



\$221.00

0059618220800046650390395

01/31/2008 12:22:41 PM

D-CCR Cnt=1 Stn=7 SRB

\$195.00 \$11.00 \$10.00 \$5.00

After Recording Return to:

→ Caldera Cabins Owners' Sub-Association, Inc.  
PO Box 3609  
Sunriver, Oregon 97707  
Attn.: Catherine Smith

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR CALDERA CABINS**

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CALDERA CABINS (this "Declaration"), to be effective upon its recording in Deschutes County, Oregon, is made and executed on the date hereinafter set forth by Caldera Springs Village LLC, an Oregon limited liability company, hereinafter referred to as the "Declarant".

**WITNESSETH**

Declarant is developing a destination resort pursuant to Oregon law and Deschutes County ordinance known as Caldera Springs located in Deschutes County, Oregon.

In furtherance of such development, Declarant has recorded that certain Declaration of Protective Covenants, Conditions and Restrictions for Caldera Springs recorded on February 17, 2006 in the Official Records of Deschutes County, Oregon as Document No. 2006-11383 (the "Master Declaration") creating the single-family residential component of Caldera Springs. Declarant now desires to create a Sub-Association (as defined in the Master Declaration) for the Overnight Lodging Unit (as defined in the Master Declaration) component of Caldera Springs.

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

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

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

## **ARTICLE I - SUBORDINATION**

The terms of this Declaration are and shall remain subordinate to and subject to the terms of the Master Declaration and Bylaws of the Caldera Springs Owners' Association, Inc.

## **ARTICLE II – DEFINITIONS**

### **Section 2.1    “Articles”**

“Articles” shall mean the Articles of Incorporation of the Association.

### **Section 2.2    “Association”**

“Association” shall mean the Caldera Cabins Owners' Sub-Association, Inc., an Oregon nonprofit corporation

### **Section 2.3    “Betterment”**

“Betterments” shall mean any and all Owner upgrades and Owner improvements to a Residence after initial sale of the Residence by Declarant. Betterments may include, without limitation, upgraded appliances, spas, hot tubs, barbecues or built-in fixtures added by an Owner, other than Declarant or the Association.

### **Section 2.4    “Board”**

“Board” shall mean the Board of Directors of the Association.

### **Section 2.5    “Bylaws”**

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

### **Section 2.6    “Caldera Cabins”**

“Caldera Cabins” shall mean the community created on the Property.

### **Section 2.7    “Caldera Springs”**

“Caldera Springs” shall mean the community of Caldera Springs subject to the Master Declaration as shown on the subdivision plats of Caldera Springs, Phase One, recorded February 17, 2006 as Recorder's No. 2006-11380, Official Records, Deschutes County, Oregon, and Caldera Springs, Phase Two, recorded April 20, 2006 as Recorder's No. 2006-27328, Official Records, Deschutes County, and including any plat of annexed property to such subdivision.

## Section 2.8    "Common Areas"

"Common Areas" as used herein, shall mean only that portion of the Property, together with all improvements located thereon, that is established for the common use and benefit of property owners within the Property which shall be conveyed to the Association for the use and benefit of the Owners. Initially, the Common Areas include the private streets shown on the Plat and Common Lots A, B, C, D and E, as shown on the Plat. Until the Turnover Meeting, the Declarant shall have the right to designate Common Areas in the future by recordation of a duly approved amendment to this Declaration or by recordation of a supplemental declaration or Declaration of Annexation. Not later than the Turnover Meeting, the Declarant shall convey in fee the Common Areas to the Association, subject to the Association's agreement to continue maintenance thereon. The Common Areas are subject to such easements as may be recorded against them, including in this Declaration, and/or shown on the Plat.

## Section 2.9    "Common Maintenance Areas"

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

1.     The Common Areas, including all improvements located thereon;
2.     Landscaping (including irrigation), but excluding porches, patios and terraces;
3.     Driveways (including any associated lighting);
4.     Main walkways that are constructed of pavers; and
5.     Any areas within public rights-of-way, public easements, tracts, public parks or any other property (including improvements) that the Board deems necessary or appropriate to maintain for the common benefit of the Owners.

Until the Turnover Meeting, the Declarant shall have the right to designate additional Common Maintenance Areas (including Common Areas) in the future or to remove Common Maintenance Areas (but excluding Common Areas unless approved by a vote of the Owners) by recordation of a duly approved amendment to this Declaration or by recordation of a supplemental declaration or Declaration of Annexation.

Section 2.10 "Conversion Date"

"Conversion Date" shall be the date upon which Class "B" membership (as defined in Section 3.3) shall cease and be converted to Class "A" membership (as defined in Section 3.3). Such date shall be the date which is the earliest of (i) the date at which one hundred percent (100%) of the total Lots anticipated to be developed have been conveyed to Class "A" Members; or (ii) fifteen (15) years after conveyance of the first Lot to a Class "A" Member; or (iii) at such earlier time as Declarant may elect in writing to terminate Class "B" membership.

Section 2.11 "County"

"County" shall mean Deschutes County, Oregon.

Section 2.12 "Declarant"

"Declarant" shall mean Caldera Springs Village LLC and/or its successors and assigns, who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

Section 2.13 "Declaration"

"Declaration" shall mean this Declaration of Protective Covenants, Conditions and Restrictions for the Cabins at Caldera Springs and any amendments and supplements thereto made in accordance with its terms.

Section 2.14 "Declaration of Annexation"

"Declaration of Annexation" shall mean a declaration submitting additional property into the Association and subjecting it to this Declaration in compliance with Section 11.1.3.

Section 2.15 "Design Review Committee" or "DRC"

"Design Review Committee" or "DRC" shall mean the Design Review Committee established by the Master Declaration.

Section 2.16 "Development Property"

"Development Property" shall mean that certain property described on Exhibit A of the Master Declaration.

Section 2.17 "Directors"

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

Section 2.18 "Golf Amenity Owner"

"Golf Amenity Owner" shall mean the holder or holders of record fee title to any portion of the Golf Property or Development Property that is developed as a golf course, clubhouse or other recreational amenity or such owner's designee(s).

Section 2.19 "Golf Property"

"Golf Property" shall mean that portion of the Development Property that is developed as a 9-hole golf course and practice facilities and owned by Caldera Springs Real Estate LLC or its successors and assigns.

Section 2.20 "Improvement"

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

Section 2.21 "Initial Term"

"Initial Term" shall have the meaning given such term under Section 13.3.

Section 2.22 "Limited Assessment"

"Limited Assessment" shall have the meaning given such term under Section 3.17.

Section 2.23 "Lot"

"Lot" shall mean any of the plots or lots of land indicated upon a recorded subdivision Plat of the Property or any part thereof, including any Plat of annexed property, with the exception of the Common Areas and the private ways (roads) and areas deeded to a governmental authority or utility, together with all Improvements thereon.

Section 2.24 "Master Association"

"Master Association" shall mean Caldera Springs Owners' Association, Inc., an Oregon nonprofit corporation.

Section 2.25 "Member" or "Members"

"Member or "Members" shall mean Declarant and every record owner, whether one (1) or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation. There shall be two (2) classes of Membership, as described in Section 3.2 of this Declaration.

Section 2.26 "Nonprofit Corporation Act"

"Nonprofit Corporation Act" shall mean the Oregon Nonprofit Corporation Act (ORS 65.001-65.990), as amended from time to time.

Section 2.27 "Owner"

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

Section 2.28 "Phase"

"Phase" shall mean all the Lots made subject to this Declaration together. A Phase under this Declaration may not correlate to a "phase" as that term is used by Deschutes County and/or by a Plat.

Section 2.29 "Plat"

"Plat" shall mean the duly recorded plat of Caldera Springs, Phase Three, recorded in the Official Records of Deschutes County, Oregon at 2007-50992, and any other recorded plats of real property brought within the jurisdiction of the Association and made subject to this Declaration by a Declaration of Annexation.

Section 2.30 "Property"

"Property" shall mean the real property described on the attached **Exhibit A**, and such additions thereto as may be brought within the jurisdiction of the Association and be made subject to this Declaration by a Declaration of Annexation.

Section 2.31 "Residence"

"Residence" shall mean any residential dwelling and all related accessory buildings situated upon any Lot.

Section 2.32 "Rules and Regulations"

"Rules and Regulations" shall mean rules and regulations for Caldera Cabins pursuant to 4.3.5

Section 2.33 "Transitional Advisory Committee"

"Transitional Advisory Committee" shall have the meaning given such term under Section 3.8.

Section 2.34 "Turnover Meeting"

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

**ARTICLE III- CALDERA CABINS OWNERS'  
SUB-ASSOCIATION, INC.**

Section 3.1 Designated Sub-Association

The Association has been created by Declarant as a "Sub-Association" (as defined in the Master Declaration) pursuant to the Master Declaration to govern the administration of the Lots, Residences, Common Areas and Common Maintenance Areas. The terms of the Bylaws and Articles are and shall remain subordinate to and subject to the terms of the Master Declaration, Articles of Incorporation of the Master Association and Bylaws of the Master Association.

Section 3.2 Membership

The Declarant and every Owner of a Lot by virtue of ownership of such Lot shall be a Member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Until the Conversion Date, there shall be two (2) classes of membership, Class A and Class B as described in Section 3.3.

Section 3.3 Voting Rights

3.3.1 Membership Classes

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

(1) Class A. Prior to the Conversion Date, Class A Members shall be all Owners except for Declarant. On and after the Conversion Date, Class A Members shall be all Owners, including Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot. If the co-Owners of a Lot cannot agree upon the vote, the vote of the Lot shall be disregarded in determining the proportion of votes with respect to the particular matter at issue.

(2) Class B

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

### 3.3.2 Voting for Caldera Springs Matters

The Association shall exercise all of the voting rights of the Lots with respect to matters relating to Caldera Springs pursuant to the terms of the Master Declaration.

