeal procedure from time to time, but after exhaustion of such appeal(s), the decision of the ALRC shall be final. In no event may an ALRC decision be appealed to the Board.

E. No approval of the ALRC required hereunder shall be valid unless and until the same is granted in writing.

Section 5.2 Architectural Guidelines

The Declarant has adopted the initial North Rim Architectural and Landscape Design Guidelines (the "Design Guidelines"). Amendments, modifications, or revisions to the Guidelines may be made by the Declarant, without the consent of anyone, prior to the date on which Declarant turns over control of the Architectural Review Committee pursuant to Section 5.1.A. Thereafter, the ALRC shall have the sole authority to amend, modify, or revise the Guidelines. No such amendments, modifications, or revisions shall affect any prior ALRC approval.

Section 5.3 Scope of Review

No building, wall, patio, deck, outbuilding, landscaping, pool, athletic facility or other structure or Improvement shall be erected, altered or added onto or repaired upon any portion of the Property without the prior written consent of the ALRC, 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 shall include restrictions on, and ALRC review shall include a review of, materials, colors, design, location and such other items as the ALRC shall determine from time to time in its sole discretion.

Section 5.4 Submission of Plans

Before the initiation of construction upon any Homesite (including material changes to landscaping), the Owner thereof shall first submit to the ALRC such documents and materials as may be required by the Guidelines in accordance with the procedure outlined in the Guidelines. Such submission shall include payment of the review fee payable pursuant to the schedule established and amended by the ALRC from time to time.

Section 5.5 Plan Review

The ALRC shall review all submissions in accordance with the procedures established in the Guidelines. The proposed Improvements will be approved if, in the sole opinion of the ALRC: (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, has procured insurance reasonably acceptable to the ALRC and it in good standing with the ALRC; and (v) the Improvements will be substantially completed, including all cleanup, within the schedule set by the ALRC.

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 ALRC unless the Owner subsequently obtains ALRC approval for such deviation, which approval may be granted or denied in the ALRC's sole discretion. The ALRC, 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 ALRC and/or the Association, shall constitute an assessment against the applicable Homesite(s).

Section 5.7 Immunity of ALRC Members

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

Section 5.8 Limited Review

Any review and approval made by the ALRC is limited to compliance with the intent of the architectural and design standards of the neighborhood as may from time to time be established by the ALRC and/or the Guidelines. The review and approval made by the ALRC 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 by the ALRC be deemed an assurance or statement of compliance with any applicable laws, ordinances or regulations.

Section 5.9 Address for Notice

Requests for ALRC approval or correspondence with the ALRC shall be addressed to North Rim Architectural Review Committee, c/o Owner Relations Department, 409 NW Franklin Avenue, Bend, OR 97701, or such other address as may be designated from time to time by the ALRC 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 ALRC in a form satisfactory to the ALRC.

Section 5.10 Completion of Improvements

Once construction has commenced, each Owner shall substantially complete construction, including all cleanup, of the initial Unit and the installation of landscaping on the Homesite within the schedule set by the ALRC. ALRC approval shall be deemed invalid if construction does not commence on the approved Improvement within a period established by the ALRC. The ALRC shall have the right to grant extensions for any deadlines it established with respect to any Homesite when it deems the same reasonable under the circumstances.

Section 5.11 Unimproved Homesite Maintenance

The Association shall maintain any vacant Homesite in accordance with its standards for maintaining Native Areas.

Section 5.12 Buildable Area

Each Homesite shall have a Buildable Area. The Buildable Area shall not exceed forty percent (40%) of the Homesite and shall meet the following setbacks: 40 feet from the front property line; 40 feet from the rear property line; and 15 feet from the side property lines, unless other setbacks are established for a particular Homesite on the Plat. The Buildable Area shall be established by the Owner as part of the initial design review process, but shall be subject to prior ALRC approval. All Improvements on any Homesite shall be located within the Buildable Area, except for driveways (including lighting) and address markers, the location and design of which must first be approved by the ALRC. Each Owner shall be solely responsible for the maintenance, repair and replacement, as applicable, of his or her Buildable Area and all Improvements (including landscaping) located thereon, except to the extent there are Native Areas within the Buildable Area. Such Native Areas shall be maintained by the Association. In the event that an Owner wishes to relocate a Buildable Area, the same shall require ALRC approval.

