SB 117495 DS 381-

Record and return to:
Scott Baklenko, Manager
COTD I, LLC
202 Oak Drive, Suite 550
Hood River, OR 97031

DESCHUTES COUNTY OFFICIAL RECORDS 2009-35480
NANCY BLANKENSHIP, COUNTY CLERK

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RESTATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANY PINES Phase I

THIS RESTATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TUSCANY PINES Phase I ("Declaration") is made on that date set forth below by COTD I, LLC, COTD II, LLC, COTD III, LLC and COTD IV, LLC all limited liability companies of Oregon and hereafter collectively referenced as the "Declarant".

RECITALS

Declarant is the owner of all that certain real property and improvements thereon located in the City of Bend, County of Deschutes, State of Oregon, described more particularly on Exhibit "A" attached hereto and incorporated herein (the "Phase I Property").

The Phase I Property is referred herein as the "Property."

Declarant intends to develop the Property as a Class I planned community subject to the provisions of the Oregon Planned Community Act, ORS 94.550 to 94.783, and desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the Property under a comprehensive general plan of improvement and residential development for the benefit of all of the Owners, the Lots and Common Area within Tuscany Pines - Phase I.

Declarant has recorded a plat entitled "Tuscany Pines -Phase I" (the "Phase I Plat") in the plat records of Deschutes, County, Oregon. The Phase I Plat consists of Lots I through 45 and will include forty-five (45) single-family town home residences with parking on each individual Lot for each Townhome.

Declarant has deemed it desirable for the preservation of the values and amenities in Tuscany Pines-Phase I to create a Homeowners Association, which shall be an Oregon non-profit corporation known as TUSCANY PINES PHASE I HOMEOWNERS ASSOCIATION, Oregon Registry No. 623297-93, to which will be delegated and assigned the powers and authority to own, maintain and administer the Common Area associated with Phase I and related facilities, administer and enforce the covenants, conditions, and restrictions of this Declaration, and collect and disburse the assessments and charges hereinafter created.

After recording, return to
Amerititle
15 OREGON AVENUE, BEND

Except as modified herein, this Restated and Amended Declaration is intended to confirm and ratify the Declaration of Covenants, Conditions, and Restrictions for Tuscany Pines previously executed and recorded by Declarant's predecessor Bella Terra Investments, Inc. on October 01, 2007 as Document Number 2007-53030 Deschutes County Records. This Restated and Amended Declaration, as herein amended, shall supersede the previously recorded Declaration of Covenants, Conditions, and Restrictions for Tuscany Pines – Phase I and shall be deemed controlling.

NOW THEREFORE, the Declarant declares that Tuscany Pines – Phase I (the Property) shall be held, transferred, sold, conveyed and occupied subject to the following restated and amended covenants, conditions, restrictions, easements, charges and liens, or as noted herein, which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of the Association and of each Lot Owner.

ARTICLE 1 DEFINITIONS

1.1 "Architectural Review Committee" or "ARC" shall mean the Declarant until the Turnover Meeting and thereafter shall refer to the Board of Directors unless the Board has appointed a separate body to carry out the functions described in Article 6 in which case "ARC" shall refer to this body.

1.2 "Articles" shall mean the Articles of Incorporation for the non-profit corporation, Tuscany Pines – Phase I Homeowners Association, or such similar name approved by and filed with the Oregon Corporation Commissioner.

1.3 "Association" shall mean and refer to Tuscany Pines – Phase I Homeowners Association, its successors and assigns.

1.4 "Association's Insurance" shall mean only that insurance that the Homeowners Association is obligation to obtain and maintain pursuant to Section 10.1,

1.5 "Board" or "Board of Directors" shall mean the Board of Directors of Tuscany Pines – Phase I Homeowners Association.

1.6 "Building Structure" shall mean a building that is comprised of one or more contiguous Townhomes constructed and located on Lots, including without limitation, garage structures located on the Lots, whether attached to or detached from the Building Structure. The Building Structure shall be deemed to include only the exterior siding, trim, roof and gutters, the structural portions and drywall of all Party Walls and all doors and windows. All interior walls, wall structures, insulation, sheeting, drywall, wall coverings or paint, and anything in or on the interior of the home or garage, including any appliances, heaters and air conditioners, cabinets, tlooring, wall and window coverings, personal property, and light fixtures are excluded from the definition of Building Structure.

1.7 "Bylaws" shall mean and refer to the duly adopted bylaws of Tuscany Pines – Phase I Homeowners Association as the same may hereafter be amended or replaced. The Bylaws shall be recorded in the County of Deschutes pursuant to ORS 94.580.

1.8 "Clubhouse" shall mean and refer to the Clubhouse Building, together with the swimming pool, spa and other related recreational facilities located on Tract 1.

1.9 "Clubhouse Building" shall mean and refer to the community building located on Tract A.

1.10 "Common Area" shall mean and refer to any areas of land shown on the Plat for Phase I, including any improvements thereon, which are intended to be devoted to the common use and enjoyment of the members of the Association, unless provided otherwise in this Declaration. The Common Area consists of private streets, pedestrian walkways, Tracts. A -.E (open space) and Tract *A* on which the Clubhouse is situated all as more specifically identified in the Plat of Record for Tuscany Pines - - Phase 1). ; including those water rights of record as granted by Swalley Irrigation.

1.11 "Common Expenses" shall mean those expenses incurred by the Association for the benefit of all of the Owners of the Lots within the Property, including reserves.

1.12 "Declarant" shall mean and refer to COTD I, LLC, COTD II, LLC, COTD III, LLC and COTD IV, LLC all limited liability companies of Oregon, its successors or assigns, or any successor or assign to any of their interests in the development of the Property. "Declarant" shall not refer to any other subsequent purchaser of a Lot or Townhome.

1.13 "Declaration" shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines.

1.14 "General Plan of Development" shall mean the Declarant's general plan of development of the Property as approved by appropriate governmental agencies, as may be amended from time to time.

1.15 "Lot" shall mean and refer to any plot of land indicated upon the Plat or any part thereof creating an individual home site.

1.16 "Lot Easement Area" shall mean and refer to those portions of any Lot subject to any easement benefiting the Association.

1.17 "Members" shall mean and refer to the members of the Tuscany Pines Home – Phase I Owners Association.

1.18 "Occupant" shall mean and refer to the occupant of a Townhome who shall be the Owner, lessee or any other person authorized by the Owner to occupy the Townhome.

1.19 "Owner" shall mean and refer to the record Owner, including Declarant, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession under a land sale contract. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.

1.20 "Party Walls" shall mean and refer to each wall which is built as part of the original construction of a Townhome within Tuscany Pines and placed upon the boundary line between any Lots.

1.21 "Pedestrian Tracts" shall mean and refer to those areas of land shown on the Plat and marked as pedestrian walkways.

1.22 "Plat" shall mean and refer to the Phase I Plat and any annexation plats, collectively.

1.23 "Phase I Property" is that Property as described more particularly on Exhibit "A" attached hereto and incorporated herein (the "Phase I Property").

1.24 "Rules and Regulations" (sometimes hereafter referenced as Policy and Procedure) shall mean and refer to the documents containing rules, regulations and policies adopted by the Board of the Association, or the ARC, and as may be from time to time amended by the Board and/or ARC; including but not limited to the “Book of Policy and Procedure” as maintained by the Secretary of the Homeowners Association and available to all Homeowners.

1.25 "Townhome" or "Townhomes" shall mean and refer to any portion of any of the Building Structures designed and intended for use and occupancy as a residence by a single family or household, including a mandatory garage specifically designed and maintained for the storage of vehicles. There shall be a garage for use each single family or household built as a part of the Townhome. The Lots in the Phase I Plat containing Townhomes will be Lots 1 through 45.

1.26 "Tract" shall mean a parcel of land shown on the Plat and denoted by the word "Tract".

1.27 "Turnover Meeting" shall be the meeting called by the Declarant to turn over control of the Association to the Members.

ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

2.1 The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Restated and Amended Declaration is located in County of Deschutes, Oregon, as shown on the Plat, more particularly described as Lots 1 through 45 and Tracts A-E, Tuscany Pines is subject to ORS 94.550 to 94.783.

2.2 Declarant reserves the right, at its sole option, to annex additional property into the Association to be subject to the terms hereof to the same extent as if originally included herein.

(a) Eligible Property. There is no limitation on the number of Lots or quantity of real property which 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.

(b) Consent or Joinder Not Required. No consent or joinder of any Owner as defined in this Declaration 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 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. Any supplemental declaration with respect to any annexed property may:

(i) Establish new land classifications and types of Lots and related limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property;

(ii) With respect to existing land classifications, 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, in any declaration of annexation the Declarant may, but shall not be obligated to, establish different types of Lots and have particular rights and obligations that pertain to different types of Lots, establish easements particular to different Lots, establish assessments that pertain only to certain types of Lots, establish maintenance obligations of the Association or of Owners that vary in accordance with different types of Lots, establish insurance and casualty provisions that relate to certain types of Lots and not others, and establish limited common areas that benefit particular Lots to the exclusions of other Lots and provisions particular to such limited common areas.

(d) Voting Rights; Allocation of Assessments. Upon annexation, additional Lots so annexed shall be entitled to the same voting rights as set forth for Lots in this Restated and Amended Declaration, as it may be amended from time to time, and such Owners shall be responsible for payment of assessments as required for the fiscal year in which the annexation occurs. At the beginning of the next fiscal year, assessments for the general common areas shall be apportioned equally based upon the total number of Lots following such annexation, but assessments that are relative to a specific Lot type will be spread equally over only the units of that type.

(e) 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. Declarant is under no obligation to build Townhomes on any or all of the Lots contained in the any annexed property.

ARTICLE 3 OWNERSHIP AND EASEMENTS

3.1 Non-Severability. The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. No Lot shall be conveyed by an Owner separately from such Owner's interest in the Common Area, subject to the provisions of Section 3.3. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Common Area. Each Owner, whether by deed, gift, devise or operation of law, for his/her own benefit and for the benefit of all other Owners, specifically waives and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Area and does further agree that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The ownership interests in the Common Area and Lots described in this Article are subject to the easements granted and rights reserved in this Restated and Amended Declaration. Each of the easements reserved or granted herein shall be deemed to have been established upon the recordation of the original Declaration and shall forever be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots and shall be superior to all other encumbrances applied against or in favor of any portion of Tuscany Pines.

3.2 Ownership of Lots. Title to each Lot in Tuscany Pines – Phase I shall be conveyed in fee to an Owner. If more than one person and/or entity owns an undivided interest in the same Lot, such persons and/or entities shall constitute one Owner.

3.3 Ownership of Common Areas. The Common Area shall be owned by the Association. Declarant (COTD I, LLC) shall deliver the deed conveying title to the Common Area to Association not later than sixty (60) days after the last Lot has been conveyed to a purchaser or seven years from the date this Declaration is recorded, whichever is earlier. The conveyance of the Clubhouse shall be expressly subject to the reserved leasehold interest of the Declarant and/or the Declarant successors for purposes of operating the Property Management Agency from a portion of the Clubhouse.

3.4 Easements. Individual deeds to Lots may, but shall not be required to, set forth the easements specified in this Section.

(a) Easements on Plat. The Common Area and Lots are subject to the easements and rights of way shown on, or noted, on the Plat. These include easements for public pedestrian and bicycle access, sanitary sewer easements, storm drainage, access and public utility easements.

(b) Easements for Common Area. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot.

(c) Easements Reserved by Declarant. So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Common Areas in order to carry out sales activities necessary or convenient for the sale of Lots. In addition, Declarant hereby reserves to itself, and for its successors and assigns, a perpetual easement and right-of-way for access over, upon and across the Common Areas for construction, utilities, communication lines, drainage, and ingress and egress for the benefit of the Lots or other property owned by Declarant. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the improvements on the Property or other real property owned by Declarant in such a way as to not unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his/her family, tenants, guests or invitees.

(d) Additional Easements. Notwithstanding anything expressed or implied to the contrary, this Restated and Amended Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of Tuscany Pines in Phases I, Phase II and in any area that might be annexed in the future. No structure, planting or other material shall be placed or permitted to remain within any easement area which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow or water through drainage channels in the easements. The easement area of each Lot and all improvements thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible. In addition, an easement is specifically reserved to the Owner of each Townhome, and the Association, as their interests may exist, for access to and right of repair or service to utility and/or drainage lines and facilities for the common use of such Owners which exist on such Owner's Lot.

(e) Association's Easements. Declarant reserves for the benefit of the Association and its duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Association set forth in this Restated and Amended Declaration, the Bylaws and Articles for the maintenance of Tuscany Pines, including support, maintenance, repair and replacement of and for all Common Areas, the Building Structures, and the Clubhouse Building and any other improvements located on the Common Areas.

(f) Landscaping, Building Structure Maintenance and Repair. Declarant reserves for the benefit of the Association an easement over the outdoor areas of all Lots, all Building Structures and all Common Areas for performance of the Association's landscaping, maintenance and repair obligations pursuant to this Restated and Amended Declaration.

(g) Perimeter Easements. Declarant reserves for the benefit of the Association an easement over the perimeter portion of all Lots as reasonably necessary for the Association to reach all Lots for purposes of Building Structure and landscaping maintenance, repair and replacement. Declarant further reserves for the benefit of the Association, an easement around the perimeter of the Property for access to, maintenance and construction of perimeter fencing. .

(h) Foundations; Utility Service in Shared Buildings. The foundations of the Building Structures include footings that, with respect to certain Lots, may encroach below grade into the adjoining Lot or Lots. Each Owner is hereby granted a perpetual easement into the adjoining Lot or Lots to the extent of such foundation footing encroachments. The Owners of Townhomes situated within a common Building Structure shall have an easement over, under and through all other Lots in such Building Structure for underground utility service to such Owner's Townhome. Maintenance and repair of such underground utility service shall be the sole responsibility of the Owner whose Townhome is served by such line or lines, and any damage caused to the servient Lot and the improvements located thereon as a result of such maintenance and repair shall be the sole responsibility of the Owner causing such damage.

(i) Retaining Walls. Retaining walls may have been constructed within the Property (the "Retaining Walls"). The Retaining Walls are not in all cases located on a Lot or Tract line. The location of a Retaining Wall (or the construction by an Owner of any improvements on or near the Retaining Wall) shall not constitute evidence of the intended location of a Lot line, or provide grounds for any claim of adverse possession or prescriptive easement. Each Lot upon which any portion of a Retaining Wall is located shall be subject to an easement, for the benefit of all other Lots, for the purposes of support by and natural drainage from such Retaining Wall. No Owner shall take any action to add, construct or place any improvement on the Lot which may in the judgment of the Association: result in disturbance of, weakening of, or damage to the Retaining Walls; increase any engineered load or alter design criteria: or cause damage to surrounding properties. All improvements require the prior written approval of the Architectural Review Committee. Regardless of the granting or denial of such approval, any Owner who takes such action shall be responsible for all resulting costs of repair and restoration of the Retaining Wall and surrounding property. The Association shall have the right to enter any portion of the Property upon which any portion of a Retaining Wall is located for the purpose of making any necessary repair to or maintenance of the Retaining Wall.