### Section 3.4 Suspension

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

### Section 3.5 Turnover Meeting

The Declarant shall call a Turnover Meeting within ninety (90) days following the Conversion Date for the purpose of turning over control of the Association to the Class A Members. The Declarant shall give notice of the Turnover Meeting to each Owner as provided in the Bylaws. The Turnover Meeting shall be conducted in accordance with the Bylaws of the Association. At the Turnover Meeting, the Declarant shall turn over to the Association the responsibility for the Caldera Cabins and for the Association and the Association shall accept such administrative responsibility. At the Turnover Meeting, the Owners shall elect a Board in accordance with the Bylaws. At the Turnover Meeting, the Declarant shall deliver to the Association those items and documents required by ORS 94.616 or applicable successor provisions. In order to facilitate an orderly transition, during the three-month period following the Turnover Meeting, the Declarant or an informed representative shall be available to meet with the Board on at least three mutually acceptable dates to review the documents delivered pursuant to this Section 3.5. Not later than ninety (90) days after the Turnover Meeting, the Association shall provide Declarant with an estoppel certificate (i) certifying that Declarant has satisfied all of its obligations owed to the Association, including, without limitation, any obligations arising out of or related to this Declaration, or (ii) identifying with specificity the extent to which any such obligations remain unsatisfied.

### Section 3.6 Immunity of the Board

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

### Section 3.7 Clarification of Role of Association

The Association shall have the general powers and duties of a nonprofit corporation pursuant to the Nonprofit Corporation Act and of a homeowners' association

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

### Section 3.8 Transitional Advisory Committee

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

### Section 3.9 Funding

Subject to the terms of this Article III, the Declarant hereby covenants for each Lot owned within the Property, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (i) annual or periodic assessments or charges; and (ii) special assessments for capital improvements to the Common Areas and Common Maintenance Areas, such assessments to be established and collected as hereinafter provided; and any other assessments or charges provided for in this Declaration or any Declaration of Annexation. The annual or periodic assessments shall include any reserve assessments necessary to establish and maintain any reserve funds created under Section 3.13. Such assessments will remain effective for the full term (and extended term, if applicable) of this Declaration. The annual and special and other assessments, together with interest, costs, and reasonable attorneys' fees incurred by the Association in the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such Lot(s) at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the successors in title of such Owner unless expressly assumed by them in writing.

### Section 3.10 Assessment or Charge for Lots

Subject to the terms of this Article III, each Lot is hereby subject to an assessment in an amount not to exceed an amount determined by the Board (until such assessment charge shall be modified as provided in the Bylaws), for the purpose of creating a fund to be designated and known as the "maintenance fund" for matters described under Section 3.12, the "reserve fund" for matters described under Section 3.13, as well as any other funds contemplated under this Declaration, or any other fund called for by this Declaration or a Declaration of Annexation. Charges and assessments for funding such funds will be paid by the Owner or Owners of each such Lot in advance in monthly, quarterly or annual installments, commencing as provided in this Section 3.10. The rate at which each Lot will be assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined by the Board at least thirty (30) days in advance of each assessment period. Said rate may be adjusted from time to time by the Board as the needs of the Association may, in the judgment of the Board, require. The annual assessment (excluding additional assessments pursuant to Section 3.14 and/or Section 3.16) for each Lot shall be uniform except as specifically provided herein or as provided in any Declaration of Annexation. The Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessment for a particular Lot has been paid for a particular assessment period. No Lot Owner shall have any right to any common profits of the Association. All Lots in a Phase (including those owned by Declarant) become subject to assessment on a date determined by the Board of Directors. In the event that the Master Association elects to bill the Association rather than individual owners within the Caldera Cabins community for Master Association assessments, the Association shall pass such assessments through with the other assessments charged pursuant to this Article III.

### Section 3.11 Declarant Responsibility

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

### Section 3.12 Establishment of Maintenance Fund

The Association shall establish a maintenance fund composed of annual maintenance assessments and shall use the proceeds of such fund in providing for the operating expenses and normal, recurring maintenance expenses of the Association. Those items to be funded by such assessments may include, by way of clarification and not limitation, any and all of those items listed in Section 4.2. The judgment of the Board with respect to expenditures

from the Maintenance Fund and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith.

### Section 3.13 Reserve Funds

#### 3.13.1 Reserve Fund for Replacing Common Maintenance Areas.

Declarant shall in addition establish a reserve fund in the name of the Association to fund major maintenance, repair or replacement, in whole or in part, of the Common Areas and any Improvements located in, on, or under the Common Maintenance Areas for which the Association is responsible pursuant to this Declaration, that will normally require major maintenance, repair or replacement in more than one (1) and fewer than thirty (30) years and for exterior painting if any of the Common Maintenance Areas include exterior painted surfaces, and for paving of driveways. The reserve account need not include those items that could reasonably be funded from the maintenance fund or for which one or more Owners are responsible for maintenance and replacement under this Declaration or a Declaration of Annexation. Declarant may elect to defer payment of accrued assessments for reserves for a Lot owned by Declarant until the date the Lot is conveyed; provided, however, the Declarant may not defer such payment beyond the date of the Turnover Meeting. The book and records of the Association shall reflect the amount owing from the Declarant for all reserve assessments.

For purposes of funding the reserve fund, the Association shall impose an assessment to be called the "Reserve Assessment" against each Lot, which assessment shall be spread equally over the Lots. The Reserve Assessments shall begin accruing from the date the first Lot is conveyed to an Owner other than Declarant. Nothing in this Section 3.13.1 shall limit the authority of Declarant or the Association to establish other separate or unrelated reserve funds that are funded by assessments. The reserve fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section. However, after the Turnover Meeting (as required by ORS 94.616 or applicable successor provisions), if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds, the Board may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. The Association shall administer the reserve fund and may reduce or increase the amount of the Reserve Assessments without the consent of the Owners to reflect changes in current maintenance, repair or replacement costs over time as indicated by the reserve study or any updates thereto (as discussed in Section 3.13.1 below) and to provide for other reserve items that the Board, in its discretion, deems appropriate. The Board shall set future Reserve Assessments for the reserve fund annually. Any funds established for any of the purposes mentioned in this Section shall be deemed to be a reserve fund notwithstanding that it may not be so designated by the Board. The amount of the reserve fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner. The reserve portion of the initial assessment determined by the Declarant shall be based upon the initial reserve study described in 3.13.2 or other sources of reliable information.

### 3.13.2 Reserve Study/Maintenance Plan

a) Prior to conveying the first Lot, the Declarant shall conduct an initial reserve study, which shall comply with the requirements for reserve studies set forth in 3.13.2 below and applicable law.

b) The Board shall annually commission or conduct a reserve study, or review and update an existing study, of the Common Maintenance Areas components to determine the reserve fund account requirements and may adjust the amount of payments as indicated by the study or update and provide for other reserve items that the Board, in its discretion, may deem appropriate. The reserve study shall include (a) identification of all items for which reserves are required or will be established; (b) the estimated remaining useful life of each item as of the date of the reserve study; and (c) the estimated cost of maintenance, repair, or replacement of each item at the end of the item's useful life.

c) Declarant initially, and thereafter the Board annually, shall also prepare a maintenance plan, or review and update an existing maintenance plan, for the maintenance, repair and replacement of all property for which the Association has maintenance, repair or replacement responsibility under this Declaration, the Bylaws, a Declaration of Annexation or the Planned Community Act. The maintenance plan shall: (i) describe the maintenance, repair and replacement to be conducted; (ii) include a schedule for the maintenance, repair and replacement; (iii) be appropriate for the size and complexity of the maintenance, repair and replacement responsibility of the Association; and (iv) address issues that include, but are not limited to, warranties and the useful life of the items for which the Association has maintenance, repair and replacement responsibility. If the Association fails to follow the maintenance plan, then the Association hereby waives any claim it might otherwise have against Declarant, and its design professionals, contractors and subcontractors for loss or damage to the extent the same results from such failure to follow the maintenance plan, and the Association 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.

### Section 3.14 Non-payment of Assessments; Remedies of the Association

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate set by the Board by resolution from time to time but in no event greater than the highest rate of interest allowed by Oregon law at the time of the non-payment. The Association shall have the authority to impose late charges to compensate for the administrative, legal (if any) and processing costs of late payments on such terms as it may establish by duly adopted resolutions, and the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of Owner's Lot and/or Residence.

### Section 3.15 Subordinated Lien to Secure Payment and Other Obligations

To secure the payment of the maintenance charge and all other assessments (including for reserves) established hereby and to be levied on individual Lots as provided in this Article III and the payment of interest, late charges, attorneys' fees or other charges against Owners provided for in this Declaration and/or the Bylaws and all other obligations of an Owner under this Declaration and the Bylaws, there is hereby reserved a lien for the benefit of the Association on each Lot, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to any prior recorded deed of trust securing payment for the subject Lot and/or the Residence on such Lot; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, the Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage lien holder by prepaid U.S. registered mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lien holder, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. The provisions of ORS 94.709 (or applicable successor provisions) shall apply to the Association's lien. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments that became due before such sale or transfer. No sale, foreclosure or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No sale, foreclosure or transfer shall extinguish the personal obligation of the Owner who owned the Lot at the time the delinquent assessment and/or payment became due. The Board shall have the right to file notices of liens in favor of the Association in the official records of Deschutes County, Oregon. The lien described herein shall include not just assessments but also interest, late charges, attorneys' fees, costs or other amounts imposed hereunder or under the Bylaws, regardless of whether the same are characterized as assessments.

### Section 3.16 Additional Assessments

In addition to the periodic assessments described in this Article III, the Association shall have the authority to assess an Owner's Lot(s) for costs and expenses incurred by the Association for corrective action that is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's family members, tenants, guests, contractors or invitees, including, without limitation, a breach of this Declaration.

### Section 3.17 Limited Assessments

In addition to the other assessments set forth herein, the Association shall have the authority to levy assessments to satisfy the common expenses of a particular project or effort undertaken by the Association that benefits some, but less than all, of the Lots (such assessments, "**Limited Assessments**"), as determined by the Board of Directors in its reasonable discretion.