Section 5.13 Landscaping

Each Homesite shall have a Native Area and an Ornamental Area, each of which shall be designated in the Design Guidelines. The Declarant shall install and the Association shall maintain the landscaping in the Native Area. Each Owner shall be responsible for the installation and maintenance of landscaping in the Ornamental Area. The vegetation in the Ornamental Area shall be selected from a list of approved plants maintained by the ALRC or shall be otherwise approved by the ALRC in writing. The Ornamental Area must be screened by Site Walls as approved by the ALRC.

ARTICLE VI - EASEMENTS

Section 6.1 Utility Easements

As long as the Declarant owns a Homesite, the Declarant hereby reserves the right to grant perpetual, nonexclusive easements for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Common Area for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, fiber optic cables. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables or other improvements installed on or in such easements. The Board shall also have the right to grant the easements described herein, subject to the approval of the Declarant so long as Declarant owns a Homesite.

Section 6.2 Declarant's Easement to Correct Drainage

Declarant hereby reserves for the benefit of Declarant (including its contractors and employees) a blanket easement, including a right of entry, 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 to correct or maintain any drainage facilities within the Property.

Section 6.3 Easement for Unintentional Encroachment

The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Common Area caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching property to the extent of such encroachement.

Section 6.4 Entry Easement

If the Owner of any Homesite fails to maintain the Homesite as required herein, fails to comply with any requirements hereunder, or if there is an emergency, the Association and/or the ALRC (in the case of violations of the Design Guidelines) shall have the right to enter upon the Homesite as provided herein. The Association shall have the right to enter upon the Homesite to make emergency repairs without providing advance notice. The Association shall have the right to enter upon the Homesite to do other work reasonably necessary for the proper maintenance and operation of the Homesite after providing five (5) days' written notice to the Owner. In the event that the failure to comply is related to Article V and/or the Guidelines, the ALRC shall have the right to enter upon the Homesite to do the work reasonably necessary to bring the Homesite into compliance by providing one (1) day 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 Homesite or, if the Homesite is vacant, upon a post placed on the Homesite. Entry upon the Homesite as provided herein shall not be deemed a trespass, and neither the Association nor the ALRC shall be liable for any damage so created unless such damage is caused by the Association's or the ALRC's willful misconduct or gross negligence.

Section 6.5 Reserved Easements

Easements for installation and maintenance of utilities and/or buffers with adjacent property are reserved as may be shown on the 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 would violate the terms of the easements as described on the Plat. The easement area of each Homesite and all improvements contained therein shall be maintained continuously by the Owner of the Homesite, except for those improvements for which a public authority, utility company or the Association is responsible. In addition, the Declarant hereby reserves an easement in favor of the Association to permit maintenance, repair and replacement of sidewalks, Native Areas, utilities serving Common Maintenance Areas and all other Common Maintenance Areas, as deemed reasonably necessary by the Board.

Section 6.6 Temporary Completion Easement

Until the Turnover Meeting, all Homesites 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 Homesites adjacent to the property.

Section 6.7 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 the Common Areas and any Common Maintenance Areas or other areas of North Rim necessary or appropriate for purposes of accomplishing the maintenance, repair, replacement or other obligations of the Association hereunder. The foregoing includes, without limitation, an easement over the Native Area portion of each Homesite to permit the Association to maintain, install and/or replace any vegetation or other landscaping in such areas. It also includes an easement over individual Homesites to permit maintenance, repair and replacement of sidewalks.

Section 6.8 Trail Easement

Declarant shall have the right to grant an easement to the public over portions of the trails, as shown on the Plat.

