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**MASTER DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR EAGLE LANDING  
Declarant: Veritas Investment Co., LLC**

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**MASTER DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR EAGLE LANDING**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE LANDING ("Declaration") is made this 29 day of JUNE, 2004 by Veritas Investment Co., LLC, an Oregon limited liability company ("Declarant").

**RECITALS**  
**AND GENERAL PLAN OF DEVELOPMENT**

Declarant is the Owner of approximately sixty-one (61) acres of real property located in Clackamas County, Oregon, described on the plat of Eagle Landing being recorded in the plat records of Clackamas County, Oregon, simultaneously with the recordation of this Declaration, referred to generally as "Eagle Landing" (the "Property").

The Property will be developed as a mixed-use planned development, with several residential areas, and a commercial office area with support retail uses.

The area within the Property reserved for residential development is depicted on the plat as Lots 8-81 (the "Residential Area" or the "Residential Property"), and the area reserved for commercial office and support retail use is depicted on the plat as Lots 1-7 and 82 (the "Commercial Area" or the "Commercial Property"). The Residential Area also includes certain Common Area, designated on the Eagle Landing plat as Tracts H, M, N, O, P, R, S, T, U, V, W, X, Y, Z, and AA. The Commercial Area also includes certain Common Area, designated on the Eagle Landing plat as Tracts I, J, K, L, and Q.

Contemporaneously with the recording of this Declaration, Declarant has organized two (2) associations: The Eagle Landing Residential Owners Association (the "Residential Association"), which shall be the owners' association responsible for administering the Residential Property, and the Eagle Landing Commercial Owners Association (the "Commercial Association"), which shall be the owners' association responsible for administering the Commercial Area. The Residential Association shall be a Class I planned community, and shall be subject to the Oregon Planned Community Act, ORS 94.550, *et seq.* In addition, there are certain areas, improvements or facilities which will be maintained with funds from both Associations. Such facilities (the "Project Amenities") may be conveyed to the Association responsible for administering the area in which the Project Amenity is located, or the Project Amenity may be owned by the public or another party, but the Residential Association and the Commercial Association shall share jointly and equally in the cost of maintenance of all Project Amenities, as described in more detail below. Finally, development of the Residential Area may result in the creation of subassociations, such as Condominium or Planned Community Act owners' associations.

By adoption of these covenants, conditions and restrictions, Declarant is not committing itself to take any action for which definite provision is not made below, nor is Declarant prohibited from adding Improvements or undertaking any activity not described in this Declaration. One who acquires property in Eagle Landing will have the advantage of any further development of Eagle Landing, but shall not have any legal right to insist that there be any further or other development except as provided in this Declaration, in any plat of property in Eagle Landing or in any declaration which hereafter may be recorded.

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NOW, THEREFORE, Declarant hereby declares that the Property shall be subject to the following easements, covenants, restrictions and charges, which shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and upon all persons who occupy any portion of the Property, and shall inure to the benefit of all such persons.

#### ARTICLE I

##### DEFINITIONS

1.1 "404 Permit" means the Joint Division of State Lands and Army Corps of Engineers Removal/Fill Permit No. 25677-RF (and any renewal or successor permit) which authorizes the placement of sand, silt and clay in wetlands on the Property for road construction and authorizes removal and fill activities in connection with compensatory mitigation relating to the relocation and establishment of the tributary of Philips Creek on the Property.

1.2 "Articles" means the Articles of Incorporation for the non-profit corporation Eagle Landing Commercial Owners' Association or, as applicable, the non-profit corporation Eagle Landing Residential Owners' Association, as filed with the Oregon Corporation Commissioner.

1.3 "Assessments" means all assessments and other charges, fines and fees imposed by an Association to an Owner in accordance with this Declaration including, without limitation, Residential Annual Assessments, Residential Special Assessments, Residential Emergency Assessments, Residential Individual Assessments, Commercial Annual Assessments, Commercial Special Assessments, Commercial Emergency Assessments and Commercial Individual Assessments as described in Article 14 below.



1.4 "Assessment Unit" means a factor assigned to each Lot in accordance with Section 14.1.3 for Residential Lots and Section 14.2.3 for Commercial Lots for purposes of determining such Lot's pro-rata share of Annual Assessments, Special Assessments and Emergency Assessments.

1.5 "Association" means and refers to the Residential Association, Commercial Association or a subassociation, as applicable.

1.6 "Bylaws" means and refers to the bylaws of the Commercial Association or the Residential Association, as applicable, attached as Exhibits A and B, respectively.

1.7 "Commercial Building" means and includes, but is not limited to, the main portion of a permanent structure for use on a Commercial Lot and any projections or extensions thereof, including, but not limited to, parking structures, outside platforms and docks, storage areas, trash enclosures, etc.

1.8 "Commercial Architectural Review Committee" or "Commercial ARC" refers to that committee constituted and acting pursuant to Section 8.3 of this Declaration.

1.9 "Commercial Association" means and refers to the Eagle Landing Commercial Owners' Association, its successors and assigns.

1.10 "Commercial Board" or "Commercial Board of Directors" means the Board of Directors of the Eagle Landing Commercial Owners' Association.

1.11 "Commercial Common Area(s)" refers to Tracts I, J, K, L, and Q as designated on the plat which are intended to be devoted to the common use and enjoyment of the members of the Commercial Association and which will be conveyed to the Commercial Association. The Commercial Common Area shall be maintained by the Commercial Association in the manner required by this Declaration or by Clackamas County.

1.12 "Common Area(s)" means and refers to those areas of land within the Property (including any Improvements thereon) that are designated as Tracts H-AA on the Eagle Landing plat being recorded contemporaneously with this Declaration which are intended to be devoted to the common use and enjoyment of the members of the Commercial Association or Residential Association, as applicable, and which land will be conveyed to the Commercial Association or the Residential Association. The Common Area is further classified herein as the "Residential Common Area" and "Commercial Common Area," as such terms are defined herein. Tracts A-G shown on the plat are not Common Area, are not subject to this Declaration, and are to be conveyed to the North Clackamas Parks District pursuant to a governmental requirement.

1.13 "Declaration" means the covenants, conditions, restrictions, and all other provisions set forth in this Master Declaration of Covenants, Conditions and Restrictions for Eagle Landing, as amended or supplemented from time to time in accordance with the provisions hereof.

1.14 "Declarant" means and refers to Veritas Investment Co., LLC, and any successors or assigns to whom it has expressly transferred any Declarant right(s) as provided in Section 15 below.

1.15 "Eagle Landing" means the Property, together with such Additional Property as may be subsequently annexed and subjected to this Declaration.

1.16 "General Plan of Development" means the Declarant's general plan of development of the Property as described in this Declaration, as may be amended from time to time.

1.17 "Improvement" means every structure or improvement of any kind, including, but not limited to, buildings, fences, walls, driveways, parking lots, landscaping, swimming pools, storage shelters or other products of construction efforts on or in respect to the Property.

1.18 "Landscaped Corridor" means the area of the Property designated as a Landscaped Corridor in that certain Declaration of Covenants, Conditions, and Restrictions for Landscaped Corridor dated June 29 2004, and recorded June 30, 2004, in the Clackamas County Records as Document No. 2004-060417, including, without limitation, Tracts O, P, T, U, V, W, X, Y, Z, and AA.

1.19 "Laws" includes all governmental statutes, ordinances, laws, codes, rules, regulations, equitable principles and all judicial and land use decisions, including orders, approvals, denials, and conditions thereof.

1.20 "Living Unit" means a building or a portion of a building located upon a Lot within the Residential Property and designated for separate residential occupancy, including a house, apartment or dwelling unit within a multiple occupancy building and a Condominium unit.

1.21 "Lot" means a platted or partitioned lot or condominium unit within the Property, with the exception of any Lot designated as a Residential or Commercial Common Area or a Project Amenity. There shall be two (2) categories of Lots: Commercial Lots, which shall include any and all Lots designated on any plat of the Commercial Property; and Residential Lots, which shall include any and all Lots designated on any plat of the Residential Property.

1.22 "Occupant" means and refers to the occupant of a Living Unit or Commercial Building who shall be either the Owner, lessee or any other person authorized by the Owner to occupy the premises.

1.23 "Owner" means and refers to each Residential Lot Owner, Commercial Lot Owner (including Declarant) or a purchaser in possession under a land sale contract. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.24 "Project Amenities" means and refers to those facilities within or adjacent to Eagle Landing designated as such by this Declaration, which are to be maintained by the Commercial Association at the joint and equal expense of the Commercial Association and Residential Association, as more particularly provided in Section 7.3.

1.25 "Project Roads" means S.E. Monterey Avenue and those portions of S.E. Causey Avenue and S.E. William Otty Road located within the boundaries of the Eagle Landing plat being recorded simultaneously with this transaction.

1.26 "Property" means and refers to all real property and all improvements located on the real property identified on the Eagle Landing plat being recorded contemporaneously with this Declaration as Lots 1-82 and Tracts H-AA.

1.27 "Public Areas" means areas dedicated to the public or established for public use in any plat of the Property, or so designated in this Declaration or a Supplemental Declaration.

1.28 "Reserve Account(s)" shall mean and refer to an account set up by the Residential Association or Commercial Association, as applicable, to hold funds for construction, improvements or maintenance of a specified portion of the Residential Common Area, Commercial Common Area or Project Amenities.

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1.29 "Residential Architectural Review Committee" or "Residential ARC" refers to that committee constituted and acting pursuant to Section 8.2 of this Declaration.

1.30 "Residential Association" means and refers to the Eagle Landing Residential Owners' Association, its successors and assigns.

1.31 "Residential Common Area" means and refers to Tracts M, N, O, P, T, U, V, W, X, Y, Z, and AA, as designated on the plat, as well as those areas of land within the Property (including any Improvements thereon) that are subsequently designated as Tracts on any recorded plat of the Property or in any Supplemental Declaration, which are intended to be devoted to the common use and enjoyment of the members of the Residential Association, and which land will be conveyed to the Residential Association. Any Tracts conveyed to third parties pursuant to Section 3.6 shall not be considered Residential Common Area subject to this Declaration, effective as of the date of such conveyance.

1.32 "Residential Lot" means a Lot platted within the Residential Area intended for occupancy by a single family.

1.33 " Residential Members" means and refers to the Owners of Lots in the Residential Property who are members of the Residential Association.

1.34 "Rules and Regulations" means and refers to the documents containing rules and regulations and policies adopted by the Residential Association or the Commercial Association as amended from time to time.

1.35 "Stream" means and refers to an unnamed intermittent stream located on the Property that is the subject of the 404 Permit. The Stream is located partially in the Residential Area and partially in the Commercial Area.

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1.36 "Stream and Wetland Buffer" means and refers to the Stream and jurisdictional wetlands an area on both sides of the Stream which will be planted with native vegetation and are subject to monitoring and other requirements pursuant to the 404 Permit. The entire Stream and the Wetland Buffer, located on Tracts B, F, H, I, J, K, L, and M, is a Project Amenity, even though part of the Stream and Wetland Buffer will be conveyed to the Residential Association and part will be conveyed to the Commercial Association.

1.37 "Subassociation" means any association established for a specific development project within Eagle Landing.

1.38 "Tracts" or "Common Area Tracts" means and refers to those parcels of land on a plat of the Property designated as Tracts H-AA.

1.39 "Well" means and refers to that certain water well located within the Commercial Area.