3.5 Sale or Encumbrance of Common Area. Following turnover and subject to the reserved lease rights of the Declarant or the Declarant's Successor(s) for the use of a portion of the Clubhouse for the operation of the Property Management Agency as provided for herein, the right of Declarant or the Association to sell, convey or subject to a security interest any portion of the Common Area shall require approval by two-thirds (2/3) of the Owners pursuant to a duly authorized vote.

ARTICLE 4 LOTS AND TOWNHOMES

4.1 Residential Use. Lots shall be used for residential purposes only; provided, however, that a resident may use his or her home as a place of work so long as such use does not involve entry onto the Lot by employees, vendors or customers, and so long as such use does not impair or negatively impact the residential viability of the home or the residential character of Tuscany Pines. Except as set forth in the preceding sentence or pursuant to the written consent of the Board of Directors, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to construct residences on any Lot, to store construction materials and equipment on such Lots in the normal course of construction of Tuscany Pines, (c) to use any residence as a sales office or model home for purposes of sales in Tuscany Pines, (d) to maintain on site a temporary construction office or trailer,

(e) the right of the Owner of a Lot to maintain his/her professional or personal library, keep his/her personal business or professional records or accounts, handle his/her personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his/her residence, so long as such activity is not observable outside of the residence, does not significantly increase parking or vehicular traffic, or is in violation of applicable local government ordinances and (d) the operation of the Property Management Agents business at the Clubhouse or other portion of the Common area for the exclusive purpose of managing any permitted Short Term Rentals of residential units on the Property. Subject to the foregoing expressly permitted uses, the Board of Directors shall not approve commercial activities otherwise prohibited by this paragraph unless the Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances.

4.2 Construction. Except for construction performed by, contracted for by Declarant or expressly permitted by the Declarant, no construction, reconstruction or exterior alterations (including, without limitation, security doors and windows) shall occur on any Lot, unless the approval of the ARC is first obtained pursuant to Article 6. The intent of this covenant is to ensure quality of workmanship and material, harmony of external design with the existing and planned structures as to location and visual compatibility and finish grade elevations. Original construction designs, materials and product specifications by Declarant may vary from any or all specified in this document; however, all construction shall be consistent with or complimentary to Tuscan Style as that term may, from time-to-time be defined or re-defined by the Architectural Review Committee. All construction performed by or contracted for by Declarant, shall be presumed to have met these minimum requirements or have been granted a variance thereto.

4.3 Completion of Construction. The construction of any building, on any Lot, including painting and all exterior finish, shall be completed within six (6) months from the beginning of the construction so as to present a finished appearance when viewed from any angle. In the event of delay due to weather conditions, this time period may be extended for reasonable length of time upon written approval from the ARC. The Lot and building area shall be kept reasonably clean and in workmanlike order, free of litter, during the construction period with a garbage disposal facility located on site during such construction period. If construction has not commenced within three (3) months after the project has been approved by the ARC, the approval shall be deemed revoked unless the Owner has applied for and received an extension of time from the ARC. All provisions of this Article 4 shall exclude any construction by Declarant including but not limited to construction projects in process on Lots 3, 4, 5, and 6.

4.4 Landscaping. The Association shall continuously maintain all landscaping on the Property. All outdoor portions of the Property other than driveways and walkways located within Lots shall be maintained by the Association, including irrigation systems and the replacement of dead and dying vegetation. Notwithstanding the foregoing, installation and maintenance of any landscaping within any enclosed courtyards or patios, or decks shall be the responsibility of the Owner and shall be carried out in compliance with Article 6.

4.5 Maintenance.

4.5.1 Maintenance Plan and Inspections. The Association shall maintain those portions of the Property to be maintained by the Association in as good or better condition as at the time of the Turnover Meeting. Declarant (COTD I, LLC) shall initially prepare and thereafter the Board shall implement, review and update a maintenance plan (the "Maintenance Plan") for the maintenance, repair and replacement of all property for which the Association has maintenance, repair or replacement responsibility under this Declaration or the Bylaws or the Oregon Planned Community Act. The

Maintenance Plan shall describe the maintenance, repair or replacement to be conducted, include a schedule for maintenance, repair or replacement, be appropriate for the size and complexity of the maintenance, repair and replacement responsibility of the Association and address issues that include, but are not limited to, warranties and the useful life of the items of which the Association has maintenance, repair or replacement responsibility. The operating and reserve budgets of the Association shall take into account such costs. The Board shall review and update the Maintenance Plan as necessary. Changes or updates to the Maintenance Plan shall be based upon the advice of competent experts or consultants. In addition, the Board shall cause a professional inspection of those portions of the Property to be maintained by the Association pursuant to this Declaration for the purposes of identifying any items needing repair or preventive maintenance, and shall cause such repair or preventive maintenance to be implemented. If the Association fails to follow such maintenance and inspection requirements, then neither the Association nor any Owner shall have any claim against Declarant or its design professionals, contractors and subcontractors and their consultants, including without limitation, all of the officers, members, managers, directors, employee, agents and brokers, for loss or damage to the extent that they result from such failure to follow the Maintenance Plan, and shall indemnify such persons and entities from and against claims by Owners or other persons or entities for loss or damage resulting from such failure. For a period of 10 years following recording of this Restated and Amended Declaration, any changes to the Maintenance Plan without the approval of the Declarant and the original general contractor may void any applicable warranty and will release each of them from liability for any damage resulting from such change.

4.5.2 Association Responsibility. In addition to any other areas under this Restated and Amended Declaration, the maintenance of which is the Association's responsibility, the Association shall maintain each Building Structure and the Clubhouse Building, including, without limitation, the following: paint, repair, replace and care for roofs, gutters, and downspouts, exterior building surfaces, sidewalks, foundations, structural walls, Party Walls, all exterior doors, including the garage doors, and all other exterior improvements, including, without limitation, exterior mounted lighting fixtures (except light bulbs and excluding any recessed light fixtures), and the exterior portions of any chimneys. Association maintenance shall also include power washing exterior surfaces of Building Structures and the Clubhouse Building annually, inspecting roofs annually for broken roof tiles, cleaning rain gutters annually and cleaning and re-staining front doors every two (2) years. Such maintenance does not include repair or replacement of windows, screens, glass in light fixtures, and other glass surfaces, except for the Clubhouse Building and to the extent of the proceeds of the Association's insurance. The Association shall be responsible for maintaining and snow plowing streets and sidewalks within the Common Areas but not driveways, walkways or sidewalks located on individual Lots. The Association shall also maintain the landscaping in front of the Townhomes, in accordance with Section 4.4. The cost of all such maintenance by the Association shall be a Common Expense paid out of Townhome Assessments described in Article 10. In the event, however, the need for such maintenance or repair is caused by the willful or negligent act or omission of an Owner, his/her or her family, tenants, guests or invitees, and to the extent such maintenance or repair is not covered by the Association's insurance policy, the costs of such maintenance and repair may, at the discretion of the Board of Directors, be charged to such Owner as an individual assessment. The acceptance and submission of any insurance claims for Association insurance is at the sole discretion of the Board of Directors.

4.6 Rental of Townhomes. An Owner shall be entitled to rent or lease his/her residence only as provided herein:

(a) Written Rental Agreements Required. There must be written rental or lease agreement specifying that: (i) the tenant shall be subject to all provisions of the Declaration, Bylaws and Rules and Regulations, and that (ii) failure to comply with any provision of the Declaration, Bylaws and Rules and Regulations shall constitute a default under the rental or lease agreement.

(b) Minimum Direct Rental Period. The period for the direct rental by an Owner to a Tenant shall not be less than thirty (30) days. This provision shall not be circumvented through the use of a single lease or rental agreements to multiple or sequential tenants

(c) Tenant Must Be Given Documents. The Owner gives each tenant a copy of this Restated and Amended Declaration, Bylaws and Rules and Regulations; and

(d) Owner Responsibility. Owner shall be responsible for any violations by tenants and shall be solely responsible for either correcting or eliminating such violations, or getting tenant to do same.

(e) Short Term Rentals. **Except as managed by the Property Management Agency, no short term or vacation rental shall be permitted.** If an Owner desires to rent his or her residence for periods shorter then thirty (30) days, then all such short term rentals (sometimes herein referenced as "vacation" rentals) shall be exclusively managed by the for-profit Property Management Agency established and operated by the Declarant or by Declarant's Assignee. The Property Management Agency shall be operated from the Clubhouse. Occupancy of the Clubhouse shall be as stated in a Lease to be granted by the Declarant to the Property Management Agency. All Short Term Rentals shall be subject to such management fees and charges as the Property Management Agency reasonably assesses for its services. The "reasonableness" of the fees and charges of the for-profit Property Management Agency shall be determined by considering the charges of other unrelated vacation property management businesses in Central Oregon. The Owners covenant and agree among and between themselves that this restriction is reasonable and necessary to (a) preserve the quality of the environment at Tuscany Pines for the benefit of all, (b) to assure continuity of treatment for all Short Term Rentals, (c) to provide an on-site entity responsive to the needs of short term rental, and to (d) preserve the tranquility of permanent residents by taking reasonable action to assure that short term renters comply with this Restated and Amended Declaration, the Bylaws and the Rules and Regulations of Tuscany Pines. The Owners covenant and agree that the exclusive management of all Short Term Rentals by the Property Management Agency shall not be deemed an unlawful or unreasonable restriction of the Owner's Property rights and no Owner shall challenge this provision on such basis. Nothing herein shall prevent the Property Management Agency from managing the rent of other properties not situated within Tuscany Pines – Phase I.

4.7 Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or permitted within any Lot other than up to two (2) domestic household pets, which shall not be kept, bred or raised for commercial purposes and must be reasonably controlled so as not to be a nuisance. Any inconvenience, damage or unpleasantness caused by such pets, including noise and waste, shall be the responsibility of the respective Owners thereof. No dogs shall be permitted to roam the Property unattended, and all dogs shall be kept on a leash while outside that pet Owner's Lot. No pets shall be permitted at any time in the Clubhouse area. An Owner may be required to remove a pet from the property upon the receipt of the third notice in writing from the Association Board of Directors of violation any rule, regulation or restriction governing pets within the Property. The definition of "domestic household pets" shall be subject to rules adopted and approved by the Board in its sole discretion. Nothing is this Restated and Amend Declaration shall operate to restrict or otherwise limited the bona fide use of service animals.

4.8 Nuisance. No noxious, harmful or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the enjoyment, or which is a source of annoyance to the other Owners or Occupants.

4.9 Parking. Parking of boats, trailers, commercial vehicles, mobile homes, campers, other recreational vehicles or equipment of any nature and without regard to weight shall not be allowed on any part of any Lot or Common Area. Parking shall be confined to garages with the garage door capable of being completely closed; however, one passenger vehicle may be parked in that Owner's driveways if no portion of the vehicle overhangs the street, sidewalks, pathways or any other common area. Unless the Owner or occupant is accessing the interior of the Garage through the Garage door, Garage doors shall ordinarily be kept fully closed to provide continuity of the exterior appearance of the neighborhood and to conceal the contents of the Garages from public view. Garages shall be used primarily for vehicular parking and not solely for storage. At all times garages shall be kept and maintained for vehicle storage. The parking of vehicles is prohibited on any public or private street except in specifically designated areas permitted for temporary parking. No overnight curb-side is permitted.

4.1 0 Vehicles in Disrepair. No Owner shall permit any vehicle which is not currently licensed or is in a state of visible disrepair to remain parked upon any Lot for a period in excess of forty-eight (48) hours, or on a Common Area for any length of time unless that vehicle is entirely stored within the garage with the garage door capable of being completely closed. A vehicle shall be deemed in a "visible state of disrepair" when the Board of Directors reasonably determines that its presence offends the Owners and Occupants. Should any Owner fail to remove such vehicle within five (5) days following the date on which the notice is mailed to him/her by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner. All oil or grease on roadways or driveways shall be cleaned up immediately by Owner, at such Owner's sole expense.

4.11 Signs. No signs shall be erected or maintained on any Lot or placed in the Common Area or any part thereof except as expressly permitted in this Section. One temporary "For Sale" sign on a Lot, not exceeding seven hundred and fifty (750) square inches, may be located within the front yard or inside or a first floor, front, street facing window of a residential Building Structure. No "For Rent" or "For Lease" signs are allowed. The restrictions contained in this paragraph shall not prohibit the temporary placement of "political" signs on any Lot by the Owner or Occupant, provided such signs are removed within 3-days following the completion of the stated political event. Further, the restrictions contained in this paragraph shall not prohibit the temporary placement of or construction and marketing related signage by the Declarant, Declarant's contractors or signs placed by Owner's contractors. No sign of any kind, other than Declarant's marketing signs, or any Association signs for the common good of the community which have been previously approved by the Board of Directors, will be allowed on Common Areas.

4.12 Rubbish and Trash. No Lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for timely and proper disposal, out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets, the Common Areas or any other Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings or any such materials from any Lot, any roadways or Common Area where deposited by him/her within five (5) calendar days following the date on which notice is mailed to him/her by the Board of Directors, the Association may have such materials removed and charge the expense of such removal to the Owner. Each Owner is responsible for trash disposal, and shall remove individual trash containers within 24 hours of collection. Trash and storage containers shall not be visible from any adjacent street or neighboring Lot, and shall not be allowed to emit any odors or attract insects or rodents.

4.13 Fences and Hedges. No fences or boundary hedges shall be constructed, installed or placed on the Property without prior written approval of the ARC under Article 6. Maintenance, repair and replacement of any fencing installed on the Property will be the responsibility of at the expense of the Lot Owner(s) installing the same; including the Lot Owner's heirs, successors and/or assigns pursuant to "Owner's Maintenance Obligations" and "Right of Maintenance and Entry by Association" as stated elsewhere in this Restated and Amended Declaration. All fence materials, designs, and colors subject to prior approval of the ARC. Any perimeter fencing on the Plat boundaries, adjacent to privately owned property, will be uniform in design and appearance. No chain link fencing will be allowed. Fencing shall not interfere in any way with the maintenance of the landscape and/or Building Structures.

4.14 Utilities. All utility lines from the point of entry to a Lot from a Common Area, including those lines shared in common with Owners of any contiguous Townhome in the same Building Structure, shall be maintained, repaired and replaced by the Owner of each Lot, or all Owners individually and/or collectively at their expense, as may be determined. The Association is not responsible for the maintenance of any utility, cable TV, or phone facilities located on a Lot. The ARC must approve in writing, prior to installation, the exterior location of any heating and/or air conditioning compressors or heat pumps. Said locations must take into consideration the noise and view from adjacent Townhomes, common areas or streets. No window air conditioners will be installed without the express written consent of the ARC. Nothing shall be affixed on a permanent to temporary basis to the exterior of any structure without the advance written consent of the Board.