ARTICLE VII- USE, OCCUPANCY, CASUALTY, AND INSURANCE

Section 7.1 Residential Use/Rental/Compliance by Invitees

Except for Homesite 1 (the lodge), which may be used by Declarant and/or the Association for development of North Rim, management of the Association (including ALRC purposes) and/or sales purposes, all Homesites and Units shall be used only for single-family residential purposes in accordance with, and subject to, the other provisions of this Declaration. No Homesite and/or Unit may be sold to or owned by more than four (4) people or entities jointly. Pursuant to ORS 94.811, in no event shall any Homesite and/or Unit be used as a "timeshare" (as that term is defined by Oregon law, ORS 94.803). No Owner or Owners of any Homesite may rent his or her Unit to any person or persons for transient occupancy. As used herein, "transient occupancy" shall mean a period of thirty (30) days or less. Transient use shall not include a rental of any Unit for a period of in excess of thirty (30) consecutive calendar days. 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 Homesite 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 Homesite without the written approval of the Board; provided, however, home offices shall be permitted unless so long as the same does not constitute a nuisance. In the event of disputes, the determination of the Board as to whether a home office constitutes a nuisance shall be final. 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 Use/Construction Trailers

The provisions of this Article shall not apply to the use of any Homesite or Unit by the Declarant, as i) a model home, sales office, or construction office; or ii) the use of any Homesite as a site for a sales office trailer or construction office trailer. Construction trailers may be permitted with written approval from the ALRC, which approval may be granted or withheld in the ALRC's sole discretion.

Section 7.4 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 or consistent with such plans and specifications as are approved in accordance with Article V of this Declaration. Alternatively, the Owner shall promptly clear the Homesite of all debris and ruins and maintain the Homesite consistent with the terms of Section 5.11. 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 (or within such other schedule as is established by the ALRC in writing), unless work is delayed by causes beyond the reasonable control of the Owner. If an Owner fails to timely repair such damage or clear the Homesite, the Association shall have all rights of enforcement and remedies set forth under this Declaration. The ALRC shall have the right to extend the deadlines contained in this Section 7.4 if it deems the same reasonable under the circumstances; provided, however, in no event may any Owner leave his or her Unit or Homesite in a condition that poses a health or safety hazard.

ARTICLE VIII- PROPERTY RIGHTS

Section 8.1 Owner's Use and Occupancy

Except for the easements shown on the Plat and/or granted herein, or as otherwise provided herein, by applicable law or by the terms of any instruments recorded against the

applicable Homesite, the Owner of a Homesite shall be entitled to the exclusive use and benefit of such Homesite. Declarant, the ALRC 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 Homesite for the purpose of determining whether or not the use of and/or Improvements on such Homesite are then in compliance with this Declaration; provided however, except in the case of emergency, the Association shall first provide the Owner with five (5) days' prior written notice if entry is to be by the Association or Declarant or one (1) day written notice if entry is to be by the ALRC, which notice may be given by posting on the front door of the Unit or, if the Homesite is vacant, upon a post placed on the Homesite. No notice shall be required in the case of emergency. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Homesite.

Section 8.2 Owners' Easements of Enjoyment

Every Owner shall have a right and easement in and to the Common Areas and a right and easement of ingress and egress to, from and through said Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Homesite, subject to the following provisions:

A. The right of the Association to establish and publish rules and regulations governing North Rim, including use of the Common Areas, affecting the welfare of Association members.

B. The right of the Association (subject to such notice and/or hearing requirements as may be imposed by applicable law) to suspend the right of use of the Common Areas and the voting rights of an Owner for any period during which any assessment against his Homesite remains unpaid or during which such Owner is otherwise in material breach hereunder; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

C. The right of the Association, subject to the provisions hereof, to dedicate or transfer all or any part of the Common Areas, if any, to any public agency, authority or utility for public right-of-way purposes. Any other transfer or mortgage of Common Areas requires the consent of at least seventy-five percent (75%) of the votes outstanding, and the consent of the Declarant so long as Declarant owns a Homesite.