## ARTICLE 2

### PROPERTY SUBJECT TO THIS DECLARATION; LAND CLASSIFICATIONS

2.1 Eagle Landing Development. The Property, which shall be held, transferred, sold, conveyed and occupied subject to this Declaration, is located in Clackamas County, Oregon, and is described as Lots 1-82 and Tracts H-AA on the plat. Such Property includes the Commercial Area and the Residential Area, as depicted on the plat.

2.2 Development of Additional Lots. As undeveloped areas within Eagle Landing are developed, additional lots may be created within the Property by recording additional plats. Such additional lots (including condominium units) shall be considered Lots for purposes of this Declaration. However, no additional Common Areas may be created without the consent of

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seventy-five percent (75%) of the voting rights of all Commercial Owners and seventy-five percent (75%) of the voting rights of all Residential Owners. The developer of a Lot or a specific project within Eagle Landing may designate portions of the Lot or development as tracts, open space or common areas, but the same shall be maintained solely by the owner(s) of such Lot or specific project, and neither the Residential Association nor the Commercial Association shall be responsible for any aspect of any such land or improvements.

**2.3 Consolidation or Partition of Lots.** The Owner of two or more adjoining Lots on either the Residential Property or the Commercial Property, with the approval of the Residential ARC or Commercial ARC, as applicable, may consolidate such Lots into one Lot. After complying with all applicable legal requirements, the consolidated Lots shall constitute one Lot for all purposes of this Declaration, including voting rights and assessments. Once so consolidated, the consolidated Lot may not thereafter be partitioned nor may the consolidation be revoked without the prior approval of the Residential ARC or Commercial ARC, as applicable. The owner of a Lot on either the Residential Property or the Commercial Property, with the approval of the Residential ARC or Commercial ARC, as applicable, may partition such Lot into two or more Lots. After complying with all applicable legal requirements, the partitioned Lots shall each constitute a separate Lot for all purposes of this Declaration, including voting rights and assessments. Once so partitioned, the partitioned Lots may not thereafter be consolidated nor may the partition be revoked without the prior approval of the Residential ARC or Commercial ARC as applicable. This section shall not require the consent of either Association in order to subject any portion of the Property to the condominium form of ownership, although the Improvements will remain subject to architectural review as hereinafter provided.

ARTICLE 3

OWNERSHIP AND EASEMENTS

3.1 Non-Severability. Any conveyance of any Residential Lot shall automatically transfer the right to use the Residential Common Area and any conveyance of any Commercial Lot shall automatically transfer the right to use the Commercial Common Area without the necessity of express reference in the instrument of conveyance. Owners' rights to use the Common Area and Lots are subject to the easements granted and reserved in this Declaration. Each of the easements granted or reserved herein shall be deemed to be established upon the recordation of this Declaration and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots and shall be superior to all other encumbrances applied against or in favor of any portion of Eagle Landing.

3.2 Owners' Easements of Enjoyment. Subject to provisions of this Article, every Owner of a Residential Lot and his invitees shall have a right and easement of enjoyment in and to the Residential Common Areas, and every Owner of a Commercial Lot and his invitees shall have a right and easement of enjoyment in and to the Commercial Common Areas, which easements shall be appurtenant to and shall pass with the title to every Residential Lot or Commercial Lot, respectively.

3.3 Title to Common Areas. Except as provided in Section 3.6 regarding Tracts T-Z and AA, title to the Common Areas shall be conveyed to the Residential Association or Commercial Association, as applicable, by Declarant, free and clear of monetary liens.

3.4 Extent of Owners' Rights. The Owners' easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:



3.4.1 Easements.

(a) Declarant hereby reserves to itself, its successors, and assigns an easement over, across, upon, under, and through all Residential Common Areas and all Commercial Common Areas for the installation, maintenance, repair, and replacement of power, gas, electric, water, telecommunications, and other utility lines and services to serve any portion of the Property or any adjacent property owned or controlled by Declarant, its affiliates or successors or assigns.

(b) The Residential Association shall have an easement over the Commercial Common Areas for maintenance, repair, and replacement of the Commercial Common Area and improvements thereon if the Commercial Association shall fail to substantially perform such obligations within thirty (30) days after written notice of such failure.

(c) The Commercial Association shall have an easement over the Residential Common Areas for maintenance, repair, and replacement of the Residential Common Area and improvements thereon if the Residential Association shall fail to substantially perform such obligations within thirty (30) days after written notice of such failure.

(d) Declarant or the Residential Association may (and, to the extent required by law, shall) grant or assign easements to municipalities or other utilities performing utility services and to communication companies, and the Residential Association may grant free access thereon to police, fire and other public officials and to employees of utility companies and communications companies serving the Residential Property.

(e) Declarant or the Commercial Association may (and, to the extent required by law, shall) grant or assign easements to municipalities or other utilities performing utility services and to communication companies, and the Commercial Association may grant

free access thereon to police, fire and other public officials and to employees of utility companies and communications companies serving the Commercial Property.

(f) Declarant grants to the Commercial Association an easement over the Residential Common Area and any portion of the Residential Common Area on which the Stream and Wetland Buffer is located for purposes of fulfilling its obligations under the 404 Permit, including, without limitation, the installation, maintenance, repair and monitoring of mitigation planting in the Stream and Wetland Buffer, and for thereafter maintaining the Stream and Wetland Buffer in good maintenance and repair and in accordance with applicable laws, regulations, permits, and ordinances.

(g) Declarant grants to the Commercial Association an easement over the Residential Common Area and any portion of the Residential Common Area on which any Project Amenities are located for purposes of maintaining, repairing, and replacing such Project Amenities.

(h) Declarant grants to the Commercial Association for the benefit of the Commercial Association and all Owners of Commercial Lots within the Commercial Property a non-exclusive right and easement of use and enjoyment in and to all bicycle and pedestrian paths in the Residential Common Areas, which shall be subject to the reasonable Rules and Regulations of the Residential Association. Declarant grants to the Residential Association for the benefit of the Residential Association and all Owners of Residential Lots within the Residential Property a non-exclusive right and easement of use and enjoyment in and to all bicycle and pedestrian paths in the Commercial Common Areas, which shall be subject to the reasonable Rules and Regulations of the Commercial Association.

(i) So long as Declarant owns any portion of the Property, Declarant reserves an easement over, under and across the Common Areas in order to carry out sales and rental activities necessary or convenient for the sale or rental of Lots. In addition, Declarant hereby reserves to itself, its successors and assigns a perpetual easement and right-of-way for access over, upon and across the Common Areas for construction, utilities, communication lines, drainage, and ingress and egress for the benefit of other property owned by Declarant. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his family, tenants, employees, guests or invitees.

**3.4.2 No Division.** Except as provided in Section 3.7 below, the Common Areas shall not be partitioned or otherwise divided into parcels for residential or commercial use, and no private structure of any type shall be constructed on the Common Areas. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of the Owners and no private use may be made of the Common Areas. Nothing herein shall prevent the placing of a sign or signs upon the Common Areas identifying the Property or identifying pathways or items of interest, provided such signs are approved by the Residential ARC or Commercial ARC, as applicable, and comply with any applicable sign ordinance. The Residential Association and Commercial Association shall have the authority to

abate any trespass or encroachment upon the Common Area at any time, by any reasonable means and with or without having to bring legal proceedings.

**3.4.3 Transfer of Common Area.** Except as provided in Section 3.6, and except as otherwise permitted by the Oregon Planned Community Act, neither the Residential Association nor the Commercial Association may sell, dedicate, transfer, grant a security interest in or grant an easement with respect to any portion of the Residential or Commercial Common Area, as applicable, in which it holds an interest unless the holders of at least 80 percent of the voting rights in the Residential Association or Commercial Association, as applicable, have given their prior written approval. This provision shall not apply to the easements described in Section 3.4.1(a), (b), (c), (d), (e) or (f) above.

**3.4.4 Use of Common Area.** Use of the Common Area by the Owners shall be subject to the provisions of this Declaration and to the following:

(a) The right of the Residential Association or Commercial Association to suspend such use rights of an Owner to the extent provided in this Declaration.

(b) The right of the Residential Association and Commercial Association to adopt, amend and repeal rules and regulations in accordance with this Declaration.

**3.5 Water Well.** Declarant hereby reserves all right, title and interest in and to the water well located in the southwesterly forty (40) feet of Lot 1, together with a perpetual, assignable easement in gross over the southerly ten (10) feet of the westerly forty (40) feet of Lot 1 and the westerly ten (10) feet of Lots 1 and 2, the westerly ten feet and the northerly five feet of S.E. Monterey Avenue, for the installation, maintenance and replacement of well casing.

pump(s), water transmission or irrigation lines or pipes and related equipment serving such property as Declarant may select.

3.6 Landscaped Corridor. Declarant or its successors or assigns may convey portions of the Landscaped Corridor described in Section 1.18 above, consisting of Tracts T-Z and AA, to the owners of neighboring lots adjacent to the Property and the Declarant may actually incorporate portions of the Landscaped Corridor into residential Lots within the Property. Each person acquiring any interest in the Property shall be deemed to have consented to such conveyance. Property conveyed to owners of neighboring lots adjacent to the Property shall no longer be considered Common Area that is subject to this Declaration, but such property shall remain a part of the Landscaped Corridor and shall remain subject to the document referred to in Section 1.18.

#### ARTICLE 4

##### PROPERTY RIGHTS IN LOTS; RESTRICTIONS

4.1 Ownership of Lots. The owner of a Lot in Eagle Landing shall be the fee titleholder or the purchaser in possession under a land sale contract. If more than one person and/or entity owns an undivided interest in the same Lot, such persons and/or entities shall constitute one Owner.

4.2 Use and Occupancy. The Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and the Owner shall comply with any use restrictions contained in this Declaration, all other provisions of this Declaration, and the respective Association Bylaws and any rules or regulations, and the provisions of any Supplemental Declaration affecting such Lot.

4.3 Easements Reserved. In addition to any utility and drainage easements shown on a recorded plat or reserved on a deed to any Lot, Declarant hereby reserves the following easements with respect to Lots for the benefit of Declarant and the Residential Association and Commercial Association, as applicable:

4.3.1 Right of Entry. Following reasonable notice, Declarant, the Commercial ARC, and any authorized representative of the Commercial Association may enter upon any Commercial Lot, and the Declarant, the Residential ARC, and any authorized representative of the Residential Association may enter upon any Residential Lot, for the purpose of determining whether or not the use and/or Improvements of such Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

4.3.2 Utility Easements. Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Lots, as shown on any recorded plat. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible.

4.4 Deed Restriction Affecting Residential Property. The Owners of Residential Lots shall be restricted from constructing any above surface buildings or improvements within the 15-foot wide area described in the Property Line Adjustment Deed dated February 6, 1997

from the Roman Catholic Archbishop of Portland and Successors to the Declarant which was recorded in the real property records of Clackamas County, Oregon on February 10, 1997 as Document No. 97-009751.

4.5 Archdiocese Declaration of Restrictions. The rights of all Lot Owners shall be subject at all times to the Declaration of Restrictions dated February 7, 1997 between the Declarant and the Roman Catholic Archbishop of Portland in Oregon recorded in the real property records of Clackamas County, Oregon on February 10, 1997 as Document No. 97-009752 ("Archdiocese Declaration of Restrictions"). The Archdiocese Declaration of Restrictions, among other things, establishes limitations on the use of portions of the Property for so long as certain real property owned by the Archdiocese described in the Declaration of Restrictions is used as a cemetery.