4.15 Tarps. The use of tarps is restricted to rear yard areas and shall not be visible from any public or private street, common area or first floor of adjacent Townhomes. The use of brightly colored tarps, including blue tarps, is strictly prohibited.

4.16 Antennas, 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 Lot without the prior written consent of the ARC. Placement shall be restricted to building surfaces not considered part of the front plane of the residence. No installations shall be lower than the first level ceiling height. Notwithstanding the foregoing, exterior satellite dishes with a surface diameter of eighteen (18) inches or less may be placed on any Lot so long as they are not visible from the street and are screened from all neighboring Townhomes. Approved installation locations shall in no way violate current FCC rules or regulations concerning said installation locations. The authority of the ARC in this matter shall be subject to any regulations issued by the Federal Communications Commission ("FCC") or any other applicable governmental authority.

4.17 Exterior Lighting or Noisemaking; Devices. Except with the consent of the ARC, no exterior lighting or noisemaking devices shall be installed or maintained on any Lot, other than security and fire alarms. However, the occurrence of more than three (3) false alarms of home or auto security and fire systems during any twelve (12) month period may result in a fine of up to $150 per occurrence (after the first three occurrences) in the sole discretion of the Association. Seasonal holiday lighting and decorations are permissible if consistent with *any* applicable rules and regulations and if installed no more than thirty (30) days before the celebrated holiday, and removed within thirty (30) days after the celebrated holiday. No exterior motion-detecting lighting shall be installed on any Building Structure. All lighting shall comply with applicable city lighting rules, regulations and ordinances.

4.18 Recreational Equipment. No playground, athletic or recreational equipment or structures, including without limitation, basketball backboards, hoops and related supporting structures, shall be permitted, installed in the Common Area or on any Lot or otherwise utilized on any sidewalk or public or private street without the prior written consent of the Association. No recreational or similar equipment or apparatus shall be left outside overnight.

4.19 Grades, Slopes, and Drainage. There shall be no modification to or interference with the established drainage patterns or systems over or through any Lot within the Property so as to affect any other Lot or Common Area or any areas outside the Property unless adequate alternative provisions are made for proper drainage and are approved in advance in writing by the ARC or Declarant. The term "established drainage" shall mean any wall, drainage swales, conduits, inlets and outlets designed and constructed on the Property.

4.20 Damage or Destruction to Home and/or Lot. If all or any portion of a Lot, a Building Structure or the Clubhouse Structure is damaged by fire or other casualty the Association shall restore the damaged improvements subject to the provisions of any applicable insurance policies. Restoration must be performed so that the improvements are in substantially the same condition in which they existed prior to the damage, subject to current governmental regulations, building codes, and provisions of Article 6 of this Declaration. The Association must commence such work within sixty (60) days after the damage occurs and must complete the work within twelve (12) months thereafter, subject to reasonable extensions for force majeure delays. In the event that insurance proceeds are insufficient to complete the required work, the remainder of the cost of such work shall become a special assessment to the Association shared equally by all Members. In the event the insurance proceeds are greater than the costs to repair or replace, the excess proceeds shall be deposited into the Association's reserve fund. Notwithstanding the foregoing, if the damage or destruction is caused by the negligence or intentional act of an Owner or such Owner's occupants, guests, family members, tenants, licensees, agents or other invitees, the Association may assess any amounts for repair or replacement not covered by such Owner's personal insurance as a special assessment against such Owner to be repaid to the Association on terms reasonably approved by the Board.

4.21 Detached Buildings. No permanent or removable detached accessory buildings, including, but not limited to, storage buildings, greenhouses, children's playhouses and similar structures, shall be built or placed on any Lot or in any Common Area without the prior written consent of the ARC. No detached buildings shall be used as additional living space and none shall contain any plumbing or cooking facilities. Sheds and temporary storage structures are prohibited.

4.22 Owner's Maintenance Obligations. All improvements; including but not limited to landscaping and fences, upon any Lot, not maintained by the Association, shall at all times be maintained by the Owner in a clean and attractive condition, painted and in good repair, and in such a fashion as not to create a hazard of any kind. Townhomes will be provided with exterior building and landscape maintenance as outlined elsewhere in this Declaration. However, Owners of any such Lots are responsible for maintenance, replacement, repair and general upkeep of all windows and window screens. All work on such items is subject to ARC review and approval prior to commencement of work.

In accordance with the City of Bend fire code, each Townhome Owner shall ensure that the wall(s) separating such Owner's dwelling unit from other dwelling units within the same Building Structure are not punctured or otherwise breached by such Owner or Owner's lessees, invitees, contractors, or family members.

In the event repair or replacement of the common foundations of a Building Structure or Party Wall of a Building Structure should become necessary or appropriate, then the Owners of the Townhomes within the Building Structure that required such repair or replacement shall share equally in the expense of such repair and replacement. In the event an Owner of a Townhome determines repair or replacement of the common foundations or Party Walls of a Building Structure is necessary or appropriate, that Owner shall notify the other Owners of the affected Townhomes within the Building Structure of the need to perform such repair or replacement. If a majority of the Owners of the affected Townhomes within the Building Structure agree that such repair or replacement is necessary, they shall jointly cause such work to be performed, and each Owner of an affected Townhome shall pay that Owner's proportionate share of the expense of such work. As used herein, "proportionate expense" share be determined by comparing that Owner's heated living space area with the total heated living space of the affected

Townhomes. If an Owner of an affected Townhome determines repair or replacement of the common foundations or common firewalls of a building Structure is necessary or appropriate and a majority of the Owners of the other Townhomes affected or claim to be affected do not concur with such determination, then the Owners of the Townhomes affected (or claimed to be affected) shall mutually agree upon and retain a professional engineer licensed in the State of Oregon having at least five (5) years experience in such matters to inspect the common foundations or common firewalls, and such engineer shall make a determination as to whether such repair or replacement is required. The determination of such engineer shall be binding upon the affected Owners, and all expenses and fees of the engineer and of the repair or replacement work required to be performed if any, shall be shared proportionately by the affected Owners. In the event the Owners of Townhomes so affected or claimed to be so affected cannot agree upon a professional engineer having the required qualifications within a 30-day period, then any of the affected Owners may make application to the ARC, which shall select such engineer having the requisite qualifications. The fees and expenses of the engineer shall be shared proportionately by the Owners of the Townhomes affected or claimed to be affected. In the event the Owner of an affected Townhome fails to contribute to the expense of the repair or replacement of the common foundation or Party Walls by thirty (30) days after written demand therefore, then the amount not paid or reimbursed, as well as interest thereon at the rate of twelve percent (12%) per annum from the date of such written demand shall become a charge and lien against the Townhome of the Owner failing to make such payment or reimbursement. Each Owner shall be deemed to have agreed by acceptance of a deed conveying the Townhome that any such lien shall be effective without the necessity of obtaining the joinder of such Owner in the execution of any instrument, upon the filing by another Owner of an affected Townhome of a claim of lien in the Official Records of Deschutes County, Oregon.

4.23 Right of Maintenance and Entry by Association. If an Owner fails to perform maintenance and/or repair which he/she is obligated to perform pursuant to this Restated and Amended Declaration including but not limited to landscaping, sidewalks, walkways, driveways, enclosed patio areas and other areas not within the Common Area or Building Structures, and if the Board determines, after notice and a hearing (given pursuant to the provisions of the Bylaws), that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of Tuscany Pines, the Board may cause such maintenance and/or repair in connection therewith to be performed and may enter any such Lot whenever entry is necessary in connection with the performance of any maintenance or construction which the Board is authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than forty-eight (48) hours, except in emergency situations. Such right of maintenance shall include, but not be limited to, buildings, street, trees and front and street-side yard landscape. If such repair or maintenance be performed by the Board or under the direction of the Board, the expense of the same shall, if said amount remains unpaid thirty (30) days after written demand therefore, then said unpaid amount, as well as interest thereon at the rate of twelve percent (12%) per annum from the date of such written demand shall become a charge and lien against the Townhome of the Owner failing to make such payment or reimbursement. Each Owner shall be deemed to have agreed by acceptance of a deed conveying the Townhome that any such lien shall be effective without the necessity of obtaining the joinder of such Owner in the execution of any instrument, upon the filing by another Owner of an affected Townhome of a claim of lien in the Official Records of Deschutes County, Oregon.

4.24 Association Rules and Regulations. The Board of Directors, from time to time, may adopt, modify or revoke Rules and Regulations governing the conduct of persons and the operation or use of Lots and Common Areas, as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of any Rules and Regulations, upon adoption, amendment, modification or revocation thereof, shall be delivered by the Board of Directors promptly to each Owner and shall be binding upon all Owners and Occupants of all Lots upon the date of delivery or actual notice thereof. The method of adoption of such Rules and Regulations shall be provided in the Bylaws of the Association.

4.25 Local Ordinances and Regulations. The standards and restrictions of Article 4 shall be the minimum required. To the extent the ordinances and regulations of the City of Bend, Deschutes County, or the State of Oregon are more restrictive, or provide for a higher or different standard, the ordinances and regulations of the City of Bend, Deschutes County, or the State of Oregon, and any jurisdiction Property may be annexed into, shall prevail.

4.26 Violation. The Association may impose a fine, charge or penalty for any violation of this Declaration, the Bylaws and Rules and Regulations after reasonable notice of the violation and a reasonable opportunity for a hearing. Additionally, the Association may seek injunctions or other equitable relief or may file an action for money damages owing from such violations.

4.27 Security/Risk of Loss. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association, any managing agent retained by the Association, Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage to person or property by reason of failure to provide security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants that the Association, its Board of Directors and committees, any managing agent retained by the Association, Declarant, and any successor Declarant are not insurers and that each person using the Property assumes all risks for loss or damage to persons, to property and to the contents of Lots and Townhomes and releases such parties from any liability therefore to the fullest extent permitted by law.

4.28 General Aesthetics. To preserve the attractive appearance and proper maintenance of the Building Structures and Property, each Owner agrees to generally maintain the Lots in an orderly manner free of debris and obstructions. Items that may be placed in or on windows, decks, porches, patios, open areas and the outside walls, so as to be visible from the street or Common Areas are limited as follows:

(1) Window coverings, curtains, shutters, drapes or blinds, other than those of commercially produced quality and of neutral color, shall not be permitted to be visible from any public or private street, pathway, Common Area or adjacent property;

(2) Garments, rugs, laundry and other similar items may not be hung from windows, facades, porches, or decks;

(3) Planters, pots or other solid materials that can either (a) gather moisture leading to potential material disintegration or damage, and/or (b) potentially fall and create a safety concern, are not to be displayed on porch or deck railings, porch decks or fence caps and posts. Planters on decks may be displayed if raised adequately off the deck surface to allow for airflow and moisture evaporation; and

(4) Patios are to be used exclusively as occasional outdoor living space and shall not be used for storage or any other purpose. Patio furniture, intended for that use, may be kept in a neat and tidy order on the patio. When not in use, Patio furniture should be stored or covered

with appropriate Patio furniture covers shall be designed for that particular purpose. Unfitted tarps shall not be used for such purpose.

The example stated above is not intended as an inclusive or comprehensive list of all requirements intended to protect and preserve General Aesthetics and neighborhood Appearance. Other requirements may be contained in the Rules and Regulation, the Standards of the Architectural Committee or as otherwise required by the Declarant, prior to the Turnover or by the Homeowners Association following Turnover.

ARTICLE 5 COMMON AREA

5.1 Use of Common Areas. Use of Common Areas is subject to the provisions of this Restated and Amended Declaration, Bylaws, Articles and Rules and Regulations promulgated by the Board of Directors. Except as otherwise expressly provided herein, there shall be no use of the Common Area except by Owners and their invitees; provided, however that neither provision nor any other provision stated elsewhere in this Restated and Amended Declaration will operate to prevent the sale of Clubhouse use rights to a maximum of fifty-five (55) household units from Tuscany Pines – Phase II pursuant to the terms and conditions stated in a Use Licensing Agreement, recorded or to be recorded by the Declarant. There shall be no obstruction of any part of the Common Area. Nothing shall be stored or kept in the Common Area without the prior written consent of the Board of Directors. No alterations or additions to the Common Area shall be permitted without the prior written approval by the Declarant or the Board of Directors. Any work so authorized by the Declarant or the Association's Board of Directors shall be considered a temporary easement over the Common Area. Nothing shall be stored or kept in the Townhomes or Common Area which will increase the rate of insurance on the Common Area, or other Association insurance, without the prior written consent of the Declarant or the Board. At the Owner's sole expense, written approval from the Association's insurance carrier for such work in the Common Area must be obtained.

5.2 Maintenance of Common Area. The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Common Area, including, but not by way of limitation, all drainage systems, landscaping, irrigation systems, benches, play equipment, common area lighting not maintained by a public agency, fencing, pathways, gazebos, and any other improvements that may be included in Common Area. The Association shall keep the Common Area and improvements thereon in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Area in first class condition. The Association is also responsible for the perpetual maintenance of the planter strips located between the face of the curb and the new sidewalks along O.B. Riley Road, and a portion of Halfway Road. Britta Street goes to Phase II along with a portion of Halfway Road.

5.3 Alterations to Common Area. Only the Declarant or the Association shall construct, reconstruct, or alter any improvement situated upon the Common Area. A proposal for any construction of or alteration, maintenance or repair to an improvement may be made at any meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws and the Declaration.

5.4 Funding. Expenditures for alterations, maintenance or repairs to an existing capital improvement for which a reserve has been collected shall be made from the reserve account. As provided in Section 10.7, the Board may levy a special assessment to fund any construction, alteration, repair or maintenance of an improvement (or any other portions of the Common Area) for which no reserve has been collected or for which the reserve account is insufficient to cover the cost of the proposed improvement. In the event the Board determines that it is reasonably prudent to borrow funds, as opposed to utilizing amounts on deposit in the Reserve Account, the Board may, upon complying with the Notice and Voting Rights afforded the Owners herein, borrow funds for such purposes.

5.5 Landscaping. All landscaping on any Lot or portion of the Common Area shall be maintained and cared for in a manner consistent with the standard of design and quality as originally established by Declarant or the ARC. The Association shall be responsible for all landscaping located in any Common Area properties, as provided in Section 3.4(f), except as set forth in Section 4.4. Any Owner maintained areas shall be kept free of weeds and diseased or dead lawn, tree, ground cover or shrubs shall be promptly removed and replaced. All lawn areas shall be irrigated, fertilized and neatly mowed, and trees and shrubs shall be fertilized and neatly trimmed on a regular basis. Any Owner installed landscaping shall be the responsibility of the Lot Owner(s) installing the same; including the Lot Owner's heirs, successors and/or assigns pursuant to "Owner's Maintenance Obligations" and "Right of Maintenance and Entry by Association" as stated elsewhere in this Restated and Amended Declaration.