D. All easements herein described are easements appurtenant to and running with the land; they shall at all times inure to the benefit of and be binding upon the undersigned, all of their grantees, and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

Section 8.3 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 8.4 Rezoning Prohibited

No Homesite shall be rezoned without the prior written consent of the Board and of the Declarant so long as Declarant owns a Homesite, 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 8.5 Homesite Consolidation and Division

An Owner may consolidate multiple Homesites he or she owns, provided, however, the same is first approved by the City of Bend and then the ALRC has approved the design plan for the Unit. No Homesite may be subdivided. Notwithstanding the foregoing, so long as there is at least one Class B Member, Declarant shall have the right to consolidate and/or subdivide Homesites within North Rim, provided no homesite is less than one (1) acre in size, subject to applicable City of Bend Ordinances without first obtaining the consent of the ALRC. Upon the completion of a subdivision of a Homesite, each newly created parcel shall immediately constitute a Homesite and the owner of fee title thereof shall become an Owner with all of the rights granted to Owners hereunder. Upon the completion of a subdivision of a Homesite, each newly created Homesite shall be entitled to the voting rights as set forth in Section 2.2, and assessments shall be reallocated and reapportioned in the manner set forth in Section 2.14 as if each of the newly created lots had been annexed into North Rim. Upon the completion of a consolidation of multiple Homesites, the newly created Homesite shall be treated as the original number of Homesites for voting and assessment purposes.

Section 8.6 Drainage Alteration Prohibited

The surface water drainage contours of each Homesite 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 Homesite has adequate drainage and does not cause runoff to be directed onto any adjacent property.

Section 8.7 Damage or Destruction By Owner

If damage to any Common Area or Common Maintenance Area is directly attributable to an Owner or the family members, invitees, licensee, or guest of an Owner, then that Owner shall repair such damage or destruction as soon as reasonably practicable, but in no event later than fifteen (15) days after the date the damage occurred, at his or her sole expense

and without a right of reimbursement. If an Owner fails to repair such damage timely, the Association shall have all rights of enforcement and remedies set forth under this Declaration.

ARTICLE IX- USE RESTRICTIONS/BUILDING STANDARDS

Section 9.1 Exterior Lighting and Noise-making Devices.

All exterior lighting and noise-making devices shall be subject to the Design Guidelines, the review and approval of the ALRC and all applicable ordinances.

Section 9.2 Nuisances

No noxious or offensive activity shall be carried out upon any Homesite, 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 to whom Declarant assigns such rights, 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

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 Homesite 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 (with permission from Declarant) to use trailers or outbuildings as sales offices, construction offices, material storage facilities, or sanitation facilities.

Section 9.5 Signs

Except as permitted in this Section 9.5, no sign or emblem of any kind may be kept or placed upon any Homesite or mounted, painted or attached to any Unit or other improvement upon such Homesite or carried by any person or by any other means displayed within the Property except with the written approval of the ALRC. Notwithstanding the foregoing, "for sale" signs shall be permitted on a Homesite provided the same complies with ALRC design standards. In addition, until the Turnover Meeting, Declarant may erect signs or billboards, and at any time, Declarant or the Association shall have the right to erect signs or monuments that identify North Rim, in either case without the need for ALRC approval. This

Section 9.5 shall not be construed to prohibit flags; flags shall be subject to such restrictions and/or prohibitions as may be contained in the Guidelines and/or the rules and regulations.

Section 9.6 Campers, Boats, Recreational Vehicles, Certain Trucks, Commercial Vehicles, and other Non-Passenger Vehicles

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 on any Homesite except (i) with the Board's approval, or (ii) as provided below:

A. Except to the extent the same is screened from public view and from the view from adjacent property (including adjacent Homesites and public rights of way), no recreational vehicles, disabled vehicles, campers, boats, boat trailers, recreational trailers, or other types of non-passenger vehicles, equipment, implements, or accessories shall be parked or stored on or adjacent to any Homesites. In the event of a dispute as to whether there is adequate screening for purposes of this Section 9.6, the determination of the ALRC shall be definitive.