#### ARTICLE 5

##### RESTRICTIONS CONCERNING RESIDENTIAL LOTS AND LIVING UNITS

###### 5.1 Residential Lots and Living Units.

5.1.1 Residential Use. Residential Lots shall be used only for residential purposes. Except with the consent of the Residential Board of Directors, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Residential Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Residential Lot. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to construct residences on any Residential Lot, to store construction materials and equipment on such Residential Lots in the normal course of construction, and to use any residence as a sales office or model home for

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purposes of sales in Eagle Landing, and (c) the right of the Owner of a Residential Lot to maintain his professional or personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his residence. The Residential Association shall not approve commercial activities otherwise prohibited by this paragraph unless only normal residential activities would be observable outside of the residence, including, without limitation, only normal levels of traffic and on-street parking by guests. The declarant of any Subassociation may place a sales or construction trailer on a Residential Lot provided that the particular trailer and the duration of its placement on the Lot have previously been approved by the Residential ARC, whose approval shall not be unreasonably withheld.

**5.1.2 Construction of Improvements.** No construction of any Improvement shall occur on any Residential Lot unless the approval of the Residential ARC is first obtained pursuant to Section 8.2. Considerations such as topography, siting, shape, size, color, design, height, solar access, harmony of appearance, apparent quality, and material may be taken into account by the Residential ARC in determining whether to consent to any proposed work.

**5.1.3 Completion of Construction.** The construction of any single-family building on any Residential Lot, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of the construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Residential ARC. The Residential Lot and building area shall be kept reasonably clean and in workmanlike order, free of litter, during the construction period with a garbage disposal facility located on site during such construction period. With respect to multi-family buildings,



including, without limitation, condominium units, the Residential ARC, working in cooperation with the developer of such multi-family dwelling, shall establish a reasonable time frame within which construction shall be completed. The Residential ARC shall honor all reasonable requests to construct multi-family projects in phases. Once construction of a multi-family project has begun, construction shall continue without significant interruption, and shall be completed with diligence. If construction has not commenced within three (3) months after the project has been approved by the Residential ARC, the approval shall be deemed revoked unless the Owner has applied for and received an extension of time from the Residential ARC.

5.1.4 Landscaping. Landscaping within each single-family Residential Lot and in the parking strip between the sidewalk and the street, if any, shall commence within thirty (30) days after final building inspection by the local government jurisdiction, and shall be completed within six (6) months after the final building inspection. With respect to multi-family residential buildings, the Residential ARC, working in cooperation with the developer of such multi-family building, shall establish a reasonable time within which landscaping shall begin and be completed following completion of construction of the building. In phased multi-family projects, the Residential ARC shall take into account construction access, the likelihood that landscaping in one phase may be disturbed or destroyed by construction of future phases, and other relevant factors in establishing the beginning and completion time frames.

5.1.5 Maintenance of Residential Lots and Living Units. Each Owner (or Subassociation of any condominium project located within the Residential Property, as applicable) shall maintain his Residential Lot and all Improvements thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs,

windows, doors, garage doors, gutters, downspouts, exterior building surfaces, walks and other exterior Improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the Residential ARC. In addition, each Owner (or Subassociation of any condominium project located within the Residential Property, as applicable) shall keep all shrubs, trees, grass and plantings of every kind on his Residential Lot or within the street right-of-way adjacent thereto neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner (or Subassociation of any condominium project located within the Residential Property, as applicable) and shall be restored within a reasonable period of time.

**5.1.6 Rental of Residences.** A Residential Owner shall be entitled to rent or lease his residence, if:

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

(b) **Minimum Rental Period.** The period of the rental or lease is not less than thirty (30) days; and

(c) **Tenant Must Be Given Documents.** The Owner gives each tenant a copy of this Declaration, any Supplemental Declaration, the Bylaws, and Rules and Regulations of the Residential Association.

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5.1.7 Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or permitted within any Residential Lot other than a reasonable number of household pets which are not kept, bred or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof. No pets shall be permitted to roam the Property unattended, and all pets shall be kept on a leash while outside a Residential Lot. An Owner may be required to remove a pet upon the receipt of the third notice in writing from the Residential Board of Directors of violation of any rule, regulation or restriction governing pets within the Property.

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

5.1.9 Parking. Parking of boats, trailers, commercial vehicles, mobile homes, motor homes, campers, other recreational vehicles or equipment regardless of weight shall not be allowed on any part of the Residential Lot or on public streets adjacent thereto for more than six hours or such other period as may be permitted by the Rules and Regulations of the Residential Association. Provided, however, boats, trailers, campers and other recreational vehicles may be stored in the garage out of the visibility of other Owners.

5.1.10 Vehicles in Disrepair. No Owner shall permit any vehicle which is in an extreme state of disrepair or which is not currently licensed to be abandoned or to remain parked upon any Residential Lot or on the Residential Common Area or on any street for a period in excess of forty-eight (48) hours. A vehicle shall be deemed in "extreme state of disrepair" when

the Residential Board of Directors reasonably determines that its presence offends the occupants of the neighborhood. Should any Owner fail to remove such vehicle within five (5) days following the date on which the notice is mailed to him by the Residential Association, the Residential Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.

5.1.11 Signs. No signs shall be erected or maintained on any Residential Lot except that not more than one "For Sale" or "For Rent" sign placed by the Owner, Declarant or by a licensed real estate agent, not exceeding twenty-four (24) inches high and thirty-six (36) inches long, may be temporarily displayed on any Residential Lot. The restrictions contained in this paragraph shall not prohibit the temporary placement of "political" signs on any Residential Lot by the Owner or Occupant.

5.1.12 Rubbish and Trash. No Residential Lot or part of the Residential Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for proper disposal and out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets, the Common Areas or any other Residential Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings or any such materials from any Residential Lot, any streets or Common Area where deposited by him within ten (10) days following the date on which notice is mailed to him by the Residential Board of Directors, the Residential Association may have such materials removed and charge the expense of such removal to the Owner.

5.1.13 Fences and Hedges. No fences or boundary hedges shall be installed without prior written approval of the Residential ARC. Owners must locate surveyor's pins marking boundary corners before construction of fences. All fences installed within the

Residential Property shall be substantially similar in style and materials to fences installed by Declarant in the Residential Common Area.

5.1.14 Service Facilities. Service facilities (garbage containers, fuel tanks, clotheslines, etc.) shall be screened such that the elements screened are not visible at any time from the street or a neighboring property. All telephone, electrical, cable television and other utility installations shall be placed underground in conformance with applicable law and subject to approval by the Residential ARC.

5.1.15 Antennas and Satellite Dishes. Except as otherwise provided by law, no exterior antennas, satellite dishes, microwave, aerial, tower or other devices for the transmission or reception of television, radio or other forms of sound or electromagnetic radiation shall be erected, constructed or placed on any Residential Lot. Provided, however, exterior satellite dishes or antennas with a surface diameter one meter or less and antennas designed to receive television broadcast signals only may be placed on any Residential Lot if they are not visible from the street and are screened from neighboring Residential Lots. If acceptable quality signals can be received by placing antennas inside a Living Unit without unreasonable delay or unreasonable cost increase, then outdoor installation may be prohibited. The Residential Board of Directors may adopt reasonable rules and regulations governing the installation, safety, placement, and screening of such antennas, satellite dishes, and other transmission devices so long as such rules and regulations do not unreasonably delay or increase the cost of installation, maintenance or use, or that preclude a signal of acceptable quality.

5.1.16 Exterior Lighting or Noisemaking Devices. Except with the consent of the Residential ARC, no exterior lighting or noisemaking devices shall be installed or maintained on any Residential Lot, other than security and fire alarms.

**5.1.17 Grades, Slopes and Drainage.** There shall be no interference with the established drainage patterns or systems over or through any Residential Lot within Eagle Landing so as to affect any other Residential Lot or Residential Common Area or any real property outside the Residential Property unless adequate alternative provision is made for proper drainage and is approved by the Residential ARC. The term "established drainage" shall mean the drainage swales, conduits, inlets and outlets designed and constructed for Eagle Landing.

**5.1.18 Damage or Destruction to Living Unit and/or Lot.** If all or any portion of a Residential Lot or Living Unit is damaged by fire or other casualty, the Owner (or Subassociation of any condominium project located on the Residential Property, as applicable) shall either (i) restore the damaged Improvements or (ii) remove all damaged Improvements, including foundations, and leave the Residential Lot in a clean and safe condition. Any restoration proceeding under (i) above must be performed so that the Improvements are in substantially the same condition in which they existed prior to the damage, unless the provisions of Article 7 are complied with by the Owner (or Subassociation of any condominium project located on the Residential Property, as applicable). The Owner (or Subassociation of any condominium project located on the Residential Property, as applicable) must commence such work within sixty (60) days (or six (6) months, in the case of a multi-family building) after the damage occurs and must complete the work within six (6) months thereafter (or twelve (12) months, in the case of a multi-family building).

**5.1.19 Right of Maintenance and Entry by Residential Association.** If an Owner fails to perform maintenance and/or repair which he is obligated to perform pursuant to this Declaration, and if the Residential Board determines, after notice and an opportunity for a

hearing (given pursuant to the provisions of the Residential Bylaws), that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of Eagle Landing, the Residential Board may cause such maintenance and/or repair in connection therewith to be performed and may enter any such Residential Lot whenever entry is necessary in connection with the performance of any maintenance or construction which the Residential Board is authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable and only after advance written notice of not less than forty-eight (48) hours, except in emergency situations. The costs of such maintenance and/or repair shall be chargeable to the Owner of the Residential Lot as a reimbursement assessment and collected and enforced with any other assessments authorized hereunder.

5.1.20 Basketball Hoops. No basketball hoops, backboards or stands, whether fixed, attached, freestanding, permanent or portable, shall be installed on any Residential Lot or Residential Common Area, except in the backyard of a Residential Lot.

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

5.1.22 Mailbox Fee. At the Declarant's sole option, the initial Owner of each Residential Lot shall pay the Declarant a fee of Fifty and No/100 Dollars (\$50.00) in exchange for which the Declarant shall install a mailbox for such Lot.

5.1.23 Street Trees. All street trees to be planted on the Residential Property in accordance with applicable governmental requirements shall be the responsibility of the builder of the Living Unit on such Lot. The Declarant shall have no responsibility for purchase, planting or maintenance of street trees or other landscaping on Residential Lots.

## ARTICLE 6

### RESTRICTIONS CONCERNING COMMERCIAL LOTS

#### 6.1 Construction of Commercial Improvements.

6.1.1 Approval of Plans Required No Commercial Buildings, landscaping or other Improvements, including, without limitation, any signs such as "For Sale" or "For Lease" signs, shall be erected, placed, constructed, altered, maintained, substantially changed by exterior remodeling, rebuilt or reconstructed on any Commercial Lot without approval of final plans and specifications therefor ("Plans") by the Commercial ARC. The Plans shall be submitted in duplicate and signed by an authorized agent of the Owner submitting them. The Plans shall contain the following information: (a) site plans, landscape plans, building plans, building elevations, and outline specifications; (b) full proposals for access, circulation, configurations, setbacks, service areas, utilities, amenities, parking, grading, drainage, site lighting, signage, screening, landscaping, and building materials; (c) a tabulation of site usage, including parcel area, building floor area, site coverage, and parking spaces; (d) a perspective rendering showing the style, type, and color of the exterior material; (e) detailed proposals showing vehicular and pedestrian access for all remaining parcels; (f) drawings and/or statements demonstrating how



the proposal complies with all requirements of the Eagle Landing Master Plan as approved by Clackamas County. The Commercial ARC may approve Plans that meet the foregoing requirements and the requirements of this Article; however, such approval shall be conditioned on final Plans and the Improvements made according to such final Plans conforming in all relevant respects with the approved preliminary Plans. Preliminary approval may be obtained before the closing of a sale of a Commercial Lot to a prospective Owner and shall bind the Commercial ARC to the same extent as though such approval had been given to an existing Owner. Material changes in approved Plans must be submitted to and approved by the Commercial ARC.