5.6 Condemnation of Common Area If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be received by and expended by the Board of Directors in a manner which in their discretion is in the best interest of the Association. The Association shall represent the interest of all Owners in any negotiations, suit or action or settlement in connection with such matters.

5.7 Damage or Destruction of Common Area. In the event any Common Area is damaged or destroyed by an Owner or any of his/her Occupants, guests, tenants, licensees, agents or members of his/her family in a manner that would subject such Owner to liability for such damage under Oregon law, such Owner does hereby authorize the Association to repair such damage. The Association shall repair the damage and restore the area in workmanlike manner as originally constituted or as may be modified or altered subsequently by the Association in the discretion of the Board of Directors. Such Owner shall be responsible for all such costs incurred by the Association. The reasonable cost necessary for such repairs shall become a special assessment upon the Lot of the Owner who caused or is responsible for such damage.

ARTICLE 6 ARCHITECTURAL REVIEW COMMITTEE

6.1 Architectural Review. No improvement or portion thereof including fencing, patios, patio trellises, play structures, court yards, walkways and driveways shall be commenced, erected, placed, altered, repaired or replaced on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the improvement have been submitted to and approved in writing by the ARC. It is the intent and purpose of this Declaration to assure quality of workmanship and materials and to assure that exterior design, existing improvements and landscaping shall be consistent with or complimentary to Tuscan style. The ARC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations. The procedure and specific requirements for review and approval of construction may be set forth in design guidelines adopted from time to time by the ARC. Construction by the Declarant is presumed to have been approved and is thereby exempt from this review. In all cases for which the ARC consent is required by this Restated and Amended Declaration, the provision of this Section shall apply. The ARC and the Board of Directors are hereby granted an easement over the Lots to enable the ARC to carry out its designated functions.

6.2 Architectural Review Committee -Appointment and Removal. The ARC shall consist of no fewer than three (3) members and no more than five (5) members, as the Board may appoint from time to time. The Declarant reserves the right to appoint all members of the ARC and all replacements thereto until turnover. After turnover, the Declarant shall delegate the right to appoint and remove members of the ARC to the Board of Directors. The terms of office for each member of the ARC shall be for one (1) year unless lengthened by the Board at the time of appointment or unless the Board serves as the ARC in which event the terms of the ARC members shall be the same as their terms as Board members. The Board may appoint any or all of its members for the ARC and there should be no requirement for non-Board members on the ARC. The Board may appoint one or more members to the ARC who are not Owners, but who have special expertise regarding the matters, which come before the ARC. In the sole discretion of the Board, such non-Owner members of the ARC may be paid and that cost paid by applicants or the Association.

6.3 Majority Action. Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a meeting and without the necessity of consulting the remaining member(s) of the ARC. The ARC may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

6.4 Duties. The ARC shall consider and act upon the proposals and/or plans submitted pursuant to this Section. The ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations and guidelines ("Architectural Standards"). The Architectural Standards shall interpret and implement the provisions of this Restated and Amended Declaration for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features which may be used within the Property consistent with or complimentary to Tuscan style; provided, however that the Architectural Standards shall not be in derogation of the minimum standards established by this Restated and Amended Declaration.

6.5 ARC Decision. The ARC shall render its approval or denial decision with respect to the construction proposal within twenty (20) working days after it has received all material required by it with respect to the application. All decisions shall be in writing. In the event the ARC fails to render its decision of approval or denial in writing within sixty (60) days of receiving all material required by it with respect to the proposal, the application shall be deemed approved. Approval by the ARC does not imply government approval, which is solely the responsibility of the Owner.

6.6 ARC Discretion. The ARC may, at its sole discretion, withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the ARC intends for Tuscany Pines. Consideration such as sitting, shape, size, color, design, height, solar access, or other effect on the enjoyment of other Lots or the Common Area, and any other factors which the ARC reasonably believe to be relevant, may be taken into consideration by the ARC in determining whether or not to consent to, any proposed work.

6.7 Non-waiver. Consent by the ARC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing the ARC's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

6.8 Appeal. At any time after Declarant has delegated appointment of the members of the ARC to the Board of Directors pursuant to Section 6.2, any Owner adversely impacted by action of the ARC may appeal such action to the Board of Directors. Appeals shall be made in writing within ten (10) days of the ARC's action and shall contain specific objections or· mitigating circumstances justifying the appeal. If the Board is already acting as the ARC, the appeal shall be treated as a request for a rehearing, but in such case the Board must actually meet and receive evidence and argument. A final, conclusive decision shall be made by the Board of Directors within fifteen (15) days after receipt of such notification. The determination of the Board shall be final.

6.9 Effective Period of Consent. The ARC's consent to any proposed work shall automatically be revoked three (3) months after issuance unless construction of the work has been commenced or the Owner has applied for and received an extension of time from the ARC.

6.10 Determination of Compliance. The ARC shall inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the ARC finds that the work was not performed in substantial conformance with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of any noncompliance and shall require the Owner to take the necessary action to bring the work into compliance with the approved project.

6.11 Non-compliance. If the ARC determines that an Owner has not constructed an improvement consistent with the specifications on which approval is based, and if the Owner fails to diligently commence to remedy such non-compliance in accordance with the provisions of the notice of noncompliance, then at the expiration of the third (3rd) day from the date of such notification, the ARC shall provide a notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than thirty (30) days from the date of the notice of non-compliance. At the hearing, if the ARC finds that there is no valid reason for the continuing non-compliance, the ARC shall determine the estimated costs of correcting it. The ARC shall then require the Owner to remedy or remove the same within a period of not more than ten (10) days from the date of the ARC's determination. If the Owner does not comply with the ARC's ruling within such period or within any extension of such period as the ARC, at its discretion, may grant, the Association may (a) remove the non-complying improvement, (b) remedy the non-compliance, or (c) file suit to compel compliance. The costs of such action shall be assessed against the Owner and his/her Lot, including all attorneys' fees and other costs expended and incurred to enforce compliance, before suit or action is filed and at trial or on any appeal or review thereof.

6.12 Liability. Neither the Declarant, the ARC, the Board, their agents, nor any member thereof shall be liable to any Owner, Occupant, or builder for any damage, loss or prejudice suffered or claimed or claimed to be suffered arising from any action by the Declarant, the ARC, the Board, their agents or a member thereof or failure of the Declarant, the ARC, the Board, their agents or a member thereof, provided only that the member has acted in good faith in accordance with the actual knowledge possessed by him/her.

6.13 Estoppel Certificate. Within fifteen (15) working days after written request is delivered to the ARC by an Owner, and upon payment to the ARC of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the ARC, and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof either (a) all improvements made or done upon or within such Lot by the Owner comply with this Declaration or any Rules and Regulations either promulgated by the Board or the ARC, or (b) such improvements do not so comply, in which event, the certificate shall also identify the non-complying improvements and set forth with particularity the nature of such noncompliance. The Owner, his/her heirs, divisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth. The certificate shall be conclusive as between the Declarant, the ARC, the Association and all Owners, and all such persons deriving an interest through any of them.

6.14 Fees. The Declarant or the ARC may charge applicants a reasonable application fee and additional costs incurred or reasonably expected to be incurred by the ARC to retain architects, attorneys, engineers and other consultants to advise the ARC concerning any aspect of the applications described herein or compliance with any appropriate architectural criteria or standards. Such fees shall be collectible as assessments pursuant to Article 10.

6.15 Declarant Exempt from ARC Review. The Declarant shall be exempt from the requirement for ARC review and approval of any kind.

ARTICLE 7 TUSCANY PINES HOMEOWNERS ASSOCIATION

7.1 Members. Each Owner shall be a member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot. Transfer of ownership of a Lot automatically transfers membership in the Association. Without any other act or acknowledgement, Occupants and Owners shall be governed and controlled by this Restated and Amended Declaration, the Articles, Bylaws, and Rules and Regulations and any amendments thereof.

7.2 Proxy. Each Owner may cast his/her vote in person, pursuant to a proxy executed by the Owner, or by written ballot, as provided by ORS 94.647. An Owner may not revoke a proxy given pursuant to this section except by actual notice or revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

7.3 Procedure. All meetings of the Association, the Board of Directors, the ARC, and Association committees shall be conducted with such rules of order as may from time to time be adopted by the Board of Directors. Notwithstanding which rule of order is adopted, the chairman shall be entitled to vote on all matters, not merely to break a tie vote. A tie vote does not constitute a majority or approval of any motion or resolution.

7.4 Contracts Entered Into by Declarant or Before Turnover Meeting. Notwithstanding any other provision of this Declaration, any management contracts, service contracts or employment contracts entered into by Declarant or the Board of Directors on behalf of the Association before the Turnover Meeting shall have a term of not more than three (3) years. In addition, any such contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) days' notice to the other party given not later than sixty (60) days after the Turnover Meeting. For purposes of this Section 7.4, the Lease Rights reserved to the Declarant for use of a portion of the Clubhouse the Property Management Agency, the Clubhouse Use License permitting the sale of Clubhouse memberships to homeowners of Tuscany Pines – Phase II, and the Shared Pump House Agreement shall not be deemed "management contracts, service contracts or employment contracts." Said Lease Rights, the Clubhouse Use License and the Shared Pump House Agreement shall be deemed to be provisions restricting a right of the Association with respect to the common property pursuant to ORS 94.580(2)(t).

7.5 Voting. The Association shall have two (2) classes of voting Members:

7.5.1 Class A. Class A Members shall be all Owners of Lots other than Declarant, and each Class A Member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote.

7.5.2 Class B. The Class B Member shall be Declarant, its successors and assigns. The Class B Member shall have three (3) votes for each Lot owned; provided, however, that Class B membership shall cease within ninety (90) days after the date on which the last Lot has been sold and conveyed to a third party. After termination of Class B membership, each Owner (including Declarant) shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall equal the total number of Lots annexed to the Property.

When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event shall fractional voting be allowed. Fractionalized or split votes shall be disregarded, except for purposes of determining a quorum.

ARTICLE 8 DECLARANT CONTROL

8.1 Interim Board and Officers. 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 Property to administrative responsibility by the Association, in accordance with the provisions in the Bylaws attached as "Exhibit B" to this Declaration.

8.2 Turnover Meeting. The Declarant shall call a meeting for the purpose of turning over administrative control of the Association from the Declarant to the Members within ninety (90) days of sale of the last Lot from Declarant to a third party.

8.3 Board of Directors. At and following Turnover, the Board of Directors of the Association shall be comprised of five (5) directors. The directors will be elected by a plurality of the total membership of the Tuscany Pines Homeowners Association. In the event of a vacancy occurring on the Board, the position of such director(s) shall be filled in accordance with the terms and provisions of the Bylaws through appointment by the Board of Directors. The Directors elected at the Turnover Meeting shall serve until the first annual meeting of the Corporation. At the first annual meeting, the Owners shall elect Directors as provided for in the Bylaws, such that terms will be staggered so that three (3) Directors shall serve a term of 2 years, and two (2) Directors for a term of 1 year. At all subsequent Annual Meetings, the term of office for elected Directors will be two (2) years.

ARTICLE 9 DECLARANT'S SPECIAL RIGHTS

9.1 General. Declarant is undertaking the work of developing Lots and other improvements within Tuscany Pines. The completion of the development work and the marketing and sale of the Lots is essential to the establishment and welfare of the Property as a residential community. Until the Townhomes on all Lots on the Property have been constructed, fully completed and sold, with respect to the Common Areas and each Lot on the Property, the Declarant shall have the special rights set for in this Article 9.

9.2 Voting Rights. Declarant's voting rights shall be as set forth at Section 7.5.2 of this Restated and Amended Declaration.

9.3 Marketing Rights. Declarant shall have the right to maintain a sales office and model on one or more of the Lots which the Declarant may or may not own, to be staffed by the employees of the Declarant or any licensed real estate sales agents. The Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week. The Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations of the Property, including, without limitation, the Common Area.

9.4 Declarant's Easements. The Declarant has reserved easements over the Property as more fully described in Sections 3.4(c) and 3.4(d) hereof.

9.5 Appearance and Design of Tuscany Pines. Declarant shall not be prevented from changing the exterior appearance of the Common Area, including the landscaping or any other matter directly or indirectly connected with project in any manner deemed desirable by Declarant, provided that the Declarant obtain governmental consents required by law. The construction and material standards of

Article 4 notwithstanding, Declarant may change exterior and/or interior designs from initial plans, any previous phases or construction, and provisions in this document, without notice. This may include designs, colors, and type of materials, provided Declarant obtains any necessary governmental consent.

9.6 Construction by Declarant. All construction by Declarant is presumed to have been approved by the ARC and to meet any applicable architectural standards.

ARTICLE 10 FUNDS AND ASSESSMENTS

10.1 Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants, and for the improvement, operation and maintenance of the Common Area, including maintenance and administrative costs, a community high-speed internet access if a "server/vendor" should be granted a contract for the entire Property, and insurance for Association.

(a) Common Expense Designations. Common Expenses of the nature described in Section 10.1 which are to be, or are, incurred by the Association for the benefit of all of the Owners of Lots within the Property shall be separately budgeted for allocation among all such Owners and shall be designated "General Common Expenses".

(i) **Insurance General.** The Board shall obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided and additional insurance for such other risks of a similar or dissimilar nature as are now or as shall be hereafter customarily covered by insurance obtained by other planned communities similar in construction and design. Such additional insurance shall be governed by this Article.

(ii) **Types of Insurance Policies Maintained By the Association.** For the benefit of the Association and Owner, the Board shall obtain and maintain at all times, and shall pay for out for the common expense funds, the following insurance to the extent that it is available at reasonable cost:

Property Insurance. A policy or policies of property insurance, including but not limited to special form coverage, or equivalent (including without limitation coverage for loss from fire, vandalism and malicious mischief) for the full insurable replacement value of the buildings and townhomes (including original fixtures, cabinets, floor coverings, window coverings, and doors), and of all substantial improvements on the Common Property and, if available at a reasonable const, shall obtain building code and actual replacement cost endorsements and earthquake insurance. Hereafter the Board shall set by resolution the maximum deductible for the policy purchased under this section, which deductible initially should be one thousand ($1,000) dollars.

Liability Insurance. A policy or policies insuring the Association, its Board the Owners individually, and the manager against any liability to the public or the Owners and their invitees or tenants, incident to the ownership, supervision, control or use of the Property, excepting Property under an Owner's exclusive use or occupancy. Limits of liability under such insurance shall be not less than one million dollars ($1,000,000) per occurrence for bodily injuries and property damage liability. Such limit and coverage shall be reviewed at least annually by the Board, which may increase the limit of and/or coverage, in its discretion. Said policy or policies shall be issued on a commercial General Liability form and shall provide for cross liability coverage wherein the rights of the named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

Workers Compensation. Workers Compensation Insurance to the extent that it is necessary to comply with any applicable laws.

Directors and Officers Insurance. At the discretion of the Board, the Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of the Articles of Incorporation of the Association.