Limited Assessments shall be levied against the Owners of those Lots that benefit from the project or effort undertaken by the Association. An example, for illustrative purposes only and not as a limitation, of a project or effort giving rise to a Limited Assessment, is maintenance or repair of a tract of property that benefits and serves certain Lots, but not other Lots.

#### Section 3.18 Reallocation Upon Annexation of Property

If additional property is annexed to the Property, the Association shall promptly recompute the budget based upon the additional Lots and Common Areas and Common Maintenance Areas and recompute all applicable assessments for each Lot. New Lots shall be subject to assessment from the time of annexation of such Lots to the Property. The Association shall send notice of the revised budget and assessments to all Owners, including the Owner of new Lots not later than the next occurring assessment period (whether monthly, quarterly or annual); provided, however, a failure to timely provide such notice shall not excuse the Owner of the obligation to pay such Assessment(s). Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than thirty (30) days after the date the notice is mailed or at such other time or times as the Association may specify in the notice in accordance with this Declaration or the Bylaws. To the extent that any adjustment results in a credit with respect to assessments payable by an Owner, such credit shall be applied toward the next occurring payment or payments of the applicable assessment.

#### Section 3.19 Association Maintenance Standards

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

#### Section 3.20 Working Capital Fee

In addition to all other assessments provided for herein, each person, person(s) or entity acquiring fee title to a Lot shall pay an assessment or working capital fee to the Association as follows: (i) at the time of the first transfer of the Lot from the Declarant to an unrelated entity, the fee shall be One Thousand Dollars (\$1,000); and (ii) at the time of all subsequent transfers, the fee shall be equal to the then-current monthly assessment for a Lot under this Declaration, but in no event less than Five Hundred Dollars (\$500). The fees paid under this Section 3.20 are separate from and in addition to those levied by the Master Association under Section 2.20 of the Master Declaration. Such assessment shall be paid at closing of the purchase of the Lot and shall apply each time the Lot is re-sold. The assessment may be used by the Association to defray the costs of reflecting the Lot ownership change on its books and records or such other expenses as it deems appropriate in its sole and absolute discretion.

## ARTICLE IV- GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS

### Section 4.1 Interim Board

Declarant shall have the right to appoint an interim board of three (3) directors, who shall serve as the Board until replaced by Declarant or until their successors have been elected by the Owners at the Turnover Meeting.

### Section 4.2 Purpose of Maintenance Fund

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

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

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

4.2.3 Repairs and enhancement of the Common Maintenance Areas and the provision of adequate reserves for replacements of Common Maintenance Areas;

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

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

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

written notice to the other party; or (ii) with cause, effective upon the date of written notice, by providing such notice to the other party;

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

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

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

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

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

4.2.12 Assessments charged by the Master Association pursuant to the Master Declaration; and

4.2.13 Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, assessments, fees or costs, which (i) the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law; (ii) are necessary to fulfill the obligations of the Association hereunder; (iii) in the Board's opinion shall be necessary or proper for the enforcement of this Declaration; (iv) are necessary or desirable in the opinion of the Board to keep the Property neat and in good order; or (v) the Board considers to be of general benefit to the Owners or occupants of the Property.

The judgment of the Board in the expenditure of funds and what constitutes a proper expense under Section 3.10, Section 3.13, Section 3.14 and this Section 4.2 shall be final and conclusive so long as such judgment is exercised in good faith.

#### Section 4.3 Powers and Duties of Board

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

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

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

4.3.3 To enter into contracts, maintain one (1) or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.

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

4.3.5 To make reasonable rules and regulations for the Caldera Cabins (the "Rules and Regulations"), including the operation of the Common Areas, and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Owners, or with respect to a rule applicable to less than all of the Property, by the Owners in the portions affected.

4.3.6 Within ninety (90) days after the end of the fiscal year, the Board shall prepare or cause to be prepared an annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year and distribute a copy of such financial statement to each Owner and, upon written request, to any mortgagee of a Lot. In the event annual assessments of the Association exceed \$75,000.00, the Board shall cause the financial statement to be reviewed by an independent certified public accountant licensed in the State of Oregon, as required by ORS 94.670(4).

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

4.3.8 To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.

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

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

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

#### Section 4.4    Board Powers Exclusive

The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the maintenance fund and the exclusive right

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

#### Section 4.5    Maintenance Contracts

The Board, on behalf of the Association, may enter into contracts by which the Association agrees to perform services that the Association is not otherwise required to perform. Such contracts may be with any Owner or other person or entity and shall be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

#### Section 4.6    Indemnification

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

### **ARTICLE V - COMMON MAINTENANCE AREAS**

#### Section 5.1    Association to Hold

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

#### Section 5.2    Liability Insurance; Casualty Insurance

5.2.1 From on and after the date on which title to or responsibility for any Common Areas or Common Maintenance Areas vests in the Association, the Association shall purchase and carry a general comprehensive public liability insurance policy for the benefit of the Association, covering occurrences on the Common Areas and in the Common Maintenance Areas and all damage or injury caused by the negligence of the Association, which policy limits

shall be as determined by the Board of the Association, but shall include public liability insurance of at least One Million Dollars (\$1,000,000.00) per occurrence. The Association shall use its best efforts to see that such policy shall contain, if available, cross-liability endorsements or other appropriate provisions for the benefit of the Board, the Owners and other insureds, as their interests may be determined by the Board, ensuring all against liability to each other insured as well as third parties. Any proceeds of insurance policies owned by the Association shall be received, held in a segregated account (if such proceeds are \$1,000 or more) and distributed to all interested parties, as their interests may be determined.

5.2.2 In addition, from and after the date on which responsibility for the Common Maintenance Areas vests in the Association, the Board shall obtain and maintain in effect, from a company authorized to do business in Oregon, for all insurable Improvements located in, on or under the Common Maintenance Areas for which the Association is responsible, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief in an amount equal to one hundred percent (100%) of the replacement cost thereof. No insurance coverage obtained by an Owner (or such Owner's mortgagee) may be brought into contribution with insurance obtained by the Association.

#### Section 5.3    Condemnation

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

#### Section 5.4    Maintenance of Common Maintenance Areas

The Association will permanently maintain, repair and replace as necessary all Common Maintenance Areas to keep the same 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 Maintenance Areas. The Association shall perform all maintenance obligations set forth in this Declaration, the maintenance plan described in the Bylaws and required to be prepared and updated pursuant to ORS 94.595, any manufacturer's manual or instructions and shall implement any other maintenance obligations, schedules, operating instructions and/or practices otherwise provided to the Association by Declarant or the manufacturer of any consumer products in addition to any commonly accepted maintenance practices intended to prolong the life of the materials and construction of Improvements within the Common Maintenance Areas.

The Association shall regularly inspect, maintain and repair all Common Maintenance Areas. If requested by Declarant, Declarant or its representatives shall be invited and permitted to attend any such inspections. The written inspection reports shall identify any items of maintenance or repair which either require current action by the Association or will need further review and analysis. If requested, the Board shall report the contents of the inspection reports to Declarant and to the Owners at the next Association meeting following receipt of the inspection reports or as soon thereafter as reasonable practicable and shall include the inspection reports in the minutes of the Association meeting. The Board shall promptly cause all matters identified as requiring attention to be maintained, repaired or otherwise pursued in accordance with prudent business practices and shall keep a records of all such matters in the Board's minutes.

#### Section 5.5 Prohibited Activities

No Owner shall conduct any of the following activities within any Common Area: i) the removal of any tree without the written approval of the DRC; ii) the removal of any other vegetation without the written consent of the DRC; iii) the modification, grading, excavation, filling or other activities which would alter the topography or vegetative cover of any Common Area without the written consent of the DRC; v) the disposal or placement of any debris, refuse, soil, rock, landscape debris or other deleterious materials; vi) parking, storage, repair, or disposal of any motor vehicle; and vii) motor vehicle access (except on pathways, roads or roadways or as may be necessary for repairs or maintenance approved by the Board or in conjunction with maintenance of utilities). The prohibitions contained in this Section 5.5 shall not apply to the activities of the Association or the activities of Declarant or to any Lots owned by Declarant.

### **ARTICLE VI - ARCHITECTURAL REVIEW**

All modifications and/or additions to any Lot or Residence must be substantially in conformance with the nature and character of the original construction of the Caldera Cabins. Additionally, all such modifications or additions must be approved by the DRC in accordance with the terms of Article V of the Master Declaration, and, if the modification affects the exterior of a Residence, the same must be approved as provided below. All reconstruction of any Improvements on a Lot must be in substantial accordance with the original construction and no exterior modifications to a Lot or a Residence may be made without (a) the approval of owners of at least seventy five percent (75%) of the Cabin owners; (b) the consent of the owner of the Lake House; (c) the consent of the owner of the Golf Club; and (d) the approval of the Design Review Committee of the Master Association. The Association, the Master Association and the DRC shall each have enforcement rights consistent with Section 5.6 of the Master Declaration in the event that an Owner modifies, alters or reconstructs any Improvement in violation of this Article VI. Except as provided in this Article VI or as otherwise provided in this Declaration, the Lots and the Residences are generally exempt from the requirements of Article V of the Master Declaration because they constitute "Overnight Lodging Units" (as that terms is defined in the Master Declaration).

## ARTICLE VII - EASEMENTS

### Section 7.1 Easement for Unintentional Encroachment

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

### Section 7.2 Entry Easement

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

### Section 7.3 Reserved Easements

Easements for installation and maintenance of utilities and/or buffers with adjacent property are reserved for Declarant as may be shown on the Plat or any replat of the Property. Within these easement areas, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which would violate the terms of the easements as described on the Plat. The easement area of each Lot and all improvements contained therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible. In addition, the Declarant hereby reserves an easement in favor of the Association to permit maintenance, repair and replacement of pathways, utilities serving Common Maintenance Areas and all other Common Maintenance Areas, as deemed reasonably necessary by the Board.