6.1.2 Basis for Approval. Approval of Plans shall be based, among other things, upon adequacy of lot dimensions, conformity and harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring Commercial Lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of equipment and conformity of the Plans to the purpose and general plan and intent of this Declaration. The Commercial ARC may, in its sole discretion, withhold approval of any proposed Improvements if such proposed Improvements do not comply with this Declaration or the Commercial ARC believes that, notwithstanding compliance with this Declaration, the proposed Improvements are not of comparable quality and compatible design and construction to other planned and constructed Improvements on the Commercial Property.

6.1.3 Review Fee. An architectural review fee in an amount set by the Commercial ARC, not to exceed Five Hundred and No/100 Dollars (\$500.00), shall be paid to the Commercial ARC at such time as Plans are submitted to the Commercial ARC.

6.1.4 Result of Inaction. The Commercial ARC shall approve or disapprove Plans within the later of (a) thirty (30) days after an Owner's submission of such Plans; and (b) thirty (30) days after an Owner's submission of any additional information reasonably requested by the Commercial ARC. The Commercial ARC's failure to meet such obligation shall result in automatic approval of any Plans, but shall not subject the Commercial ARC or its members to liability for damages to any party.

6.1.5 Approval. The Commercial ARC may approve Plans as submitted, or as altered or amended, or subject to specific conditions. Upon approval or conditional approval, one copy of the approved Plans, together with any conditions, shall be retained for permanent record by the Commercial ARC, and one copy of the approved Plans, together with any conditions, shall be returned to the Owner submitting such Plans. The Commercial ARC and the Owner each shall sign and date a certification of approval on both sets of the approved Plans.

6.1.6 Appeal. At any time after Declarant has delegated appointment of the members of the Commercial ARC to the Commercial Board of Directors pursuant to Section 8.3.1, any Owner adversely affected by action of the Commercial ARC may appeal such action to the Commercial Board of Directors. Appeals shall be made in writing within ten (10) days of the Commercial ARC's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Commercial Board of Directors within thirty (30) days after receipt of such notification. The determination of the Commercial Board shall be final.

6.1.7 Proceeding with Work. Upon receipt of approval of its Plans from the Commercial ARC, the Owner, as soon as practicable, shall satisfy any and all conditions of such approval, secure all necessary governmental permits and approvals, and diligently proceed with

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the commencement and completion of all approved excavation, construction, and alterations. In all cases, excavation, construction or alterations shall commence within one (1) year from the date of approval. If such work is not so commenced, approval shall be deemed revoked unless the Commercial ARC, pursuant to written request made and received before expiration of said one (1) year period, extends such period for an additional reasonable period.

**6.1.8 Completion of Work.** Any work or construction commenced pursuant to approved Plans shall be completed within two (2) years from the date of approval of such Plans unless the Commercial ARC agrees in writing to extend such time.

**6.1.9 Commercial ARC Not Liable.** The Commercial ARC and its members shall not be liable in any manner for any damage, loss, or prejudice suffered or claimed by any person or entity, on account of the following: (a) the approval or disapproval of any Plans, whether or not in any way defective; (b) the development of any Commercial Lot or the construction of any Improvement, or performance of any work, whether or not pursuant to approved Plans; or (c) injury to any person or property due to construction, the performance of any work, or the characteristics or condition of any Commercial Lot. Each Commercial Lot Owner shall indemnify and hold the Commercial ARC, Commercial Board of Directors and their members harmless from any and all such claims, losses, damages, costs, and expenses (including attorneys' fees) which arise from any activity, construction, or condition existing on such Owner's Commercial Lot.

**6.1.10 Nonwaiver.** Consent by the Commercial ARC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

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6.1.11 Determination of Compliance. The Commercial ARC may inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the Commercial ARC finds that the work was not performed in substantial conformance with the approval granted, or if the Commercial ARC finds that the approval required was not obtained, the Commercial ARC shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance.

6.1.12 Noncompliance. If the Commercial ARC determines that an Owner has not constructed an Improvement consistent with the specifications of a Commercial ARC approval, and if the Owner fails to diligently commence to remedy such noncompliance in accordance with the provisions of the notice of noncompliance, then at the expiration of the third (3rd) day from the date of such notification, the Commercial ARC shall provide notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than thirty (30) days from the date of notice of noncompliance. At the hearing, if the Commercial ARC finds that there is no valid reason for the continuing noncompliance, the Commercial ARC shall determine the estimated costs of correcting it. The Commercial ARC shall then require the Owner to remedy or remove the same within a period of not more than ten (10) days from the date of the Commercial ARC's determination. If the Owner does not comply with the Commercial ARC's ruling within such period or within any extension of such period as the Commercial ARC, at its discretion, may grant, the Commercial ARC may either remove the noncomplying Improvement or remedy the noncompliance. The costs of such action shall be assessed against the Owner as a Commercial Special Assessment either before or after any remedied action is taken.

**6.2 Site Development and Commercial Architectural Restrictions.**

**6.2.1 Allowable Improvements.** There shall be maintained on each Commercial Lot only Commercial Buildings, concrete walks, paved parking lots, paved driveways, lawn landscaping and irrigation systems. No temporary buildings or other temporary structures, except trailers, temporary buildings, and the like for construction purposes during the construction period of a permanent Commercial Building or, if necessary, during construction of tenant improvements within such a building, shall be permitted on any building site. Following the construction of a permanent Commercial Building, the placement of a trailer or temporary structure on a Commercial Lot shall require the approval of the Commercial ARC, which may not prohibit such trailer or temporary structure, but which may reasonably condition such approval as to location, screening, duration, and related matters.

**6.2.2 Utilities; Mechanical Equipment.** All utility lines, including electrical, shall be underground. Pad-mounted transformers and other equipment, that must be installed above ground line, shall be screened with suitable landscaping or walls of design and material compatible with those of the nearest building and consistent with safety and other regulations of the utility companies.

**6.2.3 Parking Areas.** All driveways and areas for parking, maneuvering, loading, and unloading shall be paved with asphalt or concrete, so as to provide dust-free, all-weather surfaces. The perimeters of parking areas and loading areas shall be screened from adjacent streets. Such screening shall extend at least thirty-six (36) inches above the high point of the paved area and shall be accomplished by landscaping, berms, or a combination thereof.

Each parking space is to be designated, sized, constructed, and maintained in accordance with applicable Laws. No Owner shall provide, on or for a Commercial Lot, more or fewer than the

number of parking spaces and loading spaces required by applicable Laws. No parking shall be permitted on any street or driveway, or any place other than parking areas located upon building sites.

Each Owner of a Commercial Lot shall be responsible for its occupants' and visitors' compliance with parking restrictions. Each Owner of a Commercial Lot shall provide off-street parking adequate to accommodate the parking needs of such Owner and any Occupant of such Commercial Lot, including their employees and visitors. If parking requirements increase as a result of a change in the use of a Commercial Lot, the area of a Commercial Building, or the number of persons employed, additional off-street parking shall be provided to avoid on-street parking.

Where parking is provided other than upon the subject Commercial Lot, the Commercial ARC shall be given a certified copy of a recorded instrument, duly executed and acknowledged by the person or entity holding title to the property upon which the parking area is located, stipulating to the use of the property for such parking area.

**6.2.4 Loading Areas; Storage.** No outside storage of any kind, including, but not limited to, overnight parking of cars (except service cars), shall be allowed on any Commercial Lot or any Common Area. Appropriate provision shall be made for any necessary vehicle loading; no on-street vehicle loading shall be permitted; and all loading dock areas shall be set back, recessed, or screened so as not to be visible from neighboring property or streets, to the extent practicable. The perimeters of loading areas shall be screened from adjacent streets as provided for in Section 6.2.3 above.

**6.2.5 Site Lighting.** Parking areas shall be lit by lighting fixtures which shall be subject to review and approval by the Commercial ARC to ensure compatible design and

effectiveness. Light poles and fixtures shall be of such materials, color, and minimum illumination as are approved by the Commercial ARC; building facade illumination shall be indirect with no visible light source; service area lighting shall be indirect or incorporate a full cut off shield type fixture; and all lighting shall be shielded so as to produce no visible spillage on neighboring Tracts. A uniform lighting fixture determined by the Commercial ARC shall be used, where appropriate, along pedestrian and bicycle pathways. Form and orientation of Improvements shall be compatible with adjacent Improvements and shall conform to the Eagle Landing Master Plan approved by Clackamas County.

**6.2.6 Design; Materials.** At the time this Declaration is recorded, Declarant has decided not to impose specific design criteria or requirements that particular materials be used or prohibited in the construction of buildings on the commercial property. Instead, in order to provide flexibility to whichever party begins development of the commercial property, Declarant has decided to allow the first building to be built on the commercial property to dictate design standards and acceptable materials requirements for construction of the balance of the Commercial Buildings. Accordingly, after the first Commercial Building is approved by the Commercial ARC, in the exercise of its discretion, the Commercial ARC shall develop commercial architectural standards as provided in Section 8.3.3 below, which shall result in the development of the balance of the Commercial Buildings within Eagle Landing pursuant to a consistent design, using the same or complimentary materials to the design and materials respectively of the first Commercial Building approved by the Commercial ARC.

**6.2.7 Building Entries.** Building entries should be oriented toward connecting road arrival point and to adjacent parking. Connections should be made as directly as possible to trails in adjacent open space and to sidewalks along William Otty Road South. Entries should be

designed in such a way to provide a strong identification to the Commercial Building along with serving as access for visitors and employees. The use of entry plazas and covered canopies is encouraged. Whenever possible, integrate seating areas with entries and vehicular drop off areas. Entries should provide storage areas for bicycles in such a way that they do not interfere with the entry itself, but yet are highly accessible and secure.

6.28 Equipment. All service equipment such as meters, transformers, generators, dumpsters, mechanical duct work, piping, and HVAC equipment, shall be effectively screened from view or constructed of such materials so that their appearance is acceptable to the Commercial ARC. All such elements shall be integrated into the design of improvements in a manner approved by the Commercial ARC. The location and screening of antenna and other communication equipment shall comply with the foregoing requirements except to the extent that the Commercial ARC determines that operation of such equipment in compliance with such requirements would be impractical, and shall comply with the requirements of Clackamas County.

6.29 Signs. The Commercial ARC shall develop standards for "For Sale" or "For Lease" signs that provide for uniform or standardized signage having a consistent visual theme throughout the Commercial Property. The Commercial ARC may reasonably designate the allowed size, appearance, lighting, number, and location of signs.

6.3 Restrictions. For so long as the Gethsemane Cemetery located adjacent to the Commercial Area is dedicated for cemetery purposes, the restrictions in the Archdiocese Declaration of Restrictions shall run with the land, shall benefit the cemetery and the Roman Catholic Archdiocese of Portland and its successors, transferees and assignees as the owner of the



cemetery and shall burden the Property and Declarant and its successors, transferees and assignees as the owner of the Property.

## ARTICLE 7

### COMMON AREAS AND FACILITIES; PROJECT AMENITIES

#### 7.1 Residential Common Areas.

7.1.1 Use of Residential Common Areas. Use of Residential Common Areas is subject to the provisions of the Declaration, Residential Bylaws, Residential Articles and the Residential Rules and Regulations adopted by the Residential Board of Directors. There shall be no use of the Residential Common Area except by Residential Lot Owners and their invitees or except as otherwise provided by this Declaration. There shall be no obstruction of any part of the Residential Common Area. Nothing shall be stored or kept in the Residential Common Area without the prior written consent of the Residential Board of Directors. No alterations or additions to the Residential Common Area shall be permitted without the prior written approval by the Residential Board of Directors. Nothing shall be stored or kept in the Residential Common Area which will increase the rate of insurance on the Residential Common Area without the prior written consent of the Residential Board.