Fidelity Bond. For the benefit of the Association and Owners, the Board may obtain a fidelity bond for employee, officer, and director dishonesty, or dishonesty of any authorized agent of the Board, for the amount determined by the Board. The Board may pay for such bond out of the common expenses of the Association.

Insurance Companies Authorized. All policies obtained under this Articles shall be written by a company licensed to do business in Oregon and holding a "Commissioner's Rating" of "A-" and a size rating of "VI," or better, by Best's Insurance Reports, or as may be otherwise acceptable to all mortgages and Directors.

Provisions in Insurance Policies. The Board shall make a reasonable effort to secure insurance policies that will provide for the following:

Waiver of Subrogation. A waiver of subrogation by the insurer as to any claims against the Board, the officers, the manager, the Owners and their respective servants, agents, guests and tenants.

Noncancelation Without Opportunity to Cure. A provision that the master policy on the Property cannot be canceled, invalidated or suspended on account of the conduct of any officer, Board member or employee of the Board or the manager without prior demand in writing that the Board or manager cure the defect.

Townhome and Lot Insurance Maintained by Each Owner. Each Lot Owner (excluding Declarant) shall obtain, and maintain in effect, from a reputable insurance company authorized to do business in the State of Oregon, insurance coverage that they deem necessary or prudent for their protection, and the protection of the personal property, and shall be obligated to carry liability insurance with respect to such Lot with limits of not less than Five Hundred Thousand Dollars ($5000, 000) per occurrence for bodily injury and property damage. Insurance coverage obtained and maintained by the Board of Directors may be brought into contribution with that obtained and maintained by Owners of mortgagees only in the Board of Directors' sole and unfettered discretion. No

Lot Owner shall be obligated to obtain any of the insurance coverage's described in Section 8.2 (a)(b)(c)(d)(e). The Association shall have the right, but not the obligation, to request evidence that any Lot Owner has procured the required insurance. Upon written request from the Association, a Lot Owner shall present a certificate of insurance evidencing the required coverage's. The Association shall have the right, but not the obligation, to increase the coverage limits established by the Section 8.2 (h) from time to time to reflect increases in the cost of living. Such increases shall require neither an amendment to this Section 8.2 nor a vote of the Lot Owners, and shall be effected, if at all, by providing written notice to each Lot Owner to whom an increase is required not less than thirty (30) days prior to the effective date of such increases.

(iii) **Planned Community Act Requirements**. The insurance maintained by the Association shall comply with the requirements of the Oregon Planned Community Act, ORS 94.550 to 94.780. At least annually, the Board shall review all insurance carried by the Association, which review shall include a consultation with a representative of the insurance carrier writing the master policy.

10.2 Covenants to Pay. Each and every subsequent Owner of any Lot, covenants and agrees that each Lot Owner will pay the Association the assessments and any additional charges levied pursuant to this Restated and Amended Declaration.

(a) Funds Held. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely for the operation, care and maintenance of Tuscany Pines or as expressly provided by this Restated and Amended Declaration.

(b) Transfer. Upon the sale or transfer of any Lot, the Owner's interest in the funds shall be deemed automatically transferred to the successor in interest of such Owner, and is not refundable.

10.3 Basis of Assessments and Commencement of Assessments; Common Profits. Assessments are to be levied against all Lots, except those owned by the Declarant, whether or not such Lots have been improved with a substantially completed Townhome; provided, however, that no Assessment shall be levied against any Lot until such time as it is first sold to a purchaser other than Declarant. Assessments for all Lots conveyed by the Declarant to purchaser/Owner, either by deed or land sales contract, shall begin on the day of the recording of the deed or land sale contract conveying or contracting to convey the Lot of the new Owner. In accordance with ORS 94.704 (l), Declarant shall pay all common expenses of the Association that exceed the operating assessments received from non-Declarant Owners, exclusive of the reserve assessments. As of the first of the month following the date of the Turnover Meeting, all Declarant Lots will pay operating and reserve assessments under the payment provisions contained in this Declaration. Common Expenses and the common income, if any, derived from the Common Area shall be allocated equally between all Owners and/or charged to the Owner of each Lot.

10.4 Annual Assessments. Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. Annual assessments shall be levied on a fiscal year basis. The fiscal year shall begin on October 1st, unless another date is adopted by majority vote of the Board members.

10.5 Budget. Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing; (i) estimated revenue and expenses on an accrual basis; (ii) the amount of the total cash reserves of the Association currently available for replacement or major repair of the Common Area and for contingencies; (iii) an itemized estimate for the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the Common Area; and (iv) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs and repair, replacement or additions to major components of the Common Area. For the first fiscal year, the budget shall be approved by the Board no later than the date on which annual assessments are scheduled to commence. Thereafter, the Board shall annually prepare and approve the budget and distribute a copy thereof to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, not less than thirty (30) days and not more than ninety (90) days prior to the beginning of the fiscal year. The assessments in the budget are to be collected at intervals as determined by the Board of Directors and may include both operating and maintenance cost assessments, and the reserve assessments, all as defined in the Association documents.

(a) Allocation of Assessments. The total amount in the budget shall be charged equally against all sold Lots as annual assessments. Declarant may offset operating assessment payments due under this Restated and Amended Declaration through the payment of maintenance or utility costs described in herein, subject to submittal of paid invoices to the Association.

(b) Other Assessments. In addition to all assessments described in this Article 10, the Association shall assess all Lots for costs and expenses incurred by or at the direction of the Board for upkeep, maintenance, repair and replacement of Building Structures, including exterior walls, exterior paint and roofing, and exterior maintenance of the front and side yards, including street frontage planter strips of all Townhomes. In addition to the maintenance fund and the reserve fund described above, separate funds are hereby established for receipt, administration and distribution of proceeds arising from assessments against all Lots related to the upkeep, maintenance, repair and replacement expenses described above. Such assessments will be fixed annually in accordance with the general budget guidelines outlined in Section 10.5(a) above for the general association assessment. These maintenance responsibilities shall be subject to the same terms and conditions as the regular or special periodic assessments described above. A reserve study required in Section 10.6(b) below shall incorporate these maintenance responsibilities. Exterior wall painting is to include any trim. All glass items including all windows and window frames, glass replacement and cleaning is the sole responsibility of Owners.

(c) Non-Waiver of Assessments. If before the expiration of any fiscal year the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment is fixed. The provisions of this Section are subject to the provisions of the Oregon Planned Community Act.

10.6 Reserve Funds

(a) Reserve Fund for Repairs and Replacements. Declarant shall establish a reserve fund in the name of the Association for replacement, in whole or in part, of any completed improvements located in, on, or under the Common Area or Lots for which the Association is responsible pursuant to this Declaration, that will normally require replacement in more than one (1) year and less than thirty (30) years, for any exterior painting for other items, whether or not involving the Common Area, if the Association has responsibility to maintain the items, and for other items for which reserves are required by the Declaration or Bylaws ("Reserve Fund"). The Reserve Fund need not include those items that could reasonably be funded from the maintenance fund or operating assessments, or for which one or more Owners are responsible for maintenance and replacement under the provisions of this Declaration or the Bylaws. For purposes of funding the Reserve Fund, the Declarant initially, and thereafter the Association, shall impose an assessment to be called the "Reserve Fund Assessment" equally against each Lot. The Reserve Fund Assessment shall be based on the reserve study, and updates thereof, described in Section 10.6(b), or other sources of reliable information. Nothing herein shall limit the authority of Declarant or the Association to establish other separate and unrelated reserve funds that are funded by assessments for reserves that are in addition to the Reserve Fund or that relate only to a particular type or category of Lot. 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, although the Board may borrow funds with a specified repayment program, in accordance with the Oregon Planned Community Act. In the event the Board elects to borrow funds secured by an interest any portion of the common property, then said loan shall be pursuant to ORS 94.665.

Required Reserve Fund Assessments for completed improvements shall begin accruing from the date the first Lot assessed is conveyed. Declarant may elect to defer payment of the Reserve Fund Assessments due on Lots it owns until the date of the conveyance of the Lot to an Owner. 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 Fund Assessments.

After the Turnover Meeting, the Board may borrow funds from the Reserve Fund 'to meet high seasonal demands on the regular operating funds or to meet other unexpected increases in expenses. Such funds borrowed from the Reserve Fund shall be repaid from regular annual or special assessments against the Lots, if the Board has adopted a resolution, which may be an annual, continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

The Board may adjust the amount of the Reserve Fund Assessments as indicated by any reserve study or update thereof or based on the then current inflation rate. The Board may provide for other reserve items that the Board, in its discretion, may deem appropriate. In addition to the foregoing powers and rights vest in the Board, after the second anniversary of the Turnover meeting, the Association may elect to reduce or increase future Reserve Fund Assessments by a 75% vote of the Owners.

Any funds established for any of the purposes mentioned in this Section shall be deemed to be within the Reserve Fund notwithstanding that it may not be so designated by the Board of Directors. The amount of the Reserve Fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner.

(b) Reserve Study. The Board of Directors shall annually conduct a reserve study, or review and update an existing study, of the improvements, Common Area, Building Structures and other items for which the Association is responsible under these declarations to determine the requirements of the reserve fund described in Section 10.6(b) above. 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.

10.7 Special Assessments. The Board of Directors shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:

(a) Deficits in Operating Budget. To correct a deficit in the operating budget, by vote of a majority of the Board;

(b) Breach of Documents. To collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Declaration, the Bylaws, or the Rules and Regulations, by vote of a majority of the Board. All provisions of this Section 10.7(b) shall be interpreted by the provisions of the Oregon Planned Community Act relative to the imposition of fines and penalties.

(c) Repairs. To make repairs or renovations to the Common Area if sufficient funds are not available from the operating budget or replacement reserve accounts by vote of a majority of the Board; or

(d) Capital Additions. To make capital acquisitions, additions or improvements, by vote of at least seventy-five percent (75%) of all votes allocated to the Lots.

Any special assessments shall be owned solely by the Association regardless of their purpose and the individual Owners so assessed shall have no rights or interests in said funds.

10.8 Accounts.

(a) Types of Accounts. Assessments collected by the Association will be deposited into at least two (2) separate accounts with a bank, which accounts shall be designated as (i) the Current Operating Account and (ii) the Reserve Account. Those portions of the assessments collected for current maintenance and operation levied under Section 10.5(b) will be in the Current Operating Account and those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements into the Reserve Account. The Board may hold funds in the operating account until such time as the total reserve funds meet bank account minimum deposits to avoid special fees. Special Assessments shall be deposited into one of the two accounts, whichever is deemed by the Board to be appropriate. Withdrawal of funds for the Association's Reserve Account shall require the signatures of two (2) Directors, or Board approval in the written minutes of the Association.

(b) Reserve Account. The Association shall payout of the Reserve Account only those costs that are attributable to the maintenance, repair or replacement of capital improvements for which reserves have been collected and held. After the individual Lot Owners have assumed responsibility for administration of the planned community, the Board of Directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses. Funds borrowed must be authorized by a resolution passed by the Board of Directors, which also outlines the manner of repayment from later assessments. Such resolution may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period.

(c) Current Operating Account. All ordinary maintenance and operating expenses shall be paid from the Current Operating Account.

10.9 Default in Payment of Assessments, Enforcement of Liens.

(a) Personal Obligation. All assessments properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligation of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (that is, one other than through foreclosure or a deed in lieu of foreclosure) the grantees shall be jointly and severally liable with the grantor(s) for all Association assessments imposed through the recording date of the instrument affecting the conveyance. Said provisions shall be in accordance with the provisions of the Oregon Planned Community Act. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.

(b) Association Lien. At any time any assessment (of any type provided for by this Restated and Amended Declaration or the Bylaws) or installment thereof is delinquent, the Association, by and through its Board or any management agent, may file a notice of lien in the deed records of Deschutes County, Oregon against the Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorneys' fees (whether or not suitor action is instituted) and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 94.704 to 94.716, as the same may be amended, shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded previously to the Association's notice of lien and any mortgage or deed of trust granted to an institutional lender which is recorded previously to the Association's notice of lien.

(c) Interest; Fines; Late Fees; Penalties. The Board in its reasonable discretion may from time to time adopt resolutions to set the rate of interest, and to impose late fees, fines and penalties on delinquent assessments or for violations of the provisions of this Declaration, the Bylaws, any Rules and Regulations, and any rules and regulations adopted by the ARC. The adoption of such impositions shall be communicated to all Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing addresses of such Owners. Such impositions shall be considered assessments which are lienable and collectible in the same manner as any other assessments. Provided, however, no fine or penalty for violation of this Declaration, the Bylaws or any Rules and Regulations (other than late fees, fines or interest arising from an Owner's failure to pay regular or special assessments) may be imposed against an Owner or his/her Lot until such Owner is given an opportunity for a hearing as provided in Section 4.25.

(d) Acceleration of Assessments. In the event an Owner is delinquent in payment of any assessment or installment on any assessment, the Association, upon not less than ten (l0) days written notice to the Owner, any accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

(e) Association's Right to Rents/Receiver. In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of his/her Lot or shall be entitled to the appointment of a Receiver. Any default by the Owner in any provisions of the Declaration or Bylaws shall be deemed to be a default by the Owner of any mortgage to which the Owner is party or to which the Lot is subject.

ARTICLE 11 GENERAL PROVISIONS

11.1 Records. The Board of Directors shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board of Directors shall also keep detailed and accurate financial records including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid upon the account, and the balance due on the assessments. The minutes of the Association, the Board and committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for labor and materials relative to providing copies, Owners can obtain copies of this information within 10-days of receipt of a written request.

11.2 Indemnification of Directors, Officers, Employees and Agents. The Association shall indemnify any Director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that he/she is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he/she reasonably believed to be in, or not opposed to, the best interest of the Association, and with respect to any criminal action or proceedings, had reasonable cause to believe his/her conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and Members who participated with or benefited from the acts which created said liability.

11.3 Enforcement; Attorneys' Fees. The Association and the Owners within the Property or any mortgagee on any Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may pertain specifically to such parties or owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter.

11.4 Severability. Invalidation of anyone of these covenants, conditions or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

11.5 Duration. The covenants, conditions and restrictions of this Restated and Amended Declaration shall run with and bind the land for a term of thirty-five (35) years from the date of this Restated and Amended Declaration being recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless rescinded by a vote of at least ninety percent (90%) of the Owners and ninety percent (90%) of the first mortgagees; provided, however, that amendments which do not constitute rescission of the planned development may be adopted as provided in Section 11.6 below. Additionally, any such rescission that affects the Common Area shall require the prior written consent of the County of Deschutes, Oregon.

11.6 Amendment. Except as otherwise provided in Sections 11.5, 11.9, and the restrictions set forth elsewhere herein, this Restated and Amended Declaration may be amended at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes for all Lots subject to this Declaration. Any amendment must be executed, recorded and certified as provided by law. Provided, however, that no amendment of this Restated and Amended Declaration shall affect an amendment of the Bylaws or Articles without compliance with the provisions of such documents, and the Oregon Non-

Profit Corporation Act. Provided further, so long as the Declarant own any Lot, no amendment affecting the general plan and development or any other right of the Declarant herein contained may be affected without the express written consent of the Declarant or its successors and assigns.