B. The Board, as designated in this Declaration, shall have the absolute authority to determine from time to time whether a vehicle, equipment, implements and/or accessory is operable and adequately screened from public view and from the view from any portion of the Property other than the applicable Homesite. Upon an adverse determination by said Board, the vehicle and/or accessory shall be removed and/or otherwise brought into compliance with this Section 9.6.

C. 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 public view and from the view from any portion of the Property other than the applicable Homesite.

Section 9.7 Pets, Livestock and Poultry

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Homesite, 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. In the event of a dispute, the Board shall make the final decision as to what constitutes "a reasonable number" under particular circumstances. All such animals shall be kept on the Homesite and in strict accordance with all applicable laws and ordinances (including leash laws) and in accordance with all rules established by the Association. No animal shall be allowed to run at large, and all animals shall be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the ALRC, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be subject to the ALRC approval. Each Owner is solely responsible for his or her pets, shall assure that

such pets do not create a nuisance or otherwise damage any portion of the Property, and shall clean up after such pets.

Section 9.8 Garbage and Refuse Disposal; Wood Piles

No Homesite, Common Area or any other portion of North Rim shall be used or maintained as a dumping ground for rubbish. Compost, recycling, trash, garbage or waste shall not be kept, or disposed of, on any Homesite or Common Area 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 compost, trash, garbage, refuse, rubble, debris, or recyclable materials shall be stored, kept, placed or maintained on any Homesite where visible from any street except solely on a 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 front of a residence and beside a street for removal, but shall be removed from view before the following day. All screening shall be of an attractive nature, consistent with the overall development scheme of North Rim. Wood storage shall be subject to ALRC approval.

Section 9.9 Parking in Common Areas/No Parking Signage

No vehicles, trailers, implements or apparatus may be driven or parked in the Common Areas, or on any easement unless in use for maintaining such Common Areas, provided however, that this restriction shall not apply to driveways, streets or paved areas intended for vehicular use. In addition, parking of vehicles is prohibited on any public or private street 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 9.9 at the vehicle owner's expense.

Section 9.10 Commercial or Institutional Use

No Homesite, and no building erected or maintained on any Homesite shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purposes, except as set forth in Article VII.

Section 9.11 Detached Buildings

No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Homesite without the prior consent of the ALRC. 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 and consistent with the Guidelines.

Section 9.12 General Landscaping and Exterior Maintenance

A. Except for the Native Areas, which are to be maintained by the Association, each Homesite Owner shall keep all shrubs, trees, grass, and plantings of every kind on his or her Homesite cultivated, pruned, free of trash, and other unsightly material. Each Homesite Owner shall keep all Improvements upon his or her Homesite in good condition and repair and adequately painted or otherwise maintained. Declarant, the Association, and the ALRC shall have the right at any reasonable time to enter upon any Homesite 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 Homesite Owner; provided, however, except in the case of emergency, the Declarant, the Association and/or the ALRC shall first provide the Owner with at least one (1) day prior written notice, which notice may be given by a posting on the front door of the Unit located on such Homesite or, if the Homesite is vacant, upon a post placed on the Homesite.

B. The initial landscaping, as well as all subsequent material changes to such landscaping, shall be subject to final approval by the ALRC. Except for the Native Areas, all landscaping shall remain fully irrigated unless otherwise approved by the ALRC. All Owners shall keep their Homesites, including all Improvements thereon, well-maintained and in an attractive condition, consistent with the overall development approved within North Rim by the ALRC. All vacant Homesites shall be maintained in a manner that is consistent with ALRC guidelines for vacant Homesites.

C. Except in the case of imminent threat of harm to persons or Improvements or as may be deemed advisable by the Association, the removal of trees shall require the prior written approval of the ALRC. All tree removal shall comply with applicable laws and ordinances.