7.1.2 Maintenance of Residential Common Area. The Residential Association shall be responsible for maintenance, repair, replacement, and upkeep of the Residential Common Area, including, but not by way of limitation, all fences, drainage systems, pathways and parks, but excluding the Stream and Wetland Buffer and any Project Amenities located within the Residential Property, for which the Commercial Association shall have maintenance responsibility. Except as provided in the foregoing sentence, the Residential Association shall keep the Residential Common Area and Improvements thereon in good

condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Residential Common Area in first class condition.

The Declaration of Restrictions referred to in Section 4.5 above requires the Declarant to construct and install within Eagle Landing, within ten (10) feet of the property line separating Eagle Landing from the cemetery described in the Declaration of Restrictions, a wrought iron fence and related landscaping including trees, shrubs or other plant materials suitable to protect the privacy of persons visiting the cemetery. After the Declarant installs the fence and initial landscaping, and to the extent the fence and landscaping are located in the Residential Area, the Residential Association shall maintain the fence in good condition and repair, repainting it at regular intervals (no less frequently than once every five years), repairing it when necessary, and feed, water, fertilize, prune, trim, weed and otherwise maintain the plant materials which comprise the landscaping in a neat and orderly fashion, remove dead or diseased plant materials and replace them with healthy plant materials.

**7.1.3 . Alterations to Residential Common Area.** Except for the construction, reconstruction or alteration of any Project Amenities, only the Residential Association shall construct, reconstruct, or alter any Improvement situated upon the Residential Common Area. A proposal for any construction of or alteration, maintenance or repair to an Improvement may be made at any meeting. A proposal may be adopted by the Residential Board, subject to the limitations contained in the Residential Bylaws, and following full compliance with all applicable governmental regulations.

**7.1.4 Landscaping.** Except with respect to Project Amenities, all landscaping on any portion of the Residential Common Area shall be maintained and cared for in a manner

consistent with the standards of design and quality as originally established by Declarant or the Residential ARC. The Residential Association shall be responsible for all landscaping located in Residential Common Areas, including regular maintenance, irrigation, fertilization and weed abatement. Any weeds or diseased or dead lawn, tree, ground cover or shrubs shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed.

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

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

**7.1.7 Maintenance of Utilities.** Without limiting the generality of the Residential Association's obligation to maintain Residential Common Areas, the Residential Association shall perform maintenance of all private utilities within the Residential Common Areas, including, without limitation, sanitary sewer service lines, domestic water service and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. The Residential Association shall not be liable for any interruption or failure of such services. The Owner of each Lot (or the Subassociation of any condominium project located on the Residential Property, as applicable) shall be responsible for maintaining utility lines within such Owner's Lot other than those serving Common Areas.

**7.2 Commercial Common Areas.**

**7.2.1 Use of Commercial Common Areas.** Use of Commercial Common Areas is subject to the provisions of the Declaration, Commercial Bylaws, Commercial Articles and the Commercial Rules and Regulations adopted by the Commercial Board of Directors. There shall be no use of the Commercial Common Area except by Commercial Lot Owners and their invitees, and, with respect to those Project Amenities located within Commercial Common Areas, by residents of the Residential Area. There shall be no obstruction of any part of the Commercial Common Area. Nothing shall be stored or kept in the Commercial Common Area without the prior written consent of the Commercial Board of Directors. No alterations or additions to the Commercial Common Area shall be permitted without the prior written approval by the Commercial Board of Directors. Nothing shall be stored or kept in the Commercial Common Area which will increase the rate of insurance on the Commercial Common Area without the prior written consent of the Commercial Board.

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**7.2.2 Maintenance of Commercial Common Area.** The Commercial Association shall be responsible for maintenance, repair, replacement, and upkeep of the Commercial Common Area, including, but not by way of limitation, all drainage systems and pathways. The Commercial Association shall keep the Commercial Common Area and improvements thereon in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Commercial Common Area in first class condition. The Declaration of Restrictions referred to in Section 4.5 above requires the Declarant to construct and install within Eagle Landing, within ten (10) feet of the property line separating Eagle Landing from the cemetery described in the Declaration of Restrictions, a wrought iron fence and related landscaping including trees, shrubs or other plant materials suitable to protect the privacy of persons visiting the cemetery. After the Declarant installs the fence and initial landscaping, and to the extent the fence and landscaping are located in the Commercial Area, the Commercial Association shall maintain the fence in good condition and repair, repainting it at regular intervals (no less frequently than once every five years), repairing it when necessary, and feed, water, fertilize, prune, trim, weed and otherwise maintain the plant materials which comprise the landscaping in a neat and orderly fashion, remove dead or diseased plant materials and replace them with healthy plant materials.

**7.2.3 Alterations to Commercial Common Area.** Only the Commercial Association shall construct, reconstruct, or alter any Improvement situated upon the Commercial Common Area. A proposal for any construction of or alteration, maintenance or repair to an Improvement may be made at any meeting. A proposal may be adopted by the Commercial Board, subject to the limitations contained in the Commercial Bylaws and following full compliance with all applicable governmental regulations.

7.2.4 Landscaping. All landscaping on any portion of the Commercial Common Area shall be maintained and cared for in a manner consistent with the standards of design and quality as originally established by Declarant or the Commercial ARC. The Commercial Association shall be responsible for all landscaping located in Commercial Common Areas, including regular maintenance, irrigation, fertilization and weed abatement. Any weeds or diseased or dead lawn, tree, ground cover or shrubs shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed.

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

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

Commercial Lot and against the Commercial Lot Owner who caused or is responsible for such damage.

7.2.7 Maintenance of Utilities. Without limiting the generality of the Commercial Association's obligation to maintain Commercial Common Areas, the Commercial Association shall perform maintenance of all private utilities within the Commercial Common Areas, including, without limitation, sanitary sewer service lines, domestic water service and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. The Commercial Association shall not be liable for any interruption or failure of such services. The Owner of each Lot shall be responsible for maintaining utility lines within such Owner's Lot other than those serving Common Areas.

7.3 Project Amenities.

7.3.1 Identification. The following property and facilities shall constitute the Project Amenities:

- (a) The Stream and Wetland Buffer;
- (b) All bicycle and pedestrian paths within Eagle Landing;
- (c) All underpasses, bridges, and other non-standard improvements in public rights of way located within Eagle Landing, the ownership of which may be held by Clackamas County, another public entity or a third party, but for which maintenance, repair and replacement are not the responsibility of Clackamas County, such other public entity or third party, including, without limitation, any such improvements with respect to which the Declarant executed a Permit and Release in favor of Clackamas County.

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(d) The island and improvements thereon located in the center of the "roundabout" located at SE Stevens Road and SE Monterey Ave., including, without limitation, the flagpole and the bronze statue of an "Eagle Landing;"

(e) The Project Roads, including, without limitation, the bio-filter swales, perforated pipe, gravel base, and other elements of the "green streets" infrastructure along the Project Roads; and

(f) The stormwater detention/water quality facilities located on Tracts E, N, and O shown on the Eagle Landing plat.

**7.3.2 Maintenance Responsibility.** The Commercial Association, at the equal expense of the Commercial Association and Residential Association, shall be responsible for the maintenance, repair and replacement of all Project Amenities, to the extent that the same are not maintained by Clackamas County or Clackamas County Service District No. 1. The Declarant has been advised, for example, that the Project Roads themselves will be maintained by Clackamas County following County acceptance of their dedication, but that the Green Street infrastructure must be maintained by the Commercial Association as herein provided. Similarly, the Declarant has been advised that following the first year after recordation of this Declaration, Clackamas County Service District No. 1 will maintain the stormwater detention/water quality facilities located on Tracts E, N, and O. Nevertheless, to the extent that Clackamas County fails or refuses to maintain any portion of any Project Amenity, the Commercial Association shall do so at the equal expense of the Commercial and Residential Associations. The Commercial Association Board of Directors shall make all decisions regarding the timing, nature, scope, manner, and method of maintenance, repair, and replacement of all Project Amenities. The Commercial Association Board of Directors shall comply with all applicable legal requirements.



including all easements and maintenance agreements relative to all Project Amenities. The Residential Association shall be entitled to inspect the Commercial Association's books and records relating to maintenance, repair, and replacement of the Project Amenities, including all information relating to amounts budgeted and spent for such work. The Commercial Association shall also be responsible for conducting proper flag etiquette with respect to the flagpole referred to in Section 7.3.1(d). The flagpole shall only fly the United States flag, and the Commercial Association shall maintain proper flag etiquette with respect to such flag, including raising and lowering the flag, lighting the flag if flown at night, flying the flag at half-mast when required, etc.

**7.3.3 Maintenance of Stream and Wetland Buffer.** The following additional terms and conditions shall apply to the maintenance, repair and monitoring of the Stream and Wetland Buffer:

(a) Until conveyance of portions of the Stream and Wetland Buffer to the Residential Association and Commercial Association, respectively, the Declarant shall have responsibility for the maintenance and monitoring obligations pursuant to the 404 Permit.

(b) Upon the Declarant's conveyance of portions of the Stream and Wetland Buffer to the Residential Association and Commercial Association, the Commercial Association shall be responsible for the performance of all maintenance, repair and monitoring of the Stream and Wetland Buffer, including that portion located on the Commercial Property and that portion located on the Residential Property. The Residential Association shall reimburse the Commercial Association for one-half of all costs incurred by the Commercial Association in maintaining, repairing and monitoring the Stream and Wetland Buffer.

(c) . The Residential Association, the Commercial Association and their respective members, both before and after conveyance of any part of the Stream and Wetland Buffer to the Residential Association and to the Commercial Association, shall fully comply with the 404 Permit and all applicable laws and regulations concerning the Stream and Wetland Buffer.

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

7.4 Clackamas County. Clackamas County shall have the right, but not the obligation, to enforce the maintenance provisions of this Declaration with respect to the Project Amenities and all Common Areas, including the right to require maintenance, repair, and replacement of Project Amenities within public rights of way.

7.5 Maintenance of Stormwater Facilities. Tracts E, N, and O contain stormwater detention/water quality facilities. Pursuant to a recorded Declaration and Maintenance Agreement For On-Site Stormwater Facilities being recorded contemporaneously with this Declaration, Clackamas County Service District No. 1 will maintain the stormwater detention

facility and assess the cost of such maintenance to the Residential Association and the Commercial Association, which, as between themselves and Service District No. 1, shall be jointly and severally liable for such costs. Such stormwater detention/water quality facilities, however, are Project Amenities, and the costs shall be shared equally between the two Associations as otherwise provided in this Declaration. The Commercial Association, at the equal expense of the Commercial and Residential Associations, shall maintain the surrounding vegetation, fencing, and landscaping as follows:

(a) Vegetation. Vegetation shall be healthy and dense enough to provide filtering while protecting underlying soils from erosion and minimizing solar exposure of open water areas. Mulch shall be replenished at least annually. Grass (if applicable) shall be mowed to 4" – 6" high and grass clippings shall be removed. Vegetation, large shrubs or trees that limit access or interfere with wet pond operation shall be pruned or removed. Fallen leaves and debris from deciduous plant foliage shall be raked and removed. Nuisance or prohibited vegetation from the Metro Plant list (such as blackberries or English Ivy) shall be removed when discovered. Invasive vegetation contributing up to 25% of vegetation of all species shall be removed and replaced. Dead vegetation shall be removed to maintain less than 10% of area coverage or when wet pond function is impaired. Vegetation shall be replaced within three (3) months, or immediately if required to maintain cover density and control erosion where soils are exposed. Any vegetation producing foul odors shall be eliminated.