Declarant hereby reserves for the benefit of Declarant a blanket easement, including a right of entry, on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance and shall be entitled to remove trees or vegetation,

without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant to correct or maintain any drainage facilities within the Property.

#### Section 7.4 Temporary Completion Easement

Until the Turnover Meeting, all Lots shall be subject to an easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of the property as may be expedient or necessary for the construction, servicing and completion of Improvements on Common Areas or Common Maintenance Areas and construction of Residences, other Improvements and landscaping upon Lots adjacent to the property.

#### Section 7.5 Maintenance and Inspection Easements

7.5.1 For Declarant. An easement is hereby granted and reserved in favor of the Declarant and its successors, assigns, contractors, property managers, agents and employees over, across, upon, and under the Property to inspect, maintain, repair or replace any Improvement or other component of the Property and to otherwise perform Declarant's obligations or exercise its rights under this Declaration, in Declarant's sole discretion. If such inspection, maintenance, repair or replacement requires access to any Common Maintenance Areas, such access shall be conditioned upon reasonable notice to the Association. If such inspection, maintenance, repair or replacement requires the inspection of a Residence, Declarant and its successors, assigns, contractors, employees and/or agents shall be given access to the Residence, provided that access is made during reasonable hours and with at least three (3) days advance notice to the Owner, except in the case of an emergency. The foregoing shall give Declarant the right to perform such inspection, maintenance, repair and replacement but shall not be construed as obligating the Declarant to perform any inspections, maintenance, repairs or replacements on any portion of the Property.

7.5.2 For Association. An easement is hereby granted and reserved in favor of the Association, the Board, and any employee, contractor, property manager or other agent of the Association over, across, upon, and under the Property to inspect, maintain, repair or replace the Common Maintenance Areas, including the Improvements located thereon for which the Association is responsible, and to perform all other obligations of the Association and to exercise all rights and powers of the Association under this Declaration and/or the Bylaws. If the Association, the Board, or any employee, contractor, property manager or other agent of the Association requires access to a Residence pursuant to the easement granted herein, then such party shall be given access to the Residence, provided that access is made during reasonable hours and with at least three (3) days advance notice to the Owner, except in the case of an emergency.

#### Section 7.6 Master Association Easements

An easement is hereby granted and reserved in favor of the Master Association and its successors, assigns, contractors, property managers, agents and employees over, across,

upon, and under each Lot, the exterior portions of the Residences on each Lot and any Common Maintenance Areas or other areas of the Property as necessary or appropriate for purposes of accomplishing the maintenance, repair, and replacement by the Association of bike paths and any other land or improvements for which it has responsibilities pursuant to the Master Declaration and/or this Declaration.

#### Section 7.7    Utility Easement

The Golf Property shall have and is hereby granted a non-exclusive easement over, under, through and across the Common Area for the purposes of installing, maintaining, repairing and replacing, and using master television antenna or cable systems, fiber optic, coaxial cable or other data transmission devices, wireless communication systems, security and similar systems, and all permanent and temporary utilities, including, but not limited to, sewers, drainage systems, storm drainage systems, retention ponds, electrical, gas, telephone, and water necessary or appropriate for the development or operation of the Golf Property, including tournaments or events held on any portion of the Golf Property.

As long as Declarant owns a Lot or retains the ability to annex additional property to the Property, Declarant hereby reserves an easement for itself and the right to grant perpetual, nonexclusive easements for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Common Maintenance Areas for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, cable television, and sanitary or sewer equipment for septic treatment. The Association shall also have the right to grant the easements described herein, subject to the approval of Declarant so long as Declarant owns a Lot or retains the ability to annex additional property to the Property.

#### Section 7.8    Ingress and Egress Easement

The Golf Property shall have and is hereby granted a non-exclusive appurtenant easement over and across the Common Areas for the purposes of ingress to and egress from the Golf Property by golf course maintenance vehicles, and vehicles, pedestrians and bicycles using or visiting the Golf Property. The Association may not unreasonably restrict rights of ingress and egress to the Golf Property. The Association may not impose any restrictions, limitations or requirements for entry into any portion of the Golf Property that are not imposed and enforced against all Owners and Invitees. If vehicle passes are issued to Association's Members to access areas of Caldera Springs that include roadways accessing the Golf Property, they must be made available to the Golf Amenity Owner and their licensees and members on the same terms as they are made available to Association's Members.

#### Section 7.9    Easements To Facilitate Tournaments

The Golf Property shall have and is hereby granted a non-exclusive easement over and across the Common Area appurtenant to the Golf Property for all purposes reasonably necessary to hold and conduct tournament play or events at any golf course located on the Golf

Property or other locations within Caldera Springs, including without limitation, ingress and egress by vehicular and pedestrian traffic, parking, utility services, directional signs, traffic control and other related uses. During such periods, the Golf Amenity Owner shall have the right to take all reasonable actions which are appropriate for holding such an event. The Golf Amenity Owner shall be solely responsible for all additional costs incurred as a result of the tournament or event and shall repair any damage caused to the Common Area as a result of the tournament. The Association shall have no right to prohibit or impair the ability of the Golf Amenity Owner to take any and all reasonable actions which are appropriate for holding a tournament.]

#### Section 7.10 Golf Easement

The Golf Property has maintenance paths that are adjacent to several Lots and may encroach upon the Lots in places. The Golf Property shall have and is hereby granted a non-exclusive encroachment easement over and across such portions of the Property as the Golf Property maintenance paths may encroach.

#### Section 7.11 Sign Easements

The Golf Property shall have and is hereby granted a non-exclusive easement over and across the Common Area appurtenant to the Golf Property for the purposes of locating, establishing, maintaining, repairing, replacing and lighting all of its signs permitted pursuant to this Declaration, subject to Deschutes County regulations.

### **ARTICLE VIII- USE, MAINTENANCE, OCCUPANCY, CASUALTY, AND INSURANCE**

#### Section 8.1 Casualty to Residence

Each Owner shall be responsible for repairing, reconstructing, and rebuilding all damage to or destruction of such Owner's Residence, subject to the provisions of this Section 8.1. The Owner shall rebuild and/or restore the damaged or destroyed portions of the Residence to substantially the same condition in which it existed prior to such damage or destruction, subject to current governmental regulations and building codes. Rebuilding and/or restoration shall begin within sixty (60) days following the damage or destruction and shall be completed within twelve (12) months following the damage or destruction. The Owner shall not be obligated to repair, restore or replace any Betterment.

#### Section 8.2 Owner Insurance

Each Owner shall obtain and maintain in effect, from a company authorized to do business in Oregon, for the Residence and all other insurable Improvements located in, on or under his or her Lot, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief in an amount equal to one hundred percent (100%) of the replacement cost thereof.

Each Owner of a Lot shall obtain, and maintain in effect, from a reputable insurance company authorized to do business in the State of Oregon, public liability and property damage insurance with respect to such Lot with limits of not less than (\$750,000) per person per occurrence and (\$750,000) for property damage. Each Owner shall also be responsible for obtaining fire and extended coverage casualty insurance with respect to that Owner's personal property. No Owner shall be obligated to obtain any of the insurance coverages described in Section 8.1, nor shall any insurance coverage obtained by an Owner (or such Owner's mortgagee) be brought into contribution with insurance obtained by the Association. The Association shall have the right, but not the obligation, to request evidence that any Owner has procured the required insurance. Upon written request from the Association, an Owner shall present a certificate of insurance evidencing the required coverages. The Association shall have the right, but not the obligation, to increase the coverage limits established by this Section 8.2 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 Owners, and shall be effected, if at all, by providing written notice to each Owner not less than thirty (30) days prior to the effective date of such increases. All policies obtained pursuant to this Section 8.2 shall be written by an insurer licensed in the State of Oregon and have reasonable deductibles.

#### Section 8.3    Maintenance

Each Owner shall be solely responsible for the insurance, maintenance, repair and replacement of its own Residence, including all Betterments, and shall maintain, repair and replace the same in good condition and repair. The Board shall, in its sole discretion, determine what constitutes "good condition and repair". Each Owner is also solely responsible to maintain, repair and replace of the exterior elements of his or her Lot and Residence in good condition and repair, except for the following, which shall be maintained by the Association pursuant to Section 2.9 above: landscaping (including irrigation), driveways (including any associated lighting) and main walkways that are constructed of pavers. The Owner's obligation shall include any porches, pavers (other than walkways), patios and terraces. In the event that an Owner fails to maintain pursuant to this Section 8.3, and such failure continues for a period of thirty (30) days after the Association has provided the Owner with written notice of such failure, then in addition to all of the other rights of the Association hereunder, the Association shall have the right, but not the obligation, to perform such maintenance at the Owner's cost and expense.

#### Section 8.4    Golf Cart Paths

Portions of the golf cart path system on the Golf Property, if any, may be situated on the Common Areas. No Owner or Invitee shall have any right to use any portion of the golf cart path system, including any portion situated on the Common Area or any Lot without the prior approval of the owner or manager of the affected portion of the Golf Property. All golf cart paths, if any, shall be maintained, repaired and replaced by the Golf Amenity Owner.

## Section 8.5 Casualty to Common Maintenance Area: Insurance

**8.5.1 Damage and Destruction.** Immediately after damage or destruction to all or any part of the Common Maintenance Area covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Maintenance Area shall be repaired or reconstructed unless Members representing at least seventy-five percent (75%) of the Class A voting power and Declarant, so long as Declarant owns any property described in the Master Declaration decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. Assessments of the Association shall not be abated during the period of insurance adjustment and repair and reconstruction.

If it is determined in the manner described above that damage or destruction to the Common Maintenance Area shall not be repaired or reconstructed and no alternative Improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association in a neat and attractive, landscaped condition.

**8.5.2 Disbursement of Insurance Proceeds.** Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital Improvements account. This is a covenant for the benefit of mortgagees and may be enforced by the mortgagee of any affected Residence.