Section 9.13 Antennae, Satellite Dishes and Solar Collectors

No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any Homesite unless such apparatus is erected and maintained in such a way that it is screened from public view and from the view from any portion of the Property other than the applicable Homesite; and no such apparatus shall be erected without the prior written consent of the ALRC. The ALRC, as designated in this Declaration, shall have the absolute authority to determine whether an accessory is adequately screened. The authority of the ALRC in this matter shall be subject to any regulations issued by the Federal Communications Commission ("FCC") or any other applicable governmental authority.

Section 9.14 Clothes Hanging Devices/Fences

Clothes hanging devices exterior to a dwelling shall be temporary, unaffixed structures shall not be visible from adjacent property or any portion of the Property. Clothes hanging devices shall be screened from public view and from the view from any portion of the

Property other than the applicable Homesite. No fences shall be permitted except as may be installed by the Association.

Section 9.15 Security

Neither Declarant nor the Association shall be responsible for security of the Common Maintenance Areas (including the Common Areas) or any Unit or Lot, and the Owners are exclusively responsible for their own security and the security of their Units, Improvements, Lots and property. The Association may elect to, but shall not be required to, provide security features, such as security guards, patrols and/or security cameras within North Rim. The provision of such security features shall not, in any event, be construed to obligate the Association to provide security for North Rim nor shall it subject the Association to liability for any failures of such security features. By acceptance of a deed, each Owner specifically agrees to the terms of this Section 9.15.

Section 9.16 Construction Activities

This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction or remodeling of or making of additions to improvements by a Homesite Owner (including Declarant) upon any Homesite within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the Deschutes County area. In the event that construction upon any Homesite does not conform to usual practices in the area as determined by the ALRC in its sole good faith judgment, the ALRC shall have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Homesite, there is excessive accumulation of debris of any kind which is offensive, or detrimental to it or any other portion of the Property, then the ALRC may contract for or cause such debris to be removed, and the Homesite Owner shall be liable for all expenses incurred in connection therewith. Each Owner shall assure that his or her contractor(s) shall strictly comply with such construction rules and regulations as may be set forth by the ALRC and/or the Board from time to time.

Section 9.17 Unit Construction

All buildings or other Improvements, permanent or temporary, habitable or uninhabitable, must be constructed, placed and maintained in conformity with such setback standards as may be imposed by the local governmental jurisdictional authority, as may be set forth in the deed for a particular Homesite and/or as may be established by the ALRC from time to time. In no event shall any Owner apply to the applicable local governmental jurisdictional authority and/or the ALRC for a variance to construct any Improvement in excess of thirty (30) feet.

Section 9.18 ALRC Supervisory Authority Over Construction Activities

All construction activities on the Property, including, without limitation, staging, shall be governed by the ALRC and such guidelines, rules and regulations as it may promulgate from time to time. The foregoing is intended and shall be construed to give the ALRC the right, but not the obligation, (i) to provide supervision of construction activities; and (ii) to enforce ALRC guidelines, rules and regulations.

Section 9.19 Motorized Vehicles

Except for emergency vehicles, security and maintenance vehicles (to the extent owned, commissioned or authorized by the Association) and utility maintenance vehicles, no motorized vehicles of any kind shall be permitted on any part of the Property other than roads and driveways.

ARTICLE X - ANNEXATION

Section 10.1 Annexation by Declarant

At any time during the Initial Term of this Declaration, the Declarant may, at its sole option, annex additional property into the Association to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. Declarant currently anticipates that there will be a total of approximately 122 Homesites in the planned community of North Rim, including the Homesites currently existing, and Homesites expected to be created in property to be annexed to North Rim, but this number may be adjusted at the sole discretion of Declarant, subject to the terms of Section 10.1.A. There shall be no maximum number of Homesites which may be created by Declarant. Declarant shall have no obligation of any kind to annex any additional property to the Property.

A. Eligible Property

Any or all of the real property in Deschutes County, Oregon adjacent to ("adjacent" property shall include property on the other side of a public right of way, a public or private street or a river) or contiguous with the Property shall be eligible for annexation. There is no limitation on the amount of land that Declarant may annex to the Property, or the right of Declarant to annex common property, except as may be established by applicable ordinances, agreements, or land use approvals or as set forth herein.