11.7 Release of Right of Control. The Declarant may give up its right of control in writing at any time by notice to the Association, subject to the provisions of the Oregon Nonprofit statutes and the Oregon Planned Community Act.

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 apply to the plural and vice versa.

11.9 Unilateral Amendment by Declarant. The Declarant may amend this Restated and Amended Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board. commission or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee or provide financing in connection with development of the Property and sale of Lots. **Prior to the Turnover Meeting, no Declarant amendment shall require notice to or approval by any Member.**

11.10 Resolution of Document Conflicts. In the event of a conflict among any of the provisions in the documents governing Tuscany Pines, such conflict shall be resolved by looking to the following documents in the order shown below:

1. Restated and Amended Declaration of Covenants, Conditions and Restrictions;

2. Articles of Incorporation (Exhibit B);

3. Bylaws (Exhibit C);

4. Clubhouse License Agreement (Exhibit D);

5. Easement for Pump House Use (Exhibit E); and

6. Rules and Regulations also known as Policy and Procedure (Exhibit F).

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has executed this instrument this 14th day of August, 2009.

COTD I, LLC
By: ______________________
Scott Baklenko, Manager

COTD II, LLC
By: ______________________
Scott Baklenko, Manager

COTD III, LLC
By: ______________________
Scott Baklenko, Manager

COTD IV, LLC
By: ______________________
Scott Baklenko, Manager

STATE OF OREGON)
) ss.
COUNTY OF ~~HOOD RIVER~~ Deschutes)

On this day, personally appeared before me **SCOTT BAKLENKO**, known to me to be the individual named herein and who executed the within and foregoing Restated and Amended Declaration In his representative capacity as Manager for COTD I, LLC, COTD II, LLC, COTD III, LLC and COTD IV, LLC as the official act and deed of said limited liability companies for the uses and purposes stated therein.

GIVEN MY HAND AND OFFICIAL SEAL this 14th day of August, 2009.

OFFICIAL SEAL
DIANE E SULLIVAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 408459
MY COMMISSION EXPIRES AUG. 21, 2010

____
Name: Diane E. Sullivan
NOTARY PUBLIC in and for the State of Oregon,
residing at Bend, OREGON
My commission expires: 8/21/10

(08132009 Tuscany Pines CCRS Clean)

EXHIBIT F
(Continued)

RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I

Policy and Procedure Three

Procedure for Billing and Collection of Assessments

WHEREAS, Article 4 of The Initial Bylaws of Tuscany Pines Homeowners Association grants the Board of Directors shall have all of the "powers and duties necessary for the administration of the affairs of the Association;" and

WHEREAS, Article 10 of the Restated and Amended Declaration establishes the remedy for default in payment of assessments, and

WHEREAS, delinquent assessments impose a financial and administrative burden on the association, and

WHEREAS, there is a need to establish an orderly procedure for the collection of assessments that remain unpaid past their due date

WHEREAS, it is the intent of the Board to establish such steps as are necessary for the collection of delinquent assessments;

NOW, THEREFORE BE IT RESOLVED THAT the procedure for billing and collection of assessments is as follows:

1. Assessments shall be billed quarterly in advance.

2. Assessments are due on the first day of the first month of each quarter (i.e. January 1, April 1, July 1, and October 1).

3. Each assessment is payable upon receipt and is delinquent if not paid within 30 days of the due date.

4. On the 31st day following the due date, the Association shall send out a "Notice of Default" reminder letter to the owner and a fee of twenty-five dollars ($25) shall be applied to the account. This amount includes a late fee and interest from the due date.

5. If an assessment has not been paid by the 60th day following the due date, the Association Manager shall send out a second more direct letter signed by a Board member notifying the owner that a non-response to the letter will result in turning the account over to an attorney for further collection and possible liens placed against the property. A second fee of twenty five dollars ($25) shall be applied. This amount includes a late fee and interest from the 31st day following the due date.

6. Beginning on the 61st day following the due date, the entire unpaid amount shall bear interest at a rate of 12 per cent per annum. The Association Manager will initiate a phone call to the owner to ascertain the reasons for late payment and to negotiate payment arrangements. If no one answers, a message will be left for the owner to return the call to discuss payment arrangements.

7. Accounts that are delinquent for 90 days or more shall have their voting rights and rights to use Common Areas suspended. A lien will be filed upon the delinquent unit as provided in the Restated and Amended Declaration. Such lien shall include fees and interest as described above, a $150 administrative fee, and reasonable attorney's fees. A copy of the notice of lien will be sent to the owner and the holder of the first deed of trust of record.

(08132009 Policy 3)

EXHIBIT C

BYLAWS OF

TUSCANY PINES PHASE I HOMEOWNERS ASSOCIATION

A NONPROFIT CORPORATION

ARTICLE ONE

MEMBERSHIP

Section 1: The membership of Tuscany Pines Phase I Homeowners Association, a nonprofit corporation of Oregon, shall consist of COTD I, LLC, COTD II, LLC, COTD III, LLC, and COTD IV, LLC (as the Declarant) with member status to be conveyed to the persons or entities acquiring any lot in Tuscany Pines Phase I as further provided in the Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 2: The annual meeting of the directors of Tuscany Pines Phase I Homeowners Association shall be held on the First Tuesday of August in each year. Special meetings of the Membership may be called from time to time at the discretion of the Board of Directors of the corporation.

Section 3: The management of Tuscany Pines Phase I Homeowners Association shall be vested exclusively in the Board of Directors as detailed in the Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

ARTICLE TWO

MANAGEMENT

Section 1: The business and property of Tuscany Pines Phase I Homeowners Association shall be managed by its Board of Directors Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 2: The initial Board of Directors for Tuscany Pines Phase I Homeowners Association shall be nominated and appointed as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 3: The term of the directors of Tuscany Pines Phase I Homeowners Association shall be as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 4: The Board of Directors of the corporation shall hold regular meetings as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 5: Each member of the Board of Directors shall possess one (1) vote in matters coming before the Board. All voting at meetings of the Board of Directors shall be as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 6: Any director may be removed from office as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Section 7: Any vacancy occurring on the Board of Directors by reason of the death, resignation, or removal of a director shall be as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act. Such appointee shall serve during the unexpired term of the director whose position has become vacant.

Section 8: Within a reasonable time after their election, the members of the Board of Directors shall elect from their number the following officers:

A Chairman,

A Vice Chairman

A Secretary/Treasurer

ARTICLE THREE

DUTIES OF THE CHAIRMAN

Section 1: Chairman. The Chairman of the Board of Directors shall supervise all activities of the corporation; execute all instruments in its behalf; preside at all meetings of the Board of Directors and of the membership of the corporation; call such meetings of the membership as shall be deemed necessary, other than the annual meeting of the membership; and perform such other duties usually inherent in such office.

Section 2: Vice Chairman. The Vice Chairman of the Board of Directors shall act for the Chairman in his/her absence and perform such other acts as the Chairman may direct.

Section 3: Secretary/Treasurer. It shall be the duty of the Secretary of the Board of Directors to keep all records of the Board of Directors and of the corporation, and to perform such other acts as the Chairman may direct. The Treasurer shall receive and be accountable for all funds belonging to the corporation; pay all obligations incurred by the corporation when payment is authorized by resolution of the Board of Directors; maintain bank accounts in depositories designated by the Board of Directors; and render periodic financial reports.

ARTICLE FOUR

AMENDMENTS

Section 1: Bylaws may be amended as prescribed by Restated and Amended Declaration of Covenants, Conditions and Restrictions for Tuscany Pines Phase I and as further provided under the Oregon Planned Community Act.

Bylaws approved this 14 day of August, 2009.

SCOTT BAKLENKO, in his representative capacity as Manager of COTD I, LLC, COTD II, LLC, COTD III, LLC, and COTD IV, LLC, (all collectively Declarant)

(08132009 TUSCANY PINES PHASE I BYLAWS)

EXHIBIT A

RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I

Tracts A, B, C, D and E and private roads, TUSCANY PINES PHASE I, City of Bend, Deschutes County, Oregon

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45, TUSCANY PINES PHASE I, City of Bend, Deschutes County, Oregon

Account #: 259751

Map/Tax Lot #: 17-12-20-AB-00136

(08132009 Tuscany Pines Legal Description)

EXHIBIT B

RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I

ARTICLES OF INCORPORATION

New Search

Business Entity Data

08-13-2009 12:29

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Duration Date	Renewal Date
623297-93	DNP	ACT	OREGON	08-13-2009		

Entity Name	TUSCANY PINES PHASE I HOMEOWNERS ASSOCIATION
Foreign Name	
Non Profit Type	MUTUAL BENEFIT WITH MEMBERS

New Search

Associated Names

Please click here for general information about registered agents and service of process.

Type	AGT	REGISTERED AGENT	**Start Date**	08-13-2009	**Resign Date**	
Name	SCOTT		BAKLENKO			
Addr 1	202 OAK AVENUE SUITE 550					

Addr 2						
CSZ	HOOD RIVER	OR	97031		Country	UNITED STATES OF AMERICA

Type	MAL	MAILING ADDRESS		
Addr 1	202 OAK AVENUE SUITE 550			
Addr 2				

CSZ	HOOD RIVER	OR	97031		Country	UNITED STATES OF AMERICA

New Search

Name History

Business Entity Name	Name Type	Name Status	Start Date	End Date
TUSCANY PINES PHASE I HOMEOWNERS ASSOCIATION	EN	CUR	08-13-2009	

Please read before ordering Copies.

New Search

Summary History

Image Date	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
08-13-2009	ARTICLES OF INCORPORATION	08-13-2009		FI	Agent	

EXHIBIT D

RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I

TUSCANY PINES PHASE I
HOMEOWNERS ASSOCIATION

CLUBHOUSE
LICENSE AGREEMENT

This Agreement made, effective as of 14th day of August 2009, by and between COTD I, LLC the Declarant of Tuscany Pines – Phase I, a planned community the City of Bend, State of Oregon and as owner of certain real property being legally descried as:

TRACTS A, B, C, D and E and private roads, Tuscany Pines Phase I, City of Bend, Deschutes County, Oregon

Account No(s) 259751
Map/Tax Lot No(s): 17-12-20-AB-00136

hereinafter referred to as **Licensor**, and COTD I, LLC AND COTD IV, LLC, both as the Declarant of Tuscany Pines – Phase II, a planned community in the City of Bend, State of Oregon, and to COTD IV, LLC as the owner of certain real property being legally described as:

Tracts 2, Norwood Addition, City of Bend, Deschutes County, Oregon.

EXCEPTING THEREFROM that portion Platted as Tuscany Pines Phase I, City of Bend, Deschutes County, Oregon,

ALSO EXCEPTING THEREFORM that portion conveyed to the public by Dedication Deed recorded October 9, 2007 as Document No. 2007-54183, Deschutes County Records.

hereinafter collectively referred to as **Licensee.**

The parties agree as follows:

SECTION ONE
GRANT OF PERMISSION

In consideration of Licensee's promises contained in this Agreement, Licensor hereby grants Licensee the right to issue a maximum of fifty-four (54) Clubhouse Memberships to individual households in Tuscany Pines – Phase II permitting said Members to use Licensor's Clubhouse as described herein for exercising, swimming, meeting, entertainment and for incidental purposes related to such purposes, all on the terms and conditions set forth in this Agreement and upon compliance with all of Licensor's Rules and Regulations pertaining to the use of the Clubhouse.

The parties agree that the rights granted herein shall be deemed a restriction on the use of the Clubhouse as a Common Area of Tuscany Pines - -Phase I being legally described as:

Lots 1 through 45, inclusive, Tuscany Pines, Phase I, City of Bend, Oregon.

SECTION TWO
MEMBERSHIP

Except as otherwise provided herein, Membership is limited to individual households in Tuscany Pines – Phase II. Each household with a Membership shall be considered to be one Member and all residents of the Member household may use the Clubhouse. For purposes of this Agreement a household shall not consist of more then six (6) individuals. If a household consists of more than six individuals and if a Membership is available, then other additional individuals may enjoy Clubhouse use by purchasing an additional Membership.

Members shall be admitted by Licensee on a first-come, first serve basis and appropriate dues are paid by each Member directly to Licensor. Memberships Units issued pursuant to this Agreement shall be limited to a maximum of fifty-four (54). To the extent that fifty-four (54) memberships are not sold to the owners of Tuscany Pines – Phase II, then such memberships can be provided to the general public on a first come, first serve basis; however, any membership sold to any member of the public who is not a resident of Tuscany Pines – Phase II shall be sold on a revocable basis. Memberships sold to non-residents of Tuscany Pines – Phase II shall be revoked and cancelled to afford Tuscany Pines – Phase II resident's preferential treatment. Cancellation of memberships sold to non-residents of Tuscany Pines – Phase II shall be revoked/cancelled upon thirty (30) calendar days notice. In the event cancellation occurs during a calendar month, the party holding the revoked/cancelled membership shall be entitled to a refund for the unused portion of that month's dues.

Memberships in good standing in the immediately preceding calendar year shall be given priority for continuing Membership in the current year in accordance with rules and procedures as determined by Licensor.

Membership Units in the Clubhouse shall not be transferable.

SECTION THREE
DESCRIPTION OF CLUBHOUSE

The Clubhouse of Licensor is an approximately 4100 square foot structure with a spa and fitness center, meeting rooms, guest entertainment room, trophy kitchen, and an outdoor private swimming pool located in Tuscany Pines – Phase I, Tract A.

SECTION FOUR
ACCESS TO CLUBHOUSE

Licensor shall permit Licensee's Membership Unit holders in good standing to enjoy free and unobstructed access to and egress from the above-described Clubhouse during normal operating hours, provided that Licensor's posted or published Rules & Regulations (as the same may from time-to-time be amended) are observed. .

SECTION FIVE
PERIODIC PAYMENTS

Each Member shall pay Licensor dues at the monthly rate to be determined and, from time-to-time adjusted by Licensor not to exceed 1/99th of the estimated gross annual cost of the maintenance, repair, insurance and all other expenses, including a reasonable administrative allowance and reserves, attributable to the Clubhouse. The monthly fee shall be paid on the first day of each month in advance. Subsequent payments for dues shall be made in advance promptly on the first day of each month thereafter during the continuation of this Agreement.

The obligation to make payments for dues is not dependent on the availability of all the Clubhouse's facilities. Special engagements, repairs, and maintenance of the Clubhouse may make it necessary for restricted use of, or close of, one or more of the Clubhouse amenities. Dues will not be reduced or suspended during the time one or more of the Clubhouse amenities are not available.