**8.5.3 Repair and Reconstruction.** If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board shall, without a vote of the Members, levy special assessments against the Lots to fund such repair or reconstruction costs.

**8.5.4 Association as Attorney in Fact.** Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on the Common Maintenance Areas upon damage or destruction as provided in this 8.5.4, or a complete or partial taking as provided in Section 5.3. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner shall constitute appointment of the Association as attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any

contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

Section 8.6    Subject to Master Association

Except as otherwise provided herein, all Lots constitute Lots under the Master Association and are subject to the covenants, conditions, easements and other terms of the Master Declaration.

**ARTICLE IX- PROPERTY RIGHTS**

Section 9.1    Owner's Use and Occupancy

Except for the easements shown on the Plat and/or granted herein, or as otherwise provided herein, by applicable law or by the terms of any instruments recorded against the applicable Lot, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot. Declarant and any representative of the Association authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use of and/or Improvements and Betterments on such Lot are then in compliance with this Declaration; provided however, except in the case of emergency, the Association shall first provide the Owner with five (5) days' prior written notice if entry is to be by the Association or Declarant, which notice may be given by posting on the front door of the Residence or, if the Lot is vacant, upon a post placed on the Lot. No notice shall be required in the case of emergency. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Lot.

Section 9.2    Owners' Easements of Enjoyment

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

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

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

C.     The right of the Association, subject to the provisions hereof, to dedicate or transfer all or any part of the Common Areas, if any, to any public agency, authority or utility

for public right-of-way purposes. Any other transfer or mortgage of Common Areas requires the consent of at least seventy-five percent (75%) of the voting power of the Association, and the consent of the Declarant so long as Declarant owns a Lot or retains the ability to annex additional property pursuant to Article XII.

**9.2.2 Owners' Easements over Lots.** Every Owner shall have a right and easement to access and use those portions of every other Lot that contain driveways, parking areas and/or sidewalks; provided, however, such use is for the purposes for which the improvements were constructed. For example, the parking areas shall be available for the non-exclusive use of all Owners, regardless of which Lot a particular parking area is located on. Notwithstanding the foregoing, in no event shall an Owner make use of any portion of a driveway, parking area and/or sidewalk in a manner that creates a nuisance or otherwise materially restricts the use of the affected Lot by that Lot's Owner. In no event shall an Owner park or permit his or her guests, licensees or invitees to park in a driveway immediately adjacent to another Owner's Lot.

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

### Section 9.3 Effect of Declaration

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

### Section 9.4 Damage or Destruction By Owner

If damage to any Common Area, Common Maintenance Area or Lot, including Improvements located thereon, is directly attributable to an Owner or the family members, invitees, licensee, or guest of an Owner, then that Owner shall repair such damage or destruction as soon as reasonably practicable, but in no event later than fifteen (15) days after the date the damage occurred, at his or her sole expense and without a right of reimbursement. If an Owner fails to repair such damage timely, the Association shall have all rights of enforcement and remedies set forth under this Declaration.

## **ARTICLE X- USE RESTRICTIONS/BUILDING STANDARDS**

### Section 10.1 Parking in Common Areas/No Parking Signage

No vehicles, trailers, implements or apparatus may be driven or parked in the Common Areas, or on any easement unless in use for maintaining such Common Areas or as otherwise permitted in this Declaration, provided however, that this restriction shall not apply to

driveways, streets, parking lots or paved areas intended for vehicular use. In addition, parking of vehicles is prohibited on any public or private street within the Property unless it is signed or otherwise marked as permitted parking by the Association or a governmental authority. The Association shall have the right to tow any vehicles in violation of this Section 10.1 at the vehicle owner's expense.

#### Section 10.2 Security

Neither Declarant nor the Association shall be responsible for security of the Common Maintenance Areas (including the Common Areas) or any Residence or Lot, and the Owners are exclusively responsible for their own security and the security of their Residences, Improvements, Betterments, Lots and property. By acceptance of a deed, each Owner specifically agrees to the terms of this Section 10.2.

#### Section 10.3 Construction Activities

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

#### Section 10.4 Notice of Sale or Transfer

An Owner desiring to sell or otherwise transfer title to his or her Lot (except transfers by operation of law) shall give the Board at least seven days prior written notice of the name and address of the purchaser or transferee, the date of the transfer of title, and such other information as the board may reasonably require.

### **ARTICLE XI- ANNEXATION**

#### Section 11.1 Annexation by Declarant

At any time during the Initial Term of this Declaration, the Declarant may, at its sole option, annex additional property into the Association to be subject to the terms hereof to the

same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. Declarant currently anticipates that there will be a total of approximately forty-five (45) Lots in the Caldera Cabins community, including the Lots currently existing, and Lots expected to be created in property to be annexed to the Caldera Cabins, but this number may be adjusted at the sole discretion of Declarant, subject to the terms of 11.1.1. There shall be no maximum number of Lots which may be created by Declarant. Declarant shall have no obligation of any kind to annex any additional property to the Property.

#### 11.1.1 Eligible Property

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

#### 11.1.2 Consent or Joinder Not Required

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

#### 11.1.3 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. Notwithstanding any provision apparently to the contrary, a declaration of annexation with respect to any annexed property may:

- i) establish such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property;
- ii) establish additional or different limitations, uses, restrictions, covenants and conditions as Declarant may deem to be appropriate for the development of such annexed property; and/or
- iii) contain provisions necessary or appropriate to comply with any condition, requirement, or imposition of any governmental or regulatory authority.

#### 11.1.4 Voting Rights; Allocation of Assessments

Upon annexation, additional Lots so annexed shall be entitled to the voting rights as set forth in Section 2.2, and assessments shall be reallocated and reapportioned in the manner set forth in Section 3.18.

#### Section 11.2 Annexation by Action of Members

At any time the Board may request approval of the membership for the annexation of additional property into the Association to be subject to all of the terms of this Declaration to the same extent as if originally included herein. No such annexation shall be effective unless approved by at least seventy-five percent (75%) of the outstanding votes and by Declarant so long as Declarant owns at least one (1) Lot. Any property that is contiguous to existing property subject to this Declaration may be annexed hereto according to the foregoing requirements, provided however, that no such annexation shall be effective without the consent and joinder of the owners of the property to be annexed. Such annexation must be evidenced by a Declaration of Annexation as set forth in 11.1.3 above executed by the parties herein described.

#### Section 11.3 No Duty to Annex

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

### **ARTICLE XII – OVERNIGHT LODGING**

#### Section 12.1 Designated Overnight Lodging Units

Declarant intends to subject each Lot to a Declaration of Restrictive Covenant (the "Restrictive Covenant") that implements a condition of approval from Deschutes County requiring each Cabin to be available to the public for overnight lodging purposes for at least 45 weeks per year through a central reservation and check-in system, consistent with the requirements of Deschutes County Code 18.113.070(U). In addition to other provisions, the Restrictive Covenant obligates each Owner to provide regular reports to Deschutes County regarding compliance with DCC 18.113.070(U). Each Owner may or may not choose to use the central reservation system created and operated by Declarant or created and/or operated by an entity to which Declarant assigns such central reservation system. Declarant designed and constructed each Cabin to be composed of three or four separately rentable suites. Each of these suites shall be separately available for rental during the required minimum rental period; provided, however, nothing shall prevent the Owner from renting all of the suites in his or her Cabin to one person at any given time. In addition to complying with the Restrictive Covenant, each Owner shall comply with Article XI of the Master Declaration. Each of the suites within a Cabin is an Overnight Lodging Unit as that term is defined in the Master Declaration.

In the future an Owner may seek to have his or her Lot exempted from the requirements of the Restrictive Covenant and this Section 12.1, subject to the written consent of

Declarant and Deschutes County, which consent may be granted or withheld in the sole discretion of Declarant and Deschutes County. In the event that the Restrictive Covenant is ever amended for one or more Lot to permit a reduction in the minimum number of weeks that the Lot(s) must be available for public rental, this Section shall be deemed automatically amended to conform to the same with respect to such Lot(s).

#### Section 12.2 Rights of County

Declarant hereby covenants and agrees, and each Owner of a Lot by the acceptance of any deed thereto, for itself and its heirs, executors, administrators, successors in interest and assigns, covenants and agrees as follows:

12.2.1 If any Owner of an Overnight Lodging Unit fails to comply with the terms of this Article XII, the County shall have authority to enforce such terms.

12.2.2 It is understood that by the provisions hereof, the County is not required to take any affirmative action, and any action undertaken by the County shall be that which, in its sole discretion, it deems reasonable to enforce the provisions.

12.2.3 It is understood that action or inaction by the County, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of this Article XII or any of the rules, regulations and ordinances of the County, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

12.2.4 It is further understood that the remedies available to the County by the provision of this Article XII or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy.

#### Section 12.3 Amendment

This Article XII cannot be amended or terminated without the written consent of the County.

### **ARTICLE XIII-- GENERAL**

#### Section 13.1 Remedies

If any default by any Owner under the provisions of the Declaration, Bylaws, Guidelines or Rules and Regulations shall occur, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and the Rules and Regulations, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or

injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest from the due date until paid at the rate set by the Board by resolution from time to time but in no event greater than the highest rate allowed by Oregon law at the time of the non-payment, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective additional assessment or maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions, Improvements and Betterments thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner. Without limiting the generality of this Section 13.1, any and all costs incurred by the Association and/or the DRC in remedying an Owner's violation of this Declaration shall be an assessment against such Owner's Lot in accordance with Section 3.16, secured by a lien upon such Lot pursuant to the terms of Section 3.15.