B. Consent or Joinder Not Required

No consent or joinder of any Class A member or other party except the record owner of the land being annexed shall be necessary to effect any annexation made pursuant to this Section.

C. Declaration of Annexation

Annexation shall be evidenced by a written Declaration of Annexation (the "Declaration of Annexation") executed by the Declarant, or (in the case of an annexation by action of members) by the Board and the owners of the property being annexed, setting forth the legal description of the property being annexed and any additional covenants, conditions and restrictions to be applied to such annexed property. Notwithstanding any provision apparently to the contrary, a declaration of annexation with respect to any annexed property may:

i) establish such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property;

ii) establish additional or different limitations, uses, restrictions, covenants and conditions as Declarant may deem to be appropriate for the development of such annexed property; and/or

iii) contain provisions necessary or appropriate to comply with any condition, requirement, or imposition of any governmental or regulatory authority.

Without limitation of the meaning of the foregoing provisions of this Section 10.1, in any Declaration of Annexation Declarant may, but shall not be obligated to, establish easements particular to different Homesites and/or to create any such Sub-Associations as it may elect.

D. Voting Rights; Allocation of Assessments

Upon annexation, additional Homesites so annexed shall be entitled to the voting rights as set forth in Section 2.2, and assessments shall be reallocated and reapportioned in the manner set forth in Section 2.14.

Section 10.2 Annexation by Action of Members

At any time the Board may request approval of the membership for the annexation of additional property into the Association to be subject to all of the terms of this Declaration to the same extent as if originally included herein. No such annexation shall be effective unless approved by at least seventy-five percent (75%) of the outstanding votes and by Declarant so long as Declarant owns at least one (1) Homesite. Any property that is contiguous to existing property subject to this Declaration may be annexed hereto according to the foregoing requirements, provided however, that no such annexation shall be effective without the consent and joinder of the owners of the property to be annexed. Such annexation must be evidenced by a Declaration of Annexation as set forth in Subsection 10.1.C above executed by the parties herein described.

Section 10.3 No Duty to Annex

Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any member to annex any property into the Association and no owner of property excluded from the Association shall have any right to have such property annexed thereto.

ARTICLE XI – GENERAL

Section 11.1 Remedies

If any default by any Owner under the provisions of the Declaration, Bylaws, Design Guidelines 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 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 Homesite 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 by resolution from time to time but in no event greater than the highest rate allowed by Oregon law at the time of the non-payment, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective additional assessment or maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Homesite and upon all of his additions and improvements thereto, and upon all of his personal property upon the Homesite. Any and all of such 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 11.1, any and all costs incurred by the Association and/or the ALRC in remedying an Owner's violation of this Declaration shall be an assessment against such Owner's Homesite in accordance with Section 2.13, secured by a lien upon such Homesite pursuant to the terms of Section 2.12.

Except as specifically provided for in this Declaration or the Bylaws, no party in any arbitration, mediation or other proceeding shall be entitled to recover costs or attorneys' fees in connection therewith. To the fullest extent allowed by law, the Association shall not file or maintain any litigation for damages in excess of $5,000 unless first approved by at least sixty-six percent (66%) of the outstanding votes of the Owners, and the defendant may cause any such litigation filed without such prior approval to be dismissed with prejudice. The foregoing restriction shall not apply to litigation related to the collection of assessments, fines or interest owed to the Association pursuant to the terms of this Declaration or the Bylaws or to actions to summarily abate and remove a structure or condition that violates the Declaration or the Bylaws.

The limitation set forth in this paragraph shall increase by $500 on each fifth anniversary of the recording of this Declaration.