SECTION SIX

PERMISSION EXCLUSIVE

The permission granted by Licensor to Licensee under this Agreement is non-exclusive to Licensee. Licensee and Members agree that the Clubhouse will be used by the residents and guests of Tuscany Pines - - Phase I.

SECTION SEVEN
PRIVILEGE NOT ASSIGNABLE

Except as provided herein, Licensee's privileges under this Agreement shall not be assignable by Licensee in whole or in part.

SECTION EIGHT
NO COMMERCIAL USE OR NUISANCE

Licensee and Licensee's Membership Unit holders shall not use the above-described Clubhouse for commercial purposes, and shall not perform or permit any of Licensee's or Licensee's Membership Unit holder's guests, invitees, or Licensees to perform any disorderly conduct or commit any nuisance on such property or to use such property in any way so as to interfere with the exercise by other Membership Unit holders or Tuscany Pines - - Phase I homeowners of privileges that they may have to use the Clubhouse.

Licensee and Licensee's Membership Unit holders shall not keep as a guest, invitee, or Licensee any person objectionable to Licensor's representative in charge of the above-described property.

SECTION NINE
INDEMNIFICATION

Licensee's Membership Unit holders shall exercise their privileges under and pursuant to this Agreement at his or her own risk, and, irrespective of any negligence of Licensor, the Membership Unit holders shall indemnify and hold Licensor harmless from and against any and all liability for damages, costs, losses, and expenses resulting from, arising out of, or in any way connected with, the occupation or use of the above-described Clubhouse by the Membership Unit holder, or the Licensees, invitees, or guests of a Membership Unit holder, or the failure on the part of any other Membership Unit holder to perform any or all promises contained in this Agreement. This hold harmless and indemnification provision shall be broadly and liberally construed to the fullest extent permitted by law so that Licensor shall have no liability of any nature to the Membership Unit holder, or the Licensees, invitees, or guests of a Membership Unit holder.

SECTION TEN
TERMINATION

Licensor reserves the right to terminate any Membership issued by Licensee under this Agreement at any time by giving the Membership Unit holder at least thirty (30) days written notice of such termination. Termination shall be based on reasonable cause.

In the event the Member receiving notice of termination disputes the existence of "reasonable cause", then said Member may request and be heard by the Board for the Homeowner Association of Tuscany Pines - - Phase I whose decision will be final and from which no appeal can be taken.

SECTION ELEVEN
LICENSOR'S TITLE

Licensee acknowledges the legal title of Licensor to the above-described Clubhouse and agrees never to deny such title or to claim title in Licensee's name.

SECTION TWELVE
NOTICE

Any notice provided for or concerning this Agreement shall be in writing and be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of the Membership Unit holder.

SECTION THIRTEEN
TIME IS OF THE ESSENCE

It is specifically declared and agreed that time is of the essence of this Agreement.

SECTION FOURTEEN
GOVERNING LAW

It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Oregon.

SECTION FIFTEEN
NO WAIVER

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

SECTION SIXTEEN
ATTORNEY'S FEES AND COSTS

In the event that any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees and costs.

SECTION SEVENTEEN
EFFECT OF PARTIAL INVALIDITY

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

SECTION EIGHTEEN
LICENSE DEEMED APPURTINANT TO THE LAND

The rights granted herein shall be deemed appurtenant to and shall run with the land and shall not be deemed personal rights. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns. The provisions of this Agreement shall be covenants deemed to run with the land and the respective estates described herein above.

SECTION NINETEEN
DURATION

The rights granted herein shall be deemed perpetual. The rights granted herein shall continue for so long as the Clubhouse is available for utilization for the aforementioned Clubhouse purposes. No voluntary act by the Licensor shall be asserted as a basis for the termination of the perpetual rights granted herein.

SECTION TWENTY
MODIFICATION OF AGREEMENT

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

SECTION TWENTY-ONE
ENTIRE AGREEMENT

This Agreement shall constitute the entire Agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

Dated this 14th day of August, 2009.

LICSENSOR

COTD I, LLC
By:________________________________
Scott Baklenko, Manager

LICSENSEE

COTD I, LLC
By:________________________________
Scott Baklenko, Manager

COTD IV, LLC
By:________________________________
Scott Baklenko, Manager

STATE OF OREGON)
Deschutes) ss.
COUNTY OF ~~HOOD RIVER~~)

On this day, personally appeared before me **SCOTT BAKLENKO**, known to me to be the individual named herein and who executed the within and foregoing Restated and Amended Declaration In his representative capacity as Manager for COTD I, LLC and COTD IV, LLC as the official act and deed of said limited liability companies for the uses and purposes stated therein.

GIVEN MY HAND AND OFFICIAL SEAL this 14th day of August, 2009.

____
Name: Diane E. Sullivan
NOTARY PUBLIC in and for the State of Oregon,
residing at Bend, OR
My commission expires: 8/21/10

OFFICIAL SEAL
DIANE E SULLIVAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 408459
MY COMMISSION EXPIRES AUG. 21, 2010

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed at Bend, Oregon on the date indicated above.

By LICENSOR

Print Name: COTD I, LLC by Scott Baklenko

Title: Managing Member

By LICENSEE

Print Name: COTD I, LLC, COTD IV, LLC and COTM by Scott Baklenko

Title: Managing Member

State of Oregon)

) ss.

County of Deschutes)

I certify that I know or have satisfactory evidence that Scott Baklenko is the individual who appeared before me and said individual acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 14th day of August, 2009.

Print name: Diane E. Sullivan

Notary Public in and for the

State of Oregon

Residing at: Bend, OREGON

Commission expires: 8/21/10

OFFICIAL SEAL
DIANE E SULLIVAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 408459
MY COMMISSION EXPIRES AUG. 21, 2010

State of Oregon)
) ss.
County of Deschutes)

I certify that I know or have satisfactory evidence that Scott Baklenko is the individual who appeared before me and said individual acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 14 day of August, 2009.

OFFICIAL SEAL
DIANE E SULLIVAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 408459
MY COMMISSION EXPIRES AUG. 21, 2010

Diane E Sullivan
Print name: Diane E. Sullivan
Notary Public in and for the
State of Oregon
Residing at: Bend, OREGON
Commission expires: 8/21/10

(08122009 Clubhouse Agreement Clean Exhibit D)

EXHIBIT E

TUSCANY PINES PHASE I

HOMEOWNERS ASSOCIATION

A NONPROFIT CORPORATION

EASEMENT FOR PUMP HOUSE AGREEMENT USE

This Easement made, effective as of 14th day of August 2009, by and between COTD I, LLC, COTD II, LLC, COTD III, LLC and COTD IV, LLC as follows:

RECITALS

WHEREAS, COTD IV, LLC (hereafter Grantor) is the Declarant of Tuscany Pines – Phase II, a planned community in the City of Bend, State of Oregon and is the owner of certain real property (Servient Estate) being commonly known as Tuscany Pines – Phase II legally descried as:

Tracts 2, Norwood Addition, City of Bend, Deschutes County, Oregon.

EXCEPTING THEREFROM that portion Platted as Tuscany Pines Phase I, City of Bend, Deschutes County, Oregon,

ALSO EXCEPTING THEREFORM that portion conveyed to the public by Dedication Deed recorded October 9, 2007 as Document No. 2007-54183,

WHEREAS Grantor is the owner of a pump house located on the above described Property (Servient Estate).

WHEREAS, the COTD I, LLC, COTD II, LLC, COTD III, LLC and COTD IV, LLC collectively (hereafter Grantee) is the Declarant of Tuscany Pines – Phase II a planned community in the City of Bend, State of Oregon and are each owners of adjacent lands (Dominant Estate)which compose a planned community commonly known as Tuscany Pines – Phase I being legally described as:

TRACTS A, B, C, D and E and private roads, Tuscany Pines Phase I, City of Bend, Deschutes County, Oregon

Account No(s) 259751
Map/Tax Lot No(s): 17-12-20-AB-00136

Together with

Lot 1-45, Tuscany Pines – Phase I City of Bend, Deschutes County, Oregon

WHEREAS, the Parties deem it desirable to enter this Easement for Pump House Use so that Grantor's Pump House on the Servient Estate will provide service to the Property of both parties as described herein.

WHEREAS, it is the intention and purpose of the parties that the Pump House shall be used and operated to provide an adequate supply of water for the irrigation of the Dominant Estate and the Servient Estate connected thereto and to assure the continuous and satisfactory operation and maintenance of the Pump House for the benefit of the present and future owners, their heirs, successors and assigns of the properties connected thereto.

WHEREAS, the said Pump House is deemed by the parties hereto to be of adequate capacity to meet contemplated domestic irrigation uses; and

WHEREAS, the parties hereto desire to enter this Agreement for the purpose of reducing to writing their respective rights and obligations pertaining to the Pump House.

NOW THEREFORE, in consideration of the promises and covenants herein contained, it is agreed that the Grantor's Pump House shall be used by the parties to this Agreement, as well as by all future owners and occupants of the above described Properties upon the following terms and conditions:

II. TERMS AND CONDITIONS

1. That until this Agreement is terminated, as hereinafter provided, the parties hereto, their heirs, successors and assigns, for the exclusive benefit of the respective Properties, and for the exclusive use of the households residing thereon, are hereby granted the right in common with the other parties to this Agreement, to utilize the Pump House for purposes of supplying water for residential irrigation purposes.

2. That the Dominant Estate shall:

a. Pay or cause to be paid to the Servient Estate, an annual fee for this use of the Pump House;

b. Pay or cause to be paid promptly, a proportionate share of all expenses for the operation and maintenance of the Pump House that may become necessary. The proportionate share shall include the cost of electricity for pumping, repairs and maintenance on said Pump House. The "Proportionate Share" shall be based on the total number of lots situated on either of the above described Properties.

3. That each of the parties agrees to promptly maintain, repair, and replace all water pipes or mains serving their respective Property.

4. In the event that Grantee fails to timely make any such payment for a period of 20-days, then Grantor may terminate the supply of water to all or part of Dominant Estate until all arrearages in payment are received by the Grantor.

5. That each of the parties to this Agreement does hereby grant to the other, its successors and assigns, such easements over, across and through the respective parcels as shall be reasonably necessary for the Cistern, maintenance of water pipes, pumping equipment, mains, electrical wiring and conduit consistent with the purposes of this Agreement.

6. That no party may install landscaping or improvements that will impair the use of said easements.

7. That each party shall have the right to act to correct an emergency situation and shall have access to the pertinent parcel in the absence of the other. An emergency situation shall be defined as the failure of any shared portion of the system to deliver water upon demand.

12. That only those Tracts of the Dominant Estate hereinabove described (together with the common areas included in the legal description and all property hereafter annexed by the Grantor) shall be permitted to receive water from said Pump House and each of the parties hereto does hereby covenant and agree that he/she will not allow or permit other persons, other than household guests, to take, draw, use or receive water from the Cistern/Pump House, nor permit other persons to connect to the pipes or mains serving his/her respective parcel, as the Pump House is only to serve the Dominant Estate of the Servient Estate.

13. That in the event the Cistern becomes contaminated and shall no longer supply water suitable for the needs of the Dominant Estate and Servient Estate, or in the event that another source of water shall become available to the respective parcels, then the rights and obligations of the parties created by this Agreement shall cease and terminate in accordance with the terms and conditions hereinafter described.

14. That upon the availability of such other source of water, it is contemplated that a reasonable time shall be allowed to effectuate the necessary connections to the new source.

15. That the respective rights and obligations of the parties shall continue until jointly terminated by the Dominant Estate and the Servient Estate by executing and filing a written statement of termination at the Office of the Register of Deeds of the County of Deschutes, State of Oregon. Upon termination of participation in this Easement, the Dominant Estate shall have no further right to the use of the Cistern/Pump House. The Dominant Estate shall disconnect and shall have no further obligation to pay. The costs of disconnection from the water system shall be borne by the Dominant Estate.

16. That the undersigned parties shall permit periodic water sampling and testing by a responsible authority at the request of an undersigned party.

17. That the parties may amend this Easement to assure equitable distribution of shared costs and responsibilities. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

18. That the term of this Easement shall be perpetual, except as herein limited.

19. In the event that any action is filed in relation to this Easement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees and costs.

20. That the benefits and burdens of this Easement shall constitute a covenant running with the parcels of land herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first above written.

GRANTOR/SERVIENT ESTATE

COTD IV, LLC

By: ______________________

Scott Baklenko, Manager

STATE OF OREGON)
) ss.
COUNTY OF ~~HOOD RIVER~~ Deschutes)

On this day, personally appeared before me **SCOTT BAKLENKO**, known to me to be the individual named herein and who executed the within and foregoing Restated and Amended Declaration In his representative capacity as Manager for COTD IV, LLC as the official act and deed of said limited liability companies for the uses and purposes stated therein.

GIVEN MY HAND AND OFFICIAL SEAL this 14th day of August, 2009.

Name: Diane E. Sullivan
NOTARY PUBLIC in and for the State of Oregon,
residing at Bend, OREGON
My commission expires: 8/21/10

OFFICIAL SEAL
DIANE E SULLIVAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 408459
MY COMMISSION EXPIRES AUG. 21, 2010

GRANTEE/DOMINANT ESTATE

COTD I, LLC

By: ______________________________
Scott Baklenko, Manager

COTD II, LLC

By: ______________________________
Scott Baklenko, Manager

COTD III, LLC

By:____________________

Scott Baklenko, Manager

COTD IV, LLC

By:____________________

Scott Baklenko, Manager

STATE OF OREGON)

Deschutes) ss.

COUNTY OF ~~HOOD RIVER~~)

On this day, personally appeared before me **SCOTT BAKLENKO**, known to me to be the individual named herein and who executed the within and foregoing Restated and Amended Declaration In his representative capacity as Manager for COTD I, LLC, COTD II, LLC, COTD III, LLC and COTD IV, LLC as the official act and deed of said limited liability companies for the uses and purposes stated therein.

GIVEN MY HAND AND OFFICIAL SEAL this 14th day of August, 2009.

____

Name: Diane E. Sullivan

NOTARY PUBLIC in and for the State of Oregon,

residing at Bend, OREGON

My commission expires: 8/21/10

OFFICIAL SEAL
DIANE E SULLIVAN
NOTARY PUBLIC-OREGON
COMMISSION NO. 408459
MY COMMISSION EXPIRES AUG. 21, 2010

(08122009Easement for Pump House Agreement Study)

EXHIBIT F

**RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I**

TUSCANY PINES PHASE I HOMEOWNERS ASSOCIATION

Policy and Procedure One

Resolution to Create Policies and Procedures.