(b) Spill Prevention. Spill prevention measures shall be exercised when handling substances that can contaminate stormwater. Any releases of pollutants shall be corrected as soon as identified.

(c) Access. Access to the wet pond shall be maintained in a safe manner. Obstacles preventing maintenance personnel and/or equipment access to the wet pond shall be removed. Gravel or ground cover shall be added if erosion occurs due to vehicular or pedestrian traffic.

(d) Debris Management. The Commercial Association shall periodically clean the open space and stormwater detention pond. Debris in quantities sufficient to inhibit operation shall be removed upon discovery.

(e) Insects and Rodents. Insects and rodents shall not be harbored in the pond. Pest control measures shall be taken when either is found to be present. If sprays are necessary, a mosquito larvicide, such as Bacillus Thurendensis or Altoside formulations may be applied only by a licensed individual or contractor. Holes in the ground located in and around the pond shall be filled.

(f) Fences. Fences shall be maintained to preserve their functionality and appearance. Fences with jagged edges or other damage shall be repaired or replaced.

7.6 Maintenance of the Conservation Easement. The Stream and Wetland Buffer is located in part on Tracts B, F, H, I, J, K, L, and M. Development of such Tracts is prohibited, including grading, filling, vegetation removal, erection of structures, etc. within the wetland portion unless such activities are approved by the Clackamas County Planning Department, Clackamas County Service District No. 1, the Oregon Division of State Lands, and any other regulatory agencies that may have jurisdiction over such areas. The Stream and Wetland Buffer is a Project Amenity, and, accordingly, will be maintained by the Commercial Association at the equal expense of the Residential and Commercial Associations. The Commercial Association shall maintain the Stream and Wetlands Buffer in their existing and natural condition unless otherwise

approved by Clackamas County Planning Department. Clackamas County Planning Department shall have the power and authority to enforce the maintenance requirements and charge the Commercial Association and Residential Association for any management costs assumed by Clackamas County if the Commercial Association fails to undertake timely maintenance of this area.

#### ARTICLE 8

##### CONSTRUCTION OF IMPROVEMENTS

8.1 Architctural Review. No Improvements shall be commenced, erected, placed or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the Improvements have been submitted to and approved in writing by the Commercial ARC or Residential ARC, as applicable. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, to assure harmony of exterior design with the existing Improvements and landscaping and as to location with respect to topography and finished grade elevations, and to avoid plan repetition, subject to Section 6.2.6, relating to the Commercial Lots. Neither the Commercial ARC nor the Residential ARC is responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the applicant. The procedure and specific requirements for review and approval of construction may be set forth in design guidelines adopted from time to time by the Residential ARC or Commercial ARC, except that the commercial design guidelines may not be approved before approval of the first Commercial Building. In all cases which the consent of either the Residential ARC or Commercial ARC is required by this Declaration, the provision of this Article shall apply.

**8.2 Construction of Improvements on Residential Property.**

**8.2.1 Appointment and Removal of Residential Architectural Review Committee.** The Residential ARC shall consist of no fewer than two (2) members and no more than five (5) members, as the Declarant may appoint from time to time. Declarant reserves the right to appoint all members of the ARC and all replacements thereto until the Residential Area is completely built out. After the Residential Property is built out (or at any earlier time the Declarant may choose), Declarant shall delegate the right to appoint and remove members of the ARC to the Residential Board of Directors. The terms of office for each member of the Residential ARC shall be for one (1) year unless lengthened or shortened by the Residential Board at the time of appointment. The Residential Board may appoint any or all of its members for the Residential ARC and there shall be no requirement for non-Residential Board members on the Residential ARC. The Residential Board may appoint one or more members to the Residential ARC who are not Owners, but who have special expertise regarding the matters which come before the Residential ARC. In the sole discretion of the Residential Board, such non-Owner members of the Residential ARC may be paid.

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

**8.2.3 Duties.** The Residential ARC shall consider and act upon the proposals and/or plans submitted pursuant to this Section 8.2.3. The Residential ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations and guidelines ("Residential

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Architectural Standards"). The Residential Architectural Standards shall interpret and implement the provisions of this Declaration for architectural review and shall establish guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features which may be used on the Residential Property; provided, however that the Residential Architectural Standards shall not be in derogation of the minimum standards established by this Declaration.

**8.2.4 Residential ARC Decision.** The Residential ARC shall render its approval or denial decision with respect to the construction proposal within ten (10) business days after it has received all material required by it with respect to the application. All decisions shall be in writing. In the event the Residential ARC fails to render its decision of approval or denial in writing within thirty (30) days of receiving all material required by it with respect to the proposal, the application shall be deemed approved.

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

8.2.6 Nonwaiver. Consent by the Residential ARC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

8.2.7 Appeal. At any time after Declarant has delegated appointment of the members of the Residential ARC to the Residential Board of Directors pursuant to Section 8.2.1, any Owner adversely affected by any decision of the Residential ARC may appeal such action to the Residential Board of Directors. Appeals shall be made in writing within ten (10) days of the Residential ARC's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final decision shall be made by the Residential Board of Directors within twenty (20) days after receipt of such notification. The determination of the Residential Board shall be final and binding.

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

8.2.9 Determination of Compliance. The Residential ARC may inspect, from time to time, all work performed and determine whether it is in substantial compliance with the approval granted. If the Residential ARC finds that the work was not performed in substantial conformance with the approval granted, or if the Residential ARC finds that the approval required was not obtained, the Residential ARC shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance.



**8.2.10 Noncompliance.** If the Residential ARC determines that an Owner has not constructed an Improvement consistent with the specifications of a Residential ARC approval, and if the Owner fails to diligently commence to remedy such noncompliance in accordance with the provisions of the notice of noncompliance, then at the expiration of the third (3rd) day from the date of such notification, the Residential ARC shall provide notice of an opportunity for a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than thirty (30) days from the date of notice of noncompliance. At the hearing, if the Residential ARC finds that there is no valid reason for the continuing noncompliance, the Residential ARC shall determine the estimated costs of correcting it. The Residential ARC shall then require the Owner to remedy or remove the same within a period of not more than ten (10) days from the date of the Residential ARC's determination. If the Owner does not comply with the Residential ARC's ruling within such period or within any extension of such period as the Residential ARC, at its discretion, may grant, the Residential ARC may either remove the noncomplying Improvement or remedy the noncompliance. The costs of such action shall be assessed against the Owner as a special assessment either before or after any remedied action is taken. In either event, the Residential ARC, as a matter of right and without liability for interference with contractual relations or any other legal theory, may notify the Owner's mortgagee(s) of the noncompliance.

**8.2.11 Liability.** Neither the Residential ARC nor any member thereof shall be liable to any Owner, Occupant, or builder for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Residential ARC or a member thereof, provided only that the member has, in accordance with the actual knowledge possessed by him, acted in good faith.

**8.2.12 Estoppel Certificate.** Within fifteen (15) business days after written request is delivered to the Residential ARC by an Owner, and upon payment to the Residential ARC of a reasonable fee fixed by the Residential ARC to cover costs, the Residential ARC shall provide such Owner with a certificate executed by the Chairman or other authorized member of the Residential ARC certifying with respect to any Residential Lot owned by the Owner, that as of the date thereof either: (a) all Improvements made or done upon or within such Residential Lot by the Owner comply with this Declaration, or (b) such Improvements do not so comply, in which event, the certificate shall also identify the noncomplying Improvements and set forth with particularity the nature of such noncompliance. The Owner, his heirs, devisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth. The certificate shall be conclusive as between the Declarant, the Residential ARC, the Residential Association and all Owners, and such persons deriving any interest through any of them.

**8.3 Commercial Architectural Review Committee.**

**8.3.1 Appointment and Removal.** The Commercial ARC shall consist of three (3) members. Until the Commercial Property is completely built out, all members of the Commercial ARC shall be appointed by Declarant; provided, however, in the event: (a) Specht Development, LLC ("Specht") owns at least six (6) acres of Commercial Property; and (b) the Purchase and Sale and Option Agreement dated as of February 22, 2000 between the Declarant as seller and Specht as buyer, as it may be amended from time to time, remains in force and the term of the option granted therein has not expired, Specht shall have the right to appoint one (1) member of the Commercial ARC, the Declarant shall have the right to appoint one (1) member of the Commercial ARC, and, the remaining member of the Commercial ARC and all replacements thereto shall be appointed collectively by the Owners of the balance of the

Commercial Lots, whose votes shall be weighted by the relative acreage owned by each of them. After build out of the Commercial Property, the right to appoint and remove members of the Commercial ARC shall be delegated to the Commercial Board of Directors. Thereafter, the terms of office for each member of the Commercial ARC shall be for one (1) year unless lengthened or shortened by the Commercial Board at the time of appointment. The Commercial Board may appoint any or all of its members to the Commercial ARC; there shall be no requirement for non-Commercial Board members on the Commercial ARC. The Commercial Board may appoint one or more members to the Commercial ARC who are not Owners, but who have special expertise regarding the matters which come before the Commercial ARC. In the sole discretion of the Commercial Board, such non-Owner members of the Commercial ARC may be paid a reasonable fee.

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

**8.3.3 Duties.** The Commercial ARC shall consider and act upon the Plans (as hereinafter defined) submitted pursuant to this Declaration. The Commercial ARC, from time to time, may adopt architectural rules, regulations and guidelines ("Commercial Architectural Standards"). The Commercial Architectural Standards shall interpret and implement the provisions of this Declaration for architectural review and shall establish guidelines for architectural design, placement of Commercial Buildings, color schemes, exterior finishes and materials and similar features which may be used on the Commercial Property; provided,

however that the Commercial Architectural Standards shall not be in derogation of the minimum standards established by this Declaration. The Commercial Architectural Standards shall be mailed to all Commercial Lot Owners, who, by a majority vote, may amend or repeal such Standards.

8.3.4 Estoppel Certificate. Within fifteen (15) business days after written request is delivered to the Commercial ARC by an Owner, and upon payment to the Commercial ARC of a reasonable fee fixed by the Commercial ARC to cover costs, the Commercial ARC shall provide such Owner with a certificate executed by the chairman or other authorized member of the Commercial ARC certifying with respect to any Commercial Lot owned by the Owner, that as of the date thereof either: (a) to the best knowledge of the Commercial ARC, all Improvements made or done upon or within such Commercial Lot by the Owner comply with this Declaration, or (b) such Improvements do not so comply, in which event, the certificate shall also identify the noncomplying Improvements and set forth with particularity the nature of such noncompliance. The Owner, his heirs, devisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth. The certificate shall be conclusive as between the Declarant, the Commercial ARC, the Commercial Association and all Owners, and such persons deriving any interest through any of them.

## ARTICLE 9

### RESIDENTIAL ASSOCIATION

9.1 Residential Association. A Residential Association shall be organized as a nonprofit corporation by the Declarant. The articles of incorporation for the Residential Association ("Residential Articles") shall provide for its perpetual existence, but in the event the Residential Association is at any time dissolved, whether inadvertently or deliberately, it shall

automatically be succeeded by an unincorporated association of the same name. Each Residential Lot Owner shall be a mandatory member of the Residential Association. Membership in the Residential Association shall be appurtenant to, and may not be separated from, ownership of any Residential Lot. Transfer of ownership of a Residential Lot automatically transfers membership in the Residential Association. Without any other act or acknowledgement, Occupants and Residential Lot Owners shall be governed and controlled by this Declaration the Residential Articles, Residential Bylaws, and the Residential Rules and Regulations of the Residential Association and any amendments thereof. The Residential Association shall not be dissolved without a public hearing before the hearings officer and approval of Clackamas County, as provided by Clackamas County Zoning and Development Ordinance 1013.06A9g.