Section 11.2 Fines Imposed by the Association

In addition to any other remedies available to the Association hereunder, the Association shall have the right to impose reasonable fines upon an Owner who violates the Declaration, Bylaws and any rules or regulations of the Association, in the manner and amount the Board deems appropriate in relation to the violation. Prior to collecting (but not prior to imposing) such fines, the Association shall give such written notice and an opportunity to be heard as may be required by applicable law. All such charges or fines shall be based upon (i) a schedule contained in the Bylaws (or amendment thereto or to this Declaration that is delivered to each Homesite, mailed to the mailing address of each Homesite or mailed to the mailing addresses designated in writing by the Owners); or (ii) a resolution of the Association or it Board that is delivered to each Homesite, mailed to the mailing address of each Homesite or mailed to the mailing addresses designated in writing by the Owners.

Section 11.3 Term 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 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 Homesite, 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 scrivener's errors. 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 Homesite or any use to which any Homesite is restricted unless the Owners of the affected Homesites consent to the amendment.

Section 11.4 Regulatory Amendments

Notwithstanding the provisions of Section 11.3, until the Turnover Meeting described in the Bylaws and to the extent permitted by applicable law, 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 any department, bureau, board, commission or agency of the United States or the State of Oregon or to comply with any applicable law, including, without limitation, the Oregon Planned Community Act.

Section 11.5 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 11.6 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 Homesite or any ownership interest in the Homesite whatsoever, the person to whom such Homesite 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 11.7 Miscellaneous Provisions

Any provision of this Declaration or of the Articles of Incorporation and Bylaws to the contrary notwithstanding, the following provisions shall control:

A. Notice to Institutional Holders of First Mortgage Liens

The following actions will require notice to all institutional holders of first mortgage liens: (i) abandonment or termination of the Association; or (ii) material amendment to the Declaration.

B. Notice to Institutional Holders of First Mortgage of Default or Liens

Upon the written request of any first mortgagee of a dwelling on a Homesite, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under the within Declaration or the Bylaws or Association rules or regulations which is not cured within thirty (30) days. Any first mortgagee of a dwelling who comes into possession of the said dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of

foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged dwelling which accrued before the time such holder comes into possession of the dwelling.

C. Consent of Institutional Holders of First Mortgage Liens

Unless at least seventy-five percent (75%) of the first mortgagees (based upon one (1) vote per Homesite for each mortgage) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

i) by act or omission seek to abandon, partition, encumber, or transfer the Common Areas, if any, or any portion thereof or interest therein except for the purpose of dedication for public right of way. (The granting of easements for public utilities or other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause.);

ii) substantially change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner by the Association;

iii) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of the Units or maintenance of the Units or Homesites; or

iv) fail to maintain liability and extended coverage insurance on insurable property comprising a part of the Common Areas on a current replacement cost basis in an amount not less than one hundred (100) percent of the insurable value (based on current replacement costs).

Section 11.8 Personal Pronouns

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 11.9 Statutory References

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 11.10 Headings

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 11.11 Conflicts

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

Section 11.12 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 13th day of June 2004.

DECLARANT:

BROOKS RESOURCES CORPORATION, ,
an Oregon corporation

By: _____
Kirk E. Schueler, President

STATE OF OREGON)
)
COUNTY OF Deschutes)

The foregoing instrument was acknowledged before me the 13th day of June 2004, by Kirk E. Schueler, President of Brooks Resources Corporation, an Oregon corporation, on behalf of the corporation.

_____
Notary Public, State of Oregon
My Commission Expires: February 25, 2008

OFFICIAL SEAL
BRANDON M TURNER
NOTARY PUBLIC-OREGON
COMMISSION NO. 377698
MY COMMISSION EXPIRES FEB. 25, 2008

EXHIBIT "A"

PROPERTY SUBJECT TO DECLARATION

All that land contained within the OFFICIAL PLAT OF NORTH RIM PHASE 1, Located in the North Half of the Southwest Quarter and the Couth Half of the Norwest Quarter, Section 19, Township 17 South, Range 12 East, Willamette Meridian, recorded on June 30, 2004, in Volume 2004, Page 39039,in the real property records of Deschutes County, Bend, Oregon.