Except as specifically provided for in this Declaration or the Bylaws, no party in any arbitration, mediation or other proceeding shall be entitled to recover costs or attorneys' fees in connection therewith. To the fullest extent allowed by law, the Association shall not file or maintain any litigation for damages in excess of \$10,000 unless first approved by at least sixty-six percent (66%) of the votes of the Association, and the defendant may cause any such litigation filed without such prior approval to be dismissed with prejudice. The foregoing restriction shall not apply to litigation related to the collection of assessments, fines or interest owed to the Association pursuant to the terms of this Declaration or the Bylaws; for actions initiated by the Association for so long as there is a Class B Member; for actions challenging ad valorem taxation or condemnation proceedings; initiated against any contractor or vendor hired by the Association or supplier of goods and services to the Association; to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it; actions to appoint a receiver pursuant to the Bylaws; for the defense of the Association of an action or proceeding brought against the Association (except for non-mandatory counterclaims); or to actions to summarily abate and remove a structure or condition that violates the Declaration or the Bylaws. The limitation set forth in this paragraph shall increase by \$500 on each fifth anniversary of the recording of this Declaration.

#### Section 13.2 Fines Imposed by the Association

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

mailing address of each Lot or mailed to the mailing addresses designated in writing by the Owners); or (ii) a resolution of the Association or its Board that is delivered to each Lot, mailed to the mailing address of each Lot or mailed to the mailing addresses designated in writing by the Owners.

### Section 13.3 Term and Amendments

The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded (the "Initial Term"), after which time they shall be automatically extended for successive periods of ten (10) years each, unless a signed petition containing the signatures of at least seventy-five percent (75%) of the votes outstanding is presented to the Board or other duly appointed and authorized persons, which shall authorize the Board, or other duly appointed and authorized persons, to execute and properly record a notice of termination of this Declaration in the real property records of Deschutes County, Oregon. This Declaration may be amended at any time during the first thirty (30) year period or any extension thereof, by a vote of at least seventy-five percent (75%) of the votes outstanding, and the consent of the Declarant so long as the Declarant owns any part of the Property or has the right to annex additional property pursuant to Article XI, whichever is longer, which shall authorize the Board, or other duly appointed and authorized persons, to execute and properly record an instrument amending this Declaration. Notwithstanding the foregoing, no amendment to this Declaration shall change the boundaries of any Lot or any uses to which any Lot or Residence is restricted or change the method of determining liability for common expenses, the method of determining the right to common profits or the method of determining voting rights of any Lot unless the Owners of affected Lots or Residence unanimously consent to the amendment. Upon approval of an amendment as provided herein, the president and secretary shall execute an instrument amending this Declaration and certifying that the amendment was adopted in accordance with this Declaration and ORS 94.590, which certification shall be properly acknowledged in the manner of acknowledgment of deeds, and the Board, or other duly appointed and authorized persons, shall record the instrument amending this Declaration. For purposes of voting on an amendment to this Declaration pursuant to this Section 13.3, Declarant shall be treated as a Class A Member with one (1) vote per Lot owned, except as otherwise provided by ORS 94.585. Subject to the provisions of 12.2.3, notwithstanding any provisions hereof to the contrary, the Declarant may, at its sole discretion and without consent being required of anyone, modify, amend or repeal this Declaration at any time before the closing of the sale on the first Lot, provided said amendment, modification, or repeal is in writing and properly recorded in the Deed Records of Deschutes County, Oregon. In no event shall an amendment pursuant to this Section create, limit, or diminish Declarant's special rights (including without limitation, Declarant's rights as the Golf Amenity Owner hereunder for so long as Declarant owns the Golf Property) without Declarant's written consent or change the boundaries of any Lot or any use to which any Lot is restricted unless the Owners of the affected Lots consent to the amendment.

Declarant further reserves the right at any time to amend this Declaration, or any amendment hereto, in order to correct scrivener's errors. In no event shall an amendment pursuant to this Section create, limit, or diminish Declarant's special rights without Declarant's

written consent or change the boundaries of any Lot or any use to which any Lot is restricted unless the Owners of the affected Lots consent to the amendment.

#### Section 13.4 Regulatory Amendments

Notwithstanding the provisions of Section 12.3, until the Turnover Meeting described in the Bylaws and to the extent permitted by applicable law, Declarant shall have the right to amend this Declaration or the Bylaws in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of any department, bureau, board, commission or agency of the State of Oregon or to comply with any applicable law, including, without limitation, the Oregon Planned Community Act.

#### Section 13.5 Declarant's Right of Consent

For a period of ten (10) years after the date of the Turnover Meeting or for so long as Declarant owns any property within the Development Property, whichever is longer, the Bylaws, the rules and regulations, and this Declaration, the Bylaws and rules and regulations may not be modified, added to, amended, or repealed without Declarant's prior written consent in each instance.

#### Section 13.6 Severability

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

#### Section 13.7 Rights and Obligations

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

#### Section 13.8 Miscellaneous Provisions

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

##### 13.8.1 Notice to Institutional Holders of First Mortgage Liens

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

### 13.8.2 Notice to Institutional Holders of First Mortgage of Default or Liens

Upon the written request of any first mortgagee of a Residence, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under the within Declaration or the Bylaws or Association rules or regulations which is not cured within thirty (30) days. Any first mortgagee of a Residence who comes into possession of the said dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Residence which accrued before the time such holder comes into possession of the Residence.

### 13.8.3 Consent of Institutional Holders of First Mortgage Liens

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

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

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

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

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

### Section 13.9 Personal Pronouns

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

### Section 13.10 Statutory References

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

Section 13.11 Headings

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

Section 13.12 Conflicts

If there is a conflict between the terms of this Declaration and any Bylaws, the Rules and Regulations or Articles, this Declaration shall control.

Section 13.13 Partial Invalidity

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

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of this 21 day of January, 2008

**DECLARANT:**

CALDERA SPRINGS VILLAGE, LLC,  
an Oregon limited liability company

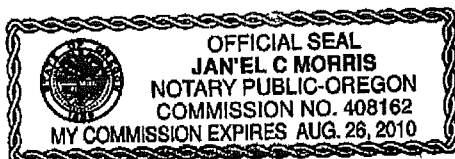
By: Sunriver Resort Limited Partnership,  
Sole member

By: Lowe Sunriver Inc., general partner

By: [Signature]  
Tom Keith, Vice President

STATE OF OREGON     }  
                                  }  
COUNTY OF DESCHUTES}

The foregoing instrument was acknowledged before me the 21<sup>st</sup> day of January 2008, by Tom Keith, Vice President of Lowe Sunriver Inc., the general partner of Sunriver Resort Limited Partnership, the sole member of Caldera Springs Village LLC, an Oregon limited liability company, on behalf of the company.



[Signature]  
Notary Public, State of Oregon

My Commission Expires: 8.26.10

**EXHIBIT "A"**

**PROPERTY SUBJECT TO DECLARATION**

Lots 24 through 36, inclusive, all private roads and Common Lots A, B, C, D and E, all as shown on the plat of Caldera Springs, Phase Three, recorded in the real property records of Deschutes County, Oregon, at 2007-50992.



\$51.00

0059816320800046660050053

01/31/2008 12:22:41 PM

D-CCR Cnt=1 Stn=7 SRB  
\$25.00 \$11.00 \$10.00 \$5.00

After recording, return to:

Caldera Springs Village LLC  
P.O. Box 3609  
Sunriver, OR 97707  
Attn: Tom Keith

## DECLARATION OF RESTRICTIVE COVENANT

This DECLARATION OF RESTRICTIVE COVENANT (this "Declaration") is made and effective as of this 31 day of January 2008 by Caldera Springs Village LLC, an Oregon limited liability company (the "Declarant").

### RECITALS

A. The Declarant is an affiliate of the developer of the destination resort known as Caldera Springs (the "Resort"). The Resort will include a number of overnight lodging units (collectively, the "Units", individually, a "Unit") which shall be available for rental by the general public. The Units subject to the deed restrictions and covenants set forth in this Declaration are or will be located on the lots of land more particularly identified on **Exhibit A** attached hereto.

B. The Deschutes County Planning Division (the "County") approved the Resort subject to a number of conditions of approval. A condition to the approval of the master plan requires the Declarant to record deed restrictions which mandate that the Units be available for overnight lodging purposes for at least 45 weeks per year, consistent with the requirements of Deschutes County Code 18.113.070(U).

C. It is the express intent of the Declarant that the deed restrictions and covenants set forth in this Declaration be binding upon the Declarant while the Declarant owns the Units and upon all subsequent owners of the Units (the "Owners") upon the transfer of the Units by the Declarant to individual Unit Owners.

NOW, THEREFORE, in consideration of the foregoing, the Declarant declares and covenants as follows:

### SECTION 1 OVERNIGHT LODGING RESTRICTION.

1.1 Each Unit shall be available for Overnight Lodging purposes for a minimum of 45 weeks per calendar year. For the first calendar year, the 45-week minimum applicable to each Unit shall be pro-rated based upon the date on which such Unit received final inspection approval from Deschutes County.

1.2 "Overnight Lodging" means that the Unit is available for overnight rental use by the general public through a central reservation and check-in service available through the Resort or other third party service during the 45-week period set forth above. The Owner shall ensure that the Owner, or the central reservation service, as appropriate, provides annual reports to the County on or before January 1 of each year specifying (a) the name of the Owner of the Unit; (b)

how many nights out of the year the Unit was available for rent through a central reservation service; and, (c) how many nights out of the year the Unit was rented out as an overnight lodging facility. The Owner shall ensure that any agreement between the Owner and any central reservation and check-in service provider contains terms and conditions substantially similar in all material respects to the provisions set forth on Exhibit B hereto.

**SECTION 2 DEFAULT.** Any breach of this Declaration or default under this Declaration shall be considered a "violation" under Deschutes County Code 18.113.070(U) by the Unit Owner, and shall allow the County to pursue any remedy against the Unit Owner for such violation as may be available to the County under the Deschutes County Code. For so long as the Declarant has any legal or equitable interest in the Resort, the Declarant shall also have the right, but not the obligation, to enforce the terms of the Declaration pursuant to any available legal or equitable remedy available under Oregon law.