9.1.1 Proxy. Each Residential Lot Owner may cast his vote by absentee ballot or pursuant to a proxy executed by the Residential Lot Owner. A Residential Lot Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Residential Association. A proxy shall not be valid if it is not dated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

9.1.2 Voting Rights. Voting rights within the Residential Association shall be allocated as follows:

- (a) Residential Lots shall be allocated one vote per Living Unit located on such Residential Lot;
- (b) Condominium units shall be allocated one vote for each Condominium unit;

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(c) A single-family Residential Lot shall be allocated one vote, regardless whether a Living Unit has been constructed on the Residential Lot; and

(d) Any portion of the Residential Property that has not yet been platted with Residential Lots or Condominium units or a Residential Common Area shall be allocated the following number of votes per acre of land owned, prorated for any fraction of an acre:

- (i) R-7 land: five (5) votes per acre
- (ii) MR-2 land: eighteen (18) votes per acre
- (iii) HDR land: twenty-five (25) votes per acre

**9.1.3 General Powers and Obligations.** The Residential Association shall have, exercise and perform all of the following powers, duties and obligations:

(a) The powers, duties and obligations granted to the Residential Association by this Declaration;

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon;

(c) The powers, duties and obligations of a homeowners association pursuant to the Oregon Planned Community Act, whether or not such Act is applicable to this Declaration; and

(d) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Residential Lot Owners.

**9.1.4 Specific Powers and Duties.** The powers and duties of the Residential Association shall include, without limitation, the following:

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(a) Providing maintenance and services for the Residential Common Areas as provided in this Declaration;

(b) Obtaining and maintaining in force policies of insurance as provided in this Declaration or the Bylaws of the Residential Association;

(c) Making, establishing, promulgating, amending and repealing Rules and Regulations of the Residential Association as provided in this Declaration;

(d) Adopting budgets and imposing and collecting assessments as provided in this Declaration;

(e) Performing such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Rules and Regulations of the Residential Association including, without limitation, enforcement of the decisions of the Residential ARC;

(f) Employing the services of any person or corporation as managers, hiring employees to manage, conduct and perform the business, obligations and duties of the Residential Association, employing professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, architects, planners, lawyers and accounts, and contracting for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Residential Area;

(g) Subject to the approval of the members of the Residential Association, borrowing and repaying moneys for the purpose of maintaining and improving the Residential Common Areas and encumbering the Residential Common Areas as security for the repayment of such borrowed money. The Residential Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including

but not limited to, easements across all or any portion of the Residential Common Area, and shall accept any real or personal property, leasehold or other property interests within the Residential Area conveyed to the Residential Association by Declarant;

(h) Subject to the approval of the members of the Residential Association, selling, transferring or encumbering all or any portion of the Residential Common Area to a person, firm or entity, whether public or private, and dedicating or transferring all or any portion of the Residential Common Area to any public agency, authority or utility for public purposes; and

(i) Exercising any other right or privilege reasonably to be implied from the existence of any right or privilege expressly given to the Residential Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

#### ARTICLE 10

##### COMMERCIAL ASSOCIATION

10.1 Commercial Association. A Commercial Association shall be organized as a nonprofit corporation by the Declarant following the recording of any Supplemental Declaration or a plat creating Lots within the Commercial Area, and before the first Lot is conveyed to an Owner. The articles of incorporation for the Commercial Association ("Commercial Articles") shall provide for its perpetual existence, but in the event the Commercial Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. Each Commercial Lot Owner shall be a mandatory member of the Commercial Association. Membership in the Commercial Association shall be appurtenant to, and may not be separated from, ownership of any Commercial Lot. Transfer of ownership of a Commercial Lot automatically transfers membership in the

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Commercial Association. Without any other act or acknowledgement, Occupants and Commercial Lot Owners shall be governed and controlled by this Declaration, the Commercial Articles, Commercial Bylaws, and the Commercial Rules and Regulations of the Commercial Association and any amendments thereof. The Commercial Association shall not be dissolved without a public hearing before the hearings officer and approval of Clackamas County, as provided by Clackamas County Zoning and Development Ordinance 1013.06A9g.

**10.1.1 Proxy.** Each Commercial Lot Owner may cast his vote by absentee ballot or pursuant to a proxy executed by the Commercial Lot Owner. A Commercial Lot Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Commercial Association. A proxy shall not be valid if it is not dated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

**10.1.2 Voting Rights.** Voting rights within the Commercial Association shall be allocated one (1) vote to each acre of Commercial Property owned, prorating any fractional acreage owned. The Commercial Association Board of Directors shall make the determination of acreage owned by each Owner, and the Board may rely upon information provided by such Owner.

**10.1.3 General Powers and Obligations.** The Commercial Association shall have, exercise and perform all of the following powers, duties and obligations:

(a) The powers, duties and obligations granted to the Commercial Association by this Declaration;

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon;

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(c) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Commercial Association pursuant to this Declaration or otherwise promoting the general benefit of the Commercial Lot Owners.

10.1.4 Specific Powers and Duties. The powers and duties of the Commercial Association shall include, without limitation, the following:

(a) Providing administration, maintenance, repair and replacement of, and services for, the Commercial Areas and Project Amenities (including, without limitation, the Stream and Wetland Buffer) as provided in this Declaration;

(b) Obtaining and maintaining in force policies of insurance as provided in this Declaration or the Bylaws of the Commercial Association;

(c) Making, establishing, promulgating, amending and repealing Rules and Regulations of the Commercial Association as provided in this Declaration;

(d) Adopting budgets and imposing and collecting assessments as provided in this Declaration.

(e) Performing such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Rules and Regulations of the Commercial Association including, without limitation, enforcement of the decisions of the Commercial ARC.

(f) Employing the services of any person or corporation as managers, hiring employees to manage, conduct and perform the business, obligations and duties of the Commercial Association, employing professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, architects, planners,

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lawyers and accounts, and contracting for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Commercial Property.

(g) Subject to the approval of the members of the Commercial Association, borrowing and repaying moneys for the purpose of maintaining and improving the Commercial Common Areas and encumbering the Common Areas as security for the repayment of such borrowed money. The Commercial Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to, easements across all or any portion of the Commercial Common Area, and shall accept any real or personal property, leasehold or other property interests within the Commercial Property conveyed to the Commercial Association by Declarant.

(h) Subject to the approval of the members of the Commercial Association, selling, transferring or encumbering all or any portion of the Commercial Common Area to a person, firm or entity, whether public or private, and dedicating or transferring all or any portion of the Commercial Common Area to any public agency, authority or utility for public purposes.

Exercising any other right or privilege reasonably to be implied from the existence of any right or privilege expressly given to the Commercial Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

#### ARTICLE 11

##### SUBASSOCIATIONS

11.1 Creation of Subassociations. Nothing in this Declaration shall be construed as prohibiting the formation of subassociations within Eagle Landing, including, without limitation,

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condominium associations, Planned Community Act associations, and associations of commercial owners.

11.2 Voting by Subassociations. Notwithstanding any other provisions in this Declaration or the Bylaws of the Residential Association to the contrary, all votes attributable to any Lots or Living Units that are members of a Subassociation shall vest in and be cast by such Subassociation through its board of directors, who shall represent those Owners in the affairs of the Residential Association.

## ARTICLE 12

### DECLARANT CONTROL

#### 12.1 Residential Association.

12.1.1 Interim Board and Officers. The Declarant hereby reserves administrative control of the Residential Association. The Declarant, in its sole discretion, shall have the right to appoint and remove members of the interim Residential Board of Directors, which shall manage the affairs of the Residential Association and which shall be invested with all powers and rights of the Residential Board of Directors. The interim Residential Board shall consist of from one to three members. Notwithstanding the provision of this Section, at the Residential Turnover Meeting (as hereinafter defined) at least one (1) Residential Director shall be elected by Residential Lot Owners other than the Declarant, even if the Declarant otherwise has voting power to elect all five (5) Residential Directors.

12.1.2 Residential Turnover Meeting. The Declarant shall call a meeting for the purpose of turning over administrative control of the Residential Association from the Declarant to the members of the Residential Association within one hundred twenty (120) days of the earlier of:

(a) Mandatory Turnover. The date that Residential Lots representing eighty percent (80%) of the maximum number of Lots that may be located in the Residential Area have been conveyed to persons other than the Declarant; or

(b) Optional Turnover. At such earlier time as Declarant elected in writing to turnover administrative control of the Residential Association.

The Declarant shall give notice of the meeting to each Residential Lot Owner as provided in the Bylaws. If the Declarant does not call the meeting required under this Section, any Residential Lot Owner may do so.

**12.1.3 Transitional Advisory Committee.** The Declarant shall form a Transitional Advisory Committee to provide for the transition from administrative responsibility by the Declarant to administrative responsibility by the Residential Association. The Declarant shall call a meeting of Owners for the purpose of selecting a Transitional Advisory Committee not later than the sixtieth (60<sup>th</sup>) day after the Declarant has conveyed fifty percent (50%) or more of the Lots to Owners other than declarant of a Subassociation. The Transitional Advisory Committee shall consist of three (3) or more members who shall be selected from among the Residential Lot Owners other than the Declarant, who may select one (1) member. The Committee shall have reasonable access to all information and documents that the Declarant is required to turn over to the Residential Association under the Oregon Planned Community Act.

**12.2 Commercial Association.**

**12.2.1 Interim Board and Officers.** The Declarant hereby reserves administrative control of the Commercial Association. The Declarant, in its sole discretion, shall have the right to appoint and remove members of the interim Commercial Board of Directors, which shall manage the affairs of the Commercial Association and which shall be invested with

all powers and rights of the Commercial Board of Directors. The interim Commercial Board shall consist of from one to three members. Notwithstanding the provision of this Section, at the Commercial Turnover Meeting (as hereinafter defined) at least one (1) Commercial Director shall be elected by Commercial Lot Owners other than the Declarant, even if the Declarant otherwise has voting power to elect all five (5) Commercial Directors. Notwithstanding the Declarant's retention of control, the Commercial ARC shall be composed as provided in Section 8.3.1 above.

**12.2.2 Commercial Turnover Meeting.** The Declarant shall call a meeting for the purpose of turning over administrative control of the Commercial Association from the Declarant to the members of the Commercial Association within one hundred twenty (120) days of the earlier of:

(a) **Mandatory Turnover.** The date that at least eighty percent (80%) of the Commercial Property has been conveyed to persons other than the Declarant or its affiliates; or

(b) **Optional Turnover.** At such earlier time as Declarant elects in writing to turn over administrative control of the Commercial Association.

The Declarant shall give notice of the meeting to each Commercial Lot Owner as provided in the Bylaws. If the Declarant does not call the meeting required under this Section, any Commercial Lot Owner may do so.

ARTICLE 13

DECLARANT'S SPECIAL RIGHTS

13.1 General. Until the Living Units and Commercial Buildings on all Lots on the Property have been constructed, fully completed and sold, with respect to the Common Area and each Lot on the Property, the Declarant shall have the following special rights:

13.2 Marketing Rights. Declarant shall have the right to maintain a sales office and model on one or more of the Lots which the Declarant owns. The Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week. The Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations on the Property, including, without limitation, the Common Area.