WHEREAS, Recitals and various Articles of the Restated and Amended Declaration for Tuscany Pines Homeowners Association Inc., describe the powers, obligations and duties of Tuscany Pines Homeowners Association, Inc. (Association), a nonprofit corporation formed under the laws of the State of Oregon (see Articles of Incorporation), and The Oregon Planned Communities Act, ORS 94.630 and 94.640 Community Associations and Board of Directors Powers, provide for the jurisdiction and powers to administer the management of the affairs of the Association;

AND WHEREAS, Article 4, Directors: Management, of the Initial Bylaws of Tuscany Pines Homeowners Association (Bylaws), delegates and describes the powers and duties of the Board of Directors as necessary for the administration of the affairs of the association;

AND WHEREAS, in order to exercise its powers and duties as efficiently and effectively as possible, the Board of Directors of the Association deems necessary the establishment of systematic procedures to reach, record, promulgate, maintain, and administer far-reaching, precedent-setting actions and decisions;

AND WHEREAS, the Board of Directors desires that these procedures be fully open and readily accessible to Association members for effective communication, including the gathering and evaluation of feedback, to better serve the Association Incorporation's stated purpose and powers, "...to engage in activities which will actively foster, promote, and advance the common interests of all owners of real property subject to the Declaration;" along with the Oregon legislature's stated goals of assuring "proper maintenance of the projects so that the investment of the owners and the appearance of Oregon communities are protected." (ORS 94.560 [5]);

NOW, THEREFORE, BE IT RESOLVED THAT the Board shall establish a process of creating and adopting Policies and Procedures as follows:

1. When necessary, the Board shall create a draft of a Proposed Policy or Procedure in a format that conforms to the "Model Policy and Procedure Format" provided in Attachment One.

2. Proposed Policies and Procedures shall specifically relate to the long-term governance of the Association, including but not limited to, actions affecting members' rights of enjoyment, members' obligations, and the protection of the equity of the Association and its members, or may deal with the internal structure and operation of the Association, including but not limited to, responsibilities of committees, financial procedures, and administration of policies and rules.

3. After the initial draft (Draft 1) of a proposed Policy or Procedure is created, the Board of Directors shall circulate it to all Association members of record, for their review and constructive comment.

4. Based on the feedback received from the Association, the initial draft of the Proposed Policy & Procedure may be revised by the Board of Directors into a Draft 2 Proposed Policy & Procedure, and then re-circulated to the Association members for their final review and feedback.

5. If:
   a) the initial proposed Draft is deemed acceptable by most of the responding Association after considering responses made in writing or by personal response at a Board meeting, or if
   b) only semantic changes were requested, or if
   c) Draft 2 has been circulated and feedback considered,
   d) then the Board of Directors shall prepare a Final Draft of the Policy and Procedure that reflects the will of the majority of the responding membership.

6. Written responses to Draft 1 or 2 must be received at least 24 hours prior to Board meeting.

7. The Board of Directors shall vote to either approve or disapprove the Final Draft of the Policy and Procedure. If the Final Draft is approved, the Policy and Procedure will be signed and dated by the Board President. The Policy and Procedure shall then be enforceable. If the Final Draft is disapproved, the matter is deemed closed for the time being.

An enforceable Book of Policies and Procedures shall be maintained by the Secretary of the Board of Directors and made available to all Association members.

EXHIBIT F

RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I

TUSCANY PINES PHASE I
HOMEOWNERS ASSOCIATION

Policy and Procedure One

Resolution to Create Policies and Procedures.

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AND WHEREAS, Article 4, Directors: Management, of the Initial Bylaws of Tuscany Pines Homeowners Association (Bylaws), delegates and describes the powers and duties of the Board of Directors as necessary for the administration of the affairs of the association;

AND WHEREAS, in order to exercise its powers and duties as efficiently and effectively as possible, the Board of Directors of the Association deems necessary the establishment of systematic procedures to reach, record, promulgate, maintain, and administer far-reaching, precedent-setting actions and decisions;

AND WHEREAS, the Board of Directors desires that these procedures be fully open and readily accessible to Association members for effective communication, including the gathering and evaluation of feedback, to better serve the Association Incorporation's stated purpose and powers, "...to engage in activities which will actively foster, promote, and advance the common interests of all owners of real property subject to the Declaration;" along with the Oregon legislature's stated goals of assuring "proper maintenance of the projects so that the investment of the owners and the appearance of Oregon communities are protected." (ORS 94.560 [5]);

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An enforceable Book of Policies and Procedures shall be maintained by the Secretary of the Board of Directors and made available to all Association members.

(08132009 Policy 1)

EXHIBIT F

(Continued)

RESTATED AND AMENDED
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TUSCANY PINES
Phase I

TUSCANY PINES PHASE I HOMEOWNERS ASSOCIATION

Policy & Procedure Two

Compliance, Violations, and Remedies regarding Conduct of Operations on the Property and Common Areas

WHEREAS, it is the intent of the Tuscany Pines Homeowners Association Restated and Amended Declaration to enhance and protect the value, desirability and attractiveness of the Property for the benefit of the Property and present and subsequent owners;

AND WHEREAS the Association and its Board of Directors believe that the common interests of all Owners are best served by compliance with Covenants, Conditions, Restrictions, Policies, and Standards heretofore and hereafter adapted;

AND WHEREAS, the Association and its Board of Directors believe that the majority of Owners intend to comply with the Covenants, Conditions, Restrictions, Policies, and Procedures of the Association,

AND WHEREAS the Association and its Board of Directors believe that Owners desire a community wherein the Association assists and cooperates in the resolution of compliance issues when requested by involved parties;

AND WHEREAS, the Association and its Board of Directors have the authority to adopt, modify, or revoke policies, procedures, rules, and regulations governing the conduct of persons and the operation and use of Common Areas and the Property as deemed necessary or appropriate in order to preserve the peaceful and orderly use and enjoyment of the Property;

NOW THEREFORE, BE IT RESOLVED THAT, when it becomes apparent a Property Owner does not intend to abide by certain rules or regulations, the issue(s) shall be dealt with through resolution by the Association and its representatives as follows. In all cases, remedies, sanctions, and/or proposed actions shall be reviewed and approved by the Board of Directors and shall be communicated to the Property Owner by a Board or

Committee member, or the Association's Managing Agent in accordance with the following procedure:

1.0 <u>Reporting of Potential Violations:</u>

a. **<u>Committee or Board of Directors Representatives</u>:** Designated representatives of the Board of Directors or its appointed Committees may report problems to the Managing Agent for notification and efforts to resolve a matter.

b. **<u>Property Owner Referral</u>:** Owners may communicate areas of concern or situations involving possible violations of the CC&R's to the Managing Agent, Board member, or appropriate committee member.

c. **<u>Definitions</u>:** In these Policy & Procedures, an activity that violates a policy or procedure is defined as a *violation.* The responsible Property Owner purportedly in violation is defined as the v*iolator.*

1.1 The Association, through its Managing Agent, Administrative Staff, Committees, Advisory Board or Board of Directors may identify a problem and address the matter in a procedural manner with the party not in compliance. An individual Property Owner may also raise an issue about the activities of another Property Owner or their Representative(s). Before filing a written complaint and requesting assistance from the Association, the Property Owner making the complaint is encouraged to contact the offending party directly. It is the Association's belief that most people want to be good neighbors, and that situations can usually be remedied quickly with direct and clear communication between the involved parties.

1.2 If a Property Owner believes a complaint should be filed with the Association, the Property owner must provide written documentation if requested by the Association's representative or Board of Directors identifying the steps the complaining Property Owner has already taken to resolve the situation, including who, what, when, where, what was said, and what was the result.

2.0 <u>Association's initial response to a complaint</u>:

2.1 After receiving a complaint (refer to 1.0 above), the Association, through a review by the appropriate Managing Agent, Committee, or Board of Directors will determine if a violation has occurred. If such a determination is made, The Board's representative will telephone the violator informing him/her of the compliance problem and offer assistance and information to help resolve the situation. Successful telephone contact includes voice mail messages.

2.2 In addition to attempting to reach the violator by telephone and/or electronic mail,, a written notice will be mailed via first class mail or hand delivered to the Property Owner of record, identifying the area of non-compliance

and the associated rule.. The notice will urge the Property Owner to take action to resolve the concern and offer assistance if required.
Additionally this notice may clarify time frames for substantial compliance to be evidenced and/or fines that may apply for non-compliance. Repeat compliance infractions and some other serious and/or hazardous situation, may not require advance notice before the Association takes steps to remedy a situation or assess a fine. In cases where a notice of violation is posted on the Property, there will be no notification to the offending party in advance by telephone.

2.3 Each Property Owner is responsible for providing correct current owner information, including phone numbers and mailing addresses, to the Association or its Management Company (where Property Owner records are maintained). Successful notification is based on the date the telephone call is attempted, hand delivery and/or the notice is mailed first class, whether or not the violator's phone number and/or address is actually current and correct in the Association's records.

3.0 **Immediate Demand or Action by the Association:** In a situation where there is an immediate threat to health, safety, or the environment, the Association may elect to rectify the situation immediately, without notice, and charge the violator(s) for any and all costs incurred.

4.0 **Compliance Sanctions and Procedures:** Unless specifically addressed elsewhere in the Restated and Amended Declaration, and/or Policies & Procedures, or a prior exception has been granted, the following sanctions and procedures shall be applied to situations where the Association or appropriate committee determines a compliance violation exists. The Association will recognize good-faith work-in-progress efforts by the Property Owner to resolve compliance violations in order to mitigate applicable fines/fees.

4.1 An initial Compliance Notice will be given to a violator to discuss with the Managing Agent, Board, or appropriate committee and/or for corrective action to a specified violation. The Notice will provide a maximum of **21** days for compliance.

4.2 If the problem has not been satisfied/corrected by Day **22** a fine of **$35** will be applied.

4.3 On Day **31** a daily fine of **$25** will begin and continues daily until compliance is achieved.

4.4 On Day **31** Administrative Charges (see Appendix A; 1.1) will also be added to cover the costs to the Association for this compliance activity.

4.5 On Day **45** the Association may correct the violation, but is not obligated to do so. If the Association corrects the situation, the violator is responsible for reimbursing all of the costs to the Association. There is a minimum **$100** charge for a violation correction performed by the Association.

4.6 On Day **60** the Association will refer the matter to the Association's attorney for legal action.

4.7 On Day **61** the daily fine will be doubled to **$50** for each day the violation remains uncorrected.

5.0 **Repeat Violations:** Each repeat violation by the same Property Owner, guest, visitor, contractor and/or vendor, etc., whether single or multiple ownership/locations and/or times, will begin being fined without further Notice, at Day 1, and follow the same steps as indicated by 4.3 through 4.7 above, with the respective Day intervals adjusted based on Day 1 in 4.3.

Appendix A to Policy & Procedure Two

1.0 **Supplemental Information regarding Compliance Actions, Enforcement Procedures, Sanctions, Fees, Administrative Charges, and Appeals:** The Association is the primary entity responsible for the management, administration and enforcement of the Restated and Amended Declaration and Policy & Procedures regulating the use of the covered Properties. The following guidelines provide supplemental information regarding these functions and associated processes.

1.1 *Administrative charges* relate to expenses incurred by the Association, examples of which include, but are not limited to, the cost of consultants, Architectural Review Committee, architects, landscape designers, engineers, Association managing agent, legal costs, notices, collections, managing a resolution to a problem and cost for contract work, materials, equipment rental, materials removal and disposal, towing and storage, vehicle mileage, and office services and supplies.

1.2 Collection of fines and reimbursement for costs are governed by the Association's assessment and compliance payment procedures as indicated in the Restated and Amended Declaration.

1.3 Legal action will lead to costs related to the matter being referred to the Association's attorney, resulting in costs for correspondence, filing liens and notices, collections, filing court actions, and pursuing other legal rights and remedies.

1.4 Repeat violations by the same builder, contractor or Property Owner, regardless of single or multiple location and times, are subject to: a) immediate fines without advance notice, b) administrative charges, and, c) commencement of the compliance procedure process at step 4.3.

1.5 Property Owners making requests of the Association, where additional expenses to the Association are incurred for administrative and other services, may be required to reimburse to the Association for those costs. While it is difficult for the Association to foresee all the types of requests that may be made by Property Owners, the Association will use its best cost estimates to inform the Property Owner prior to proceeding.

1.6 Under special circumstances, the Association may issue permits for time extensions and schedule variations. There may be some extenuating circumstances where it would be reasonable for a Property Owner or builder to request a variation in time frames or activities that are covered by the Restated and Amended Declaration. Communications in a timely manner with the appropriate Association representative is very important. Property Owners should not assume consideration will be given for variations after the fact.

1.7 Removal, storage and disposal of equipment, materials and debris are the responsibility of the Property Owner.

1.8 Property Owners should inform contractors and/or renters of the Association's rules to help minimize problems and reduce the chance of fines and other actions required by the Association to seek compliance. The Property Owner is ultimately responsible for all problems and their consequences. The Property Owner may want to include provisions in their contracts that allow for passing along fines and other charges to those contractors that create problems.

1.9 The timelines are based on all seven days of the week for making corrections and do not exclude weekends, holidays, absence, or unavailability of the Property Owner or their contractor.

2.0 **Appeal:** If the Property Owner does not agree with the issue as stated in the Compliance Notice, the Property Owner may file a written appeal, along with supporting documentation, as to what the exception is to the stated Rule, through the following steps:

2.1 Appeal the Compliance Notice to the appropriate Committee or Administrative entity for the Association that has oversight responsibility in the area.

2.2 Appeal the decision to the Board of Directors. The Board of Directors makes the final decision.

The Property Owner is subject to a minimum **$150** Administrative Fee for appealing matters to the Association Board, should they be held in non-compliance. The written appeal may request a personal appearance before the board reviewing the appeal. The Board or designated authority will attempt to determine a finding within **60** days, although some situations may require additional time to evaluate, investigate, and/or to affect a solution. Also, at the discretion of the committee or entity, a matter may be decided without a formal meeting, but rather by using written materials, telephone calls and/or electronic communications to coordinate a discussion of the subject at hand.

In the event there is a delay in holding an appeal, the Property Owner will not be penalized, due to the delay, with additional charges. However, when a confirmed violation of the Restated and Amended Declaration occurs, the Property Owner must correct the violation to stop further sanctions and fees. The Property Owner will be notified in writing of the assessed fee(s), if any, within thirty days of the hearing date.

If an appeal application, in writing, is not received by the Association within thirty (30) days of initial notice by the Association of a violation, the Association will automatically assume that an appeal will not be initiated and the Property Owner accepts the fine and/or sanctions.

3.0 Appeals Hearing Agenda:

3.1 Hearing opened by Chairperson

3.2 Roll call is taken

3.3 Presentation of issue(s) by Association representative

3.4 Documented facts of the case reviewed by the Committee/Board

3.5 Property Owner, or their representative, is given up to 15 minutes to present additional information for consideration by the appeal body and to also clarify why the Association's rules and policies do not apply to their particular situation(s)

3.6 Committee/Board may ask for clarification and/or request additional information

3.7 The Committee/Board may make a finding regarding the matter or it may adjourn the meeting for up to 45 days to gain additional information.

3.8 If the hearing is set over to a future date the date and time of the hearing continuation will be announced.

3.9 Meeting adjourned.

(08132009 Policy 2)