**SECTION 3 BINDING EFFECT, TRANSFER.** This Declaration burdens each Unit and the lot or parcel on which it is located, is intended to and shall run with the land, and shall be binding upon the Owner or Owners of each Unit, and their respective successors and assigns.

**SECTION 4 GENERAL PROVISIONS.**

4.1 **Governing Law.** This Declaration and the rights of the parties shall be governed by and construed in accordance with the internal laws of the State of Oregon. Any litigation or mediation concerning this Declaration shall take place in Deschutes County, Oregon.

4.2 **Severability.** In case any one or more of the provisions contained in this Declaration shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, this Declaration shall be construed as if such provisions had not been contained herein, and this Declaration shall be interpreted without the invalid, illegal or unenforceable provision so as to carry out the original intent as much as possible.

4.3 **Amendment and Termination.** This Declaration may only be modified, amended or terminated, as to the Units in their entirety, or with respect to any individual Unit, with the written consent of (1) the County, (2) the owner(s) of the affected Unit(s), and, (3) the Declarant, if the Declarant holds any legal or equitable interest in the Resort. No party shall unreasonably withhold, condition or delay such consent. Notwithstanding the foregoing, should County regulations be amended such that the 45-week limitation set forth above is reduced to a lower number of weeks, and should the Declarant or Owner obtain any necessary amendments to the applicable land use approval(s), if any, then this Agreement shall be automatically deemed to be amended to provide that the 45-week limitation set forth above is reduced to the number of weeks set forth in the applicable County regulations and any required amendment or modification to the Decision.

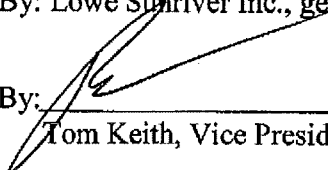
IN WITNESS WHEREOF, the undersigned has executed this Declaration on the date first set forth above, to be effective as of the date first set forth above.

**DECLARANT:**

CALDERA SPRINGS VILLAGE, LLC,  
an Oregon limited liability company

By: Sunriver Resort Limited Partnership,  
Sole member

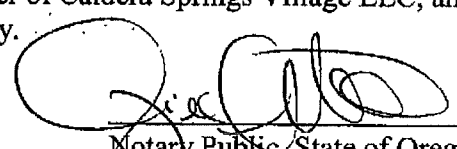
By: Lowe Sunriver Inc., general partner

By:   
Tom Keith, Vice President

STATE OF OREGON     }  
                                  }  
COUNTY OF DESCHUTES}

The foregoing instrument was acknowledged before me the 31<sup>st</sup> day of January 2008, by Tom Keith, Vice President of Lowe Sunriver Inc., the general partner of Sunriver Resort Limited Partnership, the sole member of Caldera Springs Village LLC, an Oregon limited liability company, on behalf of the company.



  
Notary Public, State of Oregon  
My Commission Expires: 8-26-10

**EXHIBIT A**  
**Legal Description of Units**  
(to be attached)

Lots 24 through 36, inclusive, as shown on the plat of Caldera Springs, Phase Three, recorded in the real property records of Deschutes County, Oregon, at 2007-50992.

**EXHIBIT B**  
**Rental Agreement Provisions**

Any rental or other agreement between the Owner and any central reservation and check-in service provider (the "Rental Agent") shall contain terms and conditions substantially similar in all material respects to the following (capitalized terms used without definition shall have the meaning given them in the Declaration of Restrictive Covenant to which this is an exhibit):

1. The Unit shall be available for Overnight Lodging purposes for a minimum of 45 weeks per calendar year.
2. "Overnight Lodging" means that the Unit is available for overnight rental use by the general public through a central reservation and check-in service during the 45-week period set forth above. The Rental Agent shall provide annual reports to the County on or before January 1 of each year specifying (a) the name of the Owner of the Unit; (b) how many nights out of the year the Unit was available for rent through a central reservation service; and, (c) how many nights out of the year the Unit was rented out as an overnight lodging facility.
3. The Rental Agent acknowledges that the Unit is part of the Resort and is subject at all times to the terms and conditions of the (i) Covenants, Conditions and Restrictions for the Resort; and, (ii) the rules and regulations of the Resort. The Rental Agent shall at all times comply with the above-referenced restrictions and rules and shall ensure that all guests in the Unit are made aware of the above-referenced restrictions and rules.



AFTER RECORDING RETURN TO:

→ Caldera Springs Owners' Association, Inc.  
P.O. Box 3609  
Sunriver, Oregon 97707  
Attn: Catherine Smith

**DECLARATION OF ANNEXATION OF REAL PROPERTY  
TO DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR CALDERA SPRINGS**

This DECLARATION OF ANNEXATION OF REAL PROPERTY TO  
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR CALDERA SPRINGS (this "Declaration") is made this \_\_\_ day of January 2008, by  
CALDERA SPRINGS REAL ESTATE, LLC, an Oregon limited liability company ("Declarant")  
and CALDERA SPRINGS VILLAGE LLC ("Cabin Developer").

Recitals:

A. Cabin Developer owns the real property ("Caldera Cabins, Phase Three") located  
in Deschutes County, Oregon, legally described on the plat of Caldera Springs, Phase Three,  
which has been duly recorded in the real property records of Deschutes County, Oregon,  
Document No. 1007-50992 (the "Plat"), concurrently with the recordation of this Declaration.

B. Declarant recorded that certain Declaration of Protective Covenants, Conditions,  
and Restrictions for Caldera Springs, dated as of February 16, 2006, and recorded in the Deed  
Records of Deschutes County, Oregon, as Document No. 2006-11383 on February 17, 2006, as  
supplemented by that certain Declaration of Annexation, recorded in the Deed Records of  
Deschutes County, Oregon, as Document No. 2006-27330 (such Declaration, as amended and  
supplemented from time to time, being referred to as the "Master Declaration").

C. Pursuant to Section 10.1 of the Master Declaration, Declarant desires to annex the  
Caldera Cabins, Phase Three (the "Annexed Property") to the real property that is subject to the  
Declaration, upon the terms and conditions contained in this Declaration, and Cabin Developer  
desires to consent to the same.

NOW, THEREFORE, Declarant hereby declares that the Annexed Property shall  
be held, sold and conveyed subject to the following easements, covenants, restrictions and  
charges that, subject to the terms of this Declaration, shall run with the land and shall be binding  
upon all parties having or acquiring any right, title or interest in the Annexed Property, or any  
part thereof, and shall inure to the benefit of each owner thereof, and Cabin Developer hereby  
consents to the same.

## ARTICLE 1 DEFINITIONS

Except to the extent otherwise defined herein, capitalized terms used in this Declaration shall have the meanings ascribed to such terms in the Master Declaration.

1.1 Annexed Lots shall mean Lots 1 through 45, inclusive, Caldera Cabins, as shown on the Plat.

## ARTICLE 2 ANNEXATION OF PROPERTY

2.1 Annexation. The Annexed Property is hereby annexed to and made a part of the Property, and is owned and shall be owned, held, conveyed, hypothecated, encumbered, used, occupied and improved in perpetuity, subject to the easements, covenants, restrictions and charges contained in the Master Declaration, as modified or supplemented by the terms of this Declaration. The Annexed Property is or will in the future become a part of the Caldera Cabins Owners' Sub-Association (the "Sub-Association") pursuant to the Declaration of Protective Covenants, Conditions and Restrictions (the "Sub-Association Declaration") recorded concurrently herewith.

2.2 Annexed Lots. Except to the extent expressly provided otherwise in this Declaration, the Master Declaration and the Sub-Association Declaration, the Annexed Lots, including, without limitation, any Improvements on such Lots, shall be subject to all of the easements, covenants, restrictions and charges regarding the Lots set forth in the Master Declaration, as supplemented or modified by this Declaration. Notwithstanding the foregoing, to the extent any of the Annexed Lots are not a part of the Sub-Association, they shall still be exempt from the design review provisions and processes contained in Article VI of the Master Declaration.

## ARTICLE 3 MEMBERSHIP IN ASSOCIATION

The Owners of Annexed Lots shall become members of the Association and shall be entitled to voting rights therein as set forth in Sections 2.2 of the Master Declaration and Section 6.1 of this Declaration, which vests the right to cast such votes in the Caldera Cabins Owners' Sub-Association. Notwithstanding the foregoing, until an Annexed Lot is made subject to the Sub-Association Declaration, its voting rights under the Master Declaration shall be voted directly by such Lot's owner. Each Owner of an Annexed Lot is a Sub-Association Class A Member, as defined in Section 1.27 of the Master Declaration.

## ARTICLE 4 ASSESSMENTS/TRANSFER FEE

Except as specifically provided herein, the Annexed Lots shall be subject to assessment in the manner and on the terms set forth in the Master Declaration, as supplemented by the terms of this Declaration and the terms of the Sub-Association Declaration.

Notwithstanding the foregoing, the Annexed Lots shall be exempt from the Transfer Fee/Working Capital Assessment described in Section 2.20 of the Master Declaration. Once an Annexed Lot is subject to the Sub-Association Declaration, the buyer(s) of such

Annexed Lots will be subject to the similar fee established pursuant to the Sub-Association Declaration and payable to the Sub-Association.

#### ARTICLE 5 PROPERTY RIGHTS AND EASEMENTS

5.1 Owners' Use and Occupancy. Except as otherwise expressly provided in this Declaration, the Master Declaration, the Sub-Association Declaration, in the Plat or any recorded easement of record, the Owner of an Annexed Lot shall be entitled to the exclusive use and benefit of such Annexed Lot. Declarant, the DRC and any representative of the Association authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Annexed Lot for the purpose of determining whether or not the use of and/or Improvements on such Lot are then in compliance with this Declaration and the Master Declaration. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Lot. Declarant or the Association may grant or assign easements over or with respect to any portion of the Annexed Property, including any Annexed Lot, to municipalities or other utilities performing utility services and to communications companies.

5.2 Declarant's Easements. In addition to any other easements to which Declarant may be entitled, there is hereby reserved by Declarant for the benefit of Declarant and the Association and their employees, agents, representatives and assigns, an easement for access, construction, placement, maintenance and improvement of utilities and drainage over, under and across any portion of the Annexed Property, together with easements in roadways and utility lines specified or established within the Annexed Property, along with the right to connect thereto.

5.3 Maintenance Easement. An easement is hereby granted and reserved in favor of the Association and its successors, assigns, contractors, property managers, agents and employees over, across, upon any areas of the Annexed Property necessary or appropriate for purposes of accomplishing the maintenance and repair by the Association in relation to the obligations of the Association under the Master Declaration and/or hereunder.

#### ARTICLE 6 TERM AND AMENDMENTS

The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date that the Master Declaration were recorded, after which time they shall be automatically extended as provided in, and in the manner set forth in Section 13.3 of the Master Declaration. This Declaration may be amended in the same manner and subject to the same restrictions as set forth in Section 13.3 and 13.4 of the Master Declaration.

#### ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Non-Waiver. Failure by the Association or by any Owner of an Annexed Lot to enforce a covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

7.2 Construction; Severability. This Declaration and the Master Declaration shall be liberally construed as one document to effect the annexation of the Annexed Property to the Property. Nevertheless, each provision of this Declaration and the Master Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

7.3 Run with Land. Subject to Article 6 and Section 7.4, this Declaration and the easements, covenants, restrictions and changes described herein shall run with the land and shall be binding on the parties and any person acquiring any right, title, or interest in the Annexed Property.

7.4 Termination. This Declaration shall terminate upon the termination of the Master Declaration in accordance with the terms thereof.

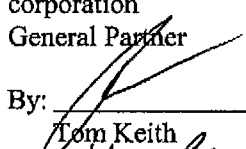
IN WITNESS WHEREOF, Declarant has executed, and Cabin Developer has consented to, this Declaration as of the date first set forth above.

CALDERA SPRINGS REAL ESTATE, LLC, an  
Oregon limited liability company

By: Sunriver Resort Limited Partnership, a  
Delaware limited partnership, Member

By: Lowe Sunriver, Inc., a California  
corporation

Its: General Partner

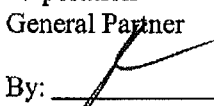
By:   
Tom Keith  
Title: Vice Pres. Dev.

CALDERA SPRINGS VILLAGE LLC, an Oregon  
limited liability company

By: Sunriver Resort Limited Partnership, a  
Delaware limited partnership, Member

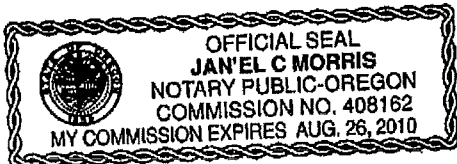
By: Lowe Sunriver, Inc., a California  
corporation

Its: General Partner

By:   
Tom Keith  
Title: Vice President

STATE OF OREGON                    )  
                                                  )ss.  
County of Deschutes                )

The foregoing instrument was acknowledged before me on this 31<sup>st</sup> day of January 2008 by Tom Keith, who is the VICE PRESIDENT of Lowe Sunriver, Inc., a California corporation, the general partner of Sunriver Resort Limited Partnership, a Delaware limited partnership, the member of Caldera Springs Real Estate, LLC, an Oregon limited liability company, on behalf of the limited liability company.

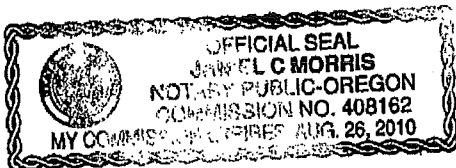


A handwritten signature in dark ink, appearing to read 'Jan'el C Morris', written over a horizontal line.

Notary Public for Oregon  
My Commission Expires: 8.26.10

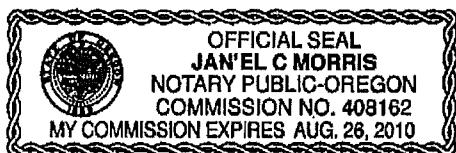
STATE OF OREGON                    )  
                                                  )ss.  
County of Deschutes                )

The foregoing instrument was acknowledged before me on this 31<sup>st</sup> day of January 2008 by Tom Keith, who is the VICE PRESIDENT of Lowe Sunriver, Inc., a California corporation, the general partner of Sunriver Resort Limited Partnership, a Delaware limited partnership, the member of Caldera Springs Village LLC, an Oregon limited liability company, on behalf of the limited liability company.



A handwritten signature in dark ink, appearing to read 'Jan'el C Morris', written over a horizontal line.

Notary Public for Oregon  
My Commission Expires: 8.26.10



After Recording Return to:

Caldera Springs Owners' Association, Inc.  
PO Box 3609  
Sunriver, Oregon 97707  
Attn.: Steve Runner

|                                                                                                                                                         |                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| Deschutes County Official Records                                                                                                                       | <b>2013-041852</b>            |
| <b>D-CCR</b>                                                                                                                                            |                               |
| Stn=4 BN                                                                                                                                                | <b>10/04/2013 01:07:05 PM</b> |
| \$15.00 \$11.00 \$10.00 \$6.00 \$16.00                                                                                                                  | <b>\$58.00</b>                |
| I, Nancy Blankenship, County Clerk for Deschutes County, Oregon,<br>certify that the instrument identified herein was recorded in the Clerk<br>records. |                               |
| Nancy Blankenship - County Clerk                                                                                                                        |                               |

---

## **AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CALDERA SPRINGS**

THIS AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CALDERA SPRINGS (this "Amendment"), to be effective upon its recording in Deschutes County, Oregon, is made and executed as of October 3, 2013 (the "Effective Date") by Caldera Springs Real Estate, LLC, an Oregon limited liability company, hereinafter referred to as the "Declarant."

### **RECITALS**

A. Declarant is the declarant under the Declaration of Protective Covenants, Conditions and Restrictions for Caldera Springs, recorded in the real property records of Deschutes County on February 17, 2006, at recording number 2006-11383 (the "CC&Rs"). Capitalized terms used in this Amendment without definition shall have the meaning set forth in the CC&Rs.

B. Under Article XI of the CC&Rs, Lots designated as Overnight Lodging Units are required to be available for overnight rentals for no fewer than 45 weeks per year. This restriction was required by the Deschutes County Code in effect at the time the CC&Rs were recorded. Subsequent to the recording of the CC&Rs, the County amended the development code to reduce the number of weeks of overnight use from 45 to 38. As of the Effective Date of this Amendment, DCC 18.113.060(D)(2) now requires that individually owned units be available for no fewer than 38 weeks per year.

C. Pursuant to MC-13-4, the Declarant amended the Conceptual and Final Master Plan for Caldera Springs to recognize the reduction in overnight use from 45 to 38 weeks.

D. Condition of Approval No. 6 to MC-13-4 provides, in relevant part:

"The applicant [Declarant] shall modify the master CC&Rs for Caldera Springs and Site Plan Approval SP-07-25 to reflect the reduction in weeks that individually owned overnight lodgings units must be available for overnight lodging from 45 weeks to 38 weeks."

E. Pursuant to Section 13.4 of the CC&Rs, until the Turnover Meeting the Declarant has the right to amend the CC&Rs in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of any department, bureau, board, commission or agency of the State of Oregon or to comply with any applicable law. The Turnover Meeting has not yet occurred. Pursuant to MC-13-5, the Declarant modified SP-07-25 as required by Condition of Approval No. 6. The Declarant has elected to amend the CC&Rs as required by the County.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the CC&Rs are amended as follows

## SECTION 1. AMENDMENT

Article XI of the CC&Rs is amended as follows. Deleted text is show with **~~bold strikethrough~~** and new text is shown in **bold underline**.

### XI – OVERNIGHT LODGING

#### 11.1 Designated Overnight Lodging Units

All Lots designated on the Plat as Lots to be owned by individuals, but recorded with deed restrictions identifying such Lots as “overnight lodging” (each, an “Overnight Lodging Unit”) shall comply with this Article XI. Each Lot or Overnight Lodging Unit that is created on or from another part of the Development Property and that is recorded with a deed restriction identifying such Lots or residences as “overnight lodging” shall also be considered an “Overnight Lodging Unit” and shall comply with this Article XI. All Overnight Lodging Units shall be available for overnight rentals no fewer than **45 38** weeks per year. Declarant covenants for itself and its successors that sufficient Overnight Lodging Units will be created to satisfy applicable Deschutes County ordinances and the requirements contained in the Final Master Plan for Caldera Springs. Declarant further declares that the terms of this Article XI shall run with the land and be binding upon Declarant and each successive owner of each Overnight Lodging Unit created from any portion of the Property. Such rentals shall be through the central reservation system established for the Project. Such central reservation system may be created and operated by Declarant or created and/or operated by an entity to which Declarant assigns such central reservation system, which entity may be the owner or operator of a hotel in the Project.

## SECTION 2. CONSENT OF COUNTY

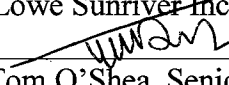
Section 11.3 of the CC&Rs provides that Article XI may not be amended without the consent of the County. By imposing Condition of Approval No. 6 described above, which requires the present Amendment, the County has consented to this Amendment.

DECLARANT:

CALDERA SPRINGS REAL ESTATE, LLC,  
an Oregon limited liability company

By: Sunriver Resort Limited Partnership,  
Sole Member

By: ~~Lowe Sunriver Inc., General Partner~~

By:   
Tom O'Shea, Senior Vice President

STATE OF OREGON       }  
                                     }  
COUNTY OF DESCHUTES}

The foregoing instrument was acknowledged before me the 3 day of October 2013, Tom O'Shea, Senior Vice President of Lowe Sunriver Inc., the General Partner of Sunriver Resort Limited Partnership, the Sole Member of Caldera Springs Real Estate, LLC, an Oregon limited liability company, on behalf of the company.



  
Notary Public, State of Oregon  
My Commission Expires: 4-18-14