13.3 Declarant Easements. The Declarant has reserved easements over the Property as more fully described in Sections 3.4 and 4.3 hereof.

13.4 Size and Appearance of Eagle Landing. Declarant shall not be prevented from increasing or decreasing the number of Lots in Eagle Landing or from changing the exterior appearance of the Common Area, including the landscaping or any other matter directly or indirectly connected with Eagle Landing in any manner deemed desirable by Declarant, provided that Declarant obtains governmental consents required by law. No change shall decrease the quality of the appearance of the Common Area.

ARTICLE 14

FUNDS AND ASSESSMENTS

14.1 Assessments by Residential Association.

14.1.1 Purpose of Assessments. The assessments levied by the Residential Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants of the Residential Property and for the improvement, operation and maintenance of the Residential Common Areas and Project Amenities.

14.1.2 Types of Assessments. The Residential Association may levy Annual Assessments, Special Assessments, Emergency Assessments and Individual Assessments, as more particularly described below.

14.1.3 Apportionment of Assessments. Lots Owned by Declarant shall not be subject to Assessments until such time as the Lot is occupied for a residential use, subject to accrual of reserves as described in Section 14.1.9 below. All other Residential Lots shall pay a pro rata share of the Residential Annual Assessments, Residential Special Assessments and Residential Emergency Assessments commencing upon the date such Residential Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such Assessment divided by the total number of Assessment Units of Lots subject to assessment, times the number of Assessment Units assigned to such Lots as follows:

(a) Each Residential Lot (including each Condominium unit) shall be assigned one Residential Assessment Unit for each Living Unit located on the Lot;

(b) A single family Residential Lot shall be assigned one Residential Assessment Unit, regardless of whether a Living Unit has been constructed on the Lot; and



(c) Residential Property not yet platted into Residential Lots, Condominium units or Common Area shall be assigned the following number of Assessment Units per acre of Residential Property owned, prorated for partial acres:

- (i) R-7 land: five (5) Assessment Units Per Acre
- (ii) MR-2 land: eighteen (18) Assessment Units Per Acre
- (iii) HDR land: twenty-five (25) Assessment Units Per Acre

**14.1.4 Residential Annual Assessments.** The Residential Board shall from time to time and at least annually prepare an operating budget for the Residential Association, taking into account the current costs of maintenance and services and future needs of the Residential Association, any previous overassessment and any common profits of the Residential Association. The budget shall provide for such reserve or contingency funds as the Residential Board deems necessary or as may be required by law, but not less than the reserves required by Section 14.1.9 below. Annual Assessments for such operating expenses and reserves ("Residential Annual Assessments") shall then be apportioned among the Residential Lots as provided in Section 14.1.3 above. The method of adoption of the budget and the manner of billing and collection of Residential Annual Assessments shall be as provided in the Bylaws for the Residential Association. The Residential Association may bill Residential Annual Assessments annually.

**14.1.5 Residential Special Assessments.** In addition to the Annual Assessment authorized above, the Residential Board of Directors may levy during any fiscal year a special Assessment, applicable to that year only ("Residential Special Assessment"), for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time

expenditure not to be paid for out of Residential Annual Assessments. Residential Special Assessments which in the aggregate in any fiscal year exceed an amount equal to fifteen percent (15%) of the budgeted gross expenses of the Residential Association for the fiscal year may be levied only if approved by a majority of the voting rights voting on such matter. Residential Special Assessments shall be apportioned as provided in Section 14.1.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Residential Board.

**14.1.6 Residential Emergency Assessments.** If the Residential Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Residential Owners' Assessments on a current basis, the Residential Board shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an emergency Assessment for the amount required to meet all such expenses on a current basis ("Residential Emergency Assessment"). Any Residential Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to fifteen percent (15%) of the budgeted gross expenses of the Residential Association for the fiscal year may be levied only if approved by not less than a majority of the voting rights voting on such matter. Residential Emergency Assessments shall be apportioned as set forth in Section 14.1.3 above and payable as determined by the Residential Board.

**14.1.7 Residential Individual Assessments.** Any common expense or any part of a common expense benefiting fewer than all of the Residential Lots may be assessed exclusively against the Residential Lots benefited thereby or responsible therefor ("Residential Individual Assessment"). Residential Individual Assessments shall include, without limitation,

default assessments levied against any Residential Lot to reimburse the Residential Association for costs incurred in bringing such Residential Lot or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations of the Residential Association. Unless otherwise provided by the Residential Board, Residential Individual Assessments shall be due thirty (30) days after the Residential Board has given written notice thereof to the Owners subject to Residential Individual Assessments.

**14.1.8 Residential Operations Fund.** The Residential Association shall keep all funds received by it as Assessments, other than reserves described in Section 14.1.9 below, separate and apart from its other funds, in an account to be known as the "Residential Operations Fund." The Residential Association shall use the Residential Operations Fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Residential Property and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Residential Common Areas, the Project Amenities, and the Residential Lots situated upon the Residential Property, including, but not limited to:

- (a) Payment of the cost of maintenance, repair, utilities and services relating to Residential Common Areas and Improvements thereon;
- (b) Payment of the cost of insurance as described in the Bylaws of the Residential Association;
- (c) Payment of taxes assessed against the Residential Common Areas and any Improvements thereon;

(d) Payment of the cost of other services which the Residential Association deems to be of general benefit to the Residential Owners, including but not limited to accounting, legal and administrative services;

(e) Reimbursement of the Residential Association's share of maintenance, repair, and replacement of the Project Amenities; and

(f) Amounts to pay for the access rights described in Section 14.1.12 below.

**14.1.9 Residential Reserve Fund.** The Declarant shall establish a reserve fund for replacement of those items to be maintained by the Residential Association at its expense (or for which maintenance expenses the Residential Association is responsible), all or a part of which will normally require replacement, in whole or in part, in more than three (3) years and less than thirty (30) years ("Residential Reserve Fund"). Such Residential Reserve Fund shall be funded by Assessments against the individual Residential Lots assessed for maintenance of the items for which the Residential Reserve Fund is being established. The Assessments under this section begin accruing against each Residential Lot from the date the first Residential Lot in the Property is conveyed. The Declarant may defer payment of the accrued Assessments for a Residential Lot until the Residential Lot is conveyed. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The Residential Reserve Fund shall be established in the name of the Residential Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The Residential Reserve Fund shall be used only for replacement of Residential Common Area property as determined by the Residential Board and shall be kept separate from the Residential Operations Fund. No funds collected for the

Residential Reserve Fund shall be used for ordinary current maintenance and operation purposes. Assessments paid into the Residential Reserve Fund are the property of the Residential Association and are not refundable to sellers or Owners of Residential Lots.

**14.1.10 Covenants to Pay.** Declarant and each Residential Lot Owner covenants and agrees to pay the Residential Association the Assessments and any additional charges levied pursuant to this Section 14.1.10.

(a) **Funds Held in Trust.** The Assessments collected by the Residential Association shall be held by the Residential Association and shall be used solely for the operation, care, and maintenance of the Residential Common Areas and Project Amenities as provided in this Declaration. No Owner shall have any individual claim on or interest in such funds.

(b) **Offsets.** No offsets against any Assessment shall be permitted for any reason, including, without limitation, any claim that the Residential Association is not properly discharging its duties.

**14.1.11 Default in Payment of Assessments; Enforcement of Liens.**

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

(b) Residential Association Lien. The Residential Association shall have a lien against each Lot to secure unpaid Assessments, which lien shall arise, be filed and foreclosed in the manner provided in the Planned Community Act.

(c) Interest; Fines; Late Fees; Penalties. The Residential Board in its reasonable discretion may from time to time adopt resolutions to set the rate of interest, and to impose late fees, fines and penalties on delinquent Assessments or for violations of the provisions of this Declaration, the Residential Bylaws and the Residential Rules and Regulations adopted by the Residential Board or the Residential ARC. The adoption of such impositions shall be communicated to all Residential Lot Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing addresses of such Residential Lot Owners. Such impositions shall be considered assessments which are lienable and collectible in the same manner as any other assessments. Provided, however, fines or penalties for violation of this Declaration, the Residential Bylaws or any Residential Rule and Regulation, other than late fees, fines or interest arising from a Residential Lot Owner's failure to pay regular, special or reimbursement assessments, may not be imposed against a Residential Lot Owner or his Residential Lot until such Owner is given an opportunity for a hearing as elsewhere provided herein.

(d) Acceleration of Assessments. In the event a Residential Lot Owner is delinquent in payment of any assessment or installment on any assessment, the Residential Association, upon not less than ten (10) days' written notice to the Residential Lot Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

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

14.1.12 Payment for Access Rights. Notwithstanding anything to the contrary in any governing documents of the Residential Association, from and for so long as the Owners of all Residential Living Units are afforded access rights to a) any swimming pool constructed on the Commercial Property, or b) the Eagle Landing golf course that Declarant's affiliate is constructing adjacent to the Property, the annual operating budget of the Residential Association shall include amounts assessed to each Residential Lot subject to assessment to pay the reasonable cost of such access rights. Any dispute regarding the reasonableness of the cost of such access rights or regarding the terms of such access shall be resolved by binding arbitration conducted through the Arbitration Service of Portland or, if it no longer exists, by any other organization providing arbitration services in the Portland, Oregon area.

14.1.13 Payment Through Subassociations. Except with respect to Residential Individual Assessments levied under Section 14.1.7, all assessments levied by the Residential Association against Lots or condominium units that are part of Subassociation may be collected in a single billing from such Subassociation, which, in turn, may collect such assessments directly from the Owners of Lots or condominium units in such Subassociation as a part of such Subassociation's budget. The Residential Association shall collect Residential

Individual Assessments directly from the affected Owner of the Lot or condominium unit against which such assessment was levied. Notwithstanding the Residential Association's ability to collect assessments from a Subassociation, the Residential Association shall retain the right to collect unpaid assessments directly from the Owner of any Lot or condominium unit for which assessments remain unpaid.

**14.2 Assessments by Commercial Association.**

**14.2.1 Purpose of Assessments.** The assessments levied by the Commercial Association shall be used exclusively to promote the health, safety, and welfare of the Owners and Occupants of the Commercial Property and for the improvement, operation and maintenance of the Commercial Common Areas and Project Amenities.

**14.2.2 Types of Assessments.** The Commercial Association may levy Annual Assessments, Special Assessments, Emergency Assessments and Individual Assessments, as more particularly described below.

**14.2.3 Apportionment of Assessments.** Lots Owned by Declarant shall not be subject to Assessments until such time as such Lots are improved with a Commercial Building, subject to accrual of reserves as described in Section 14.2.9 below. All other Commercial Lots shall pay a pro rata share of the Commercial Annual Assessments, Commercial Special Assessments and Commercial Emergency Assessments commencing upon the date such Commercial Lots are made subject to this Declaration. The pro rata share shall be equal to the percentage that the acreage of each Commercial Lot subject to assessment bears to the total acreage of all Commercial Lots subject to assessment. The apportionment of Assessments may not be changed without the consent of the affected Owners.



**14.2.4 Commercial Annual Assessments.** The Commercial Board shall from time to time and at least annually prepare an operating budget for the Commercial Association, taking into account the current costs of maintenance and services and future needs of the Commercial Association, any previous overassessment and any common profits of the Commercial Association. The budget shall provide for such reserve or contingency funds as the Commercial Board deems necessary or as may be required by law, but not less than the reserves required by Section 14.2.9 below. Annual Assessments for such operating expenses and reserves ("Commercial Annual Assessments") shall then be apportioned among the Commercial Lots as provided in Section 14.2.3 above. The method of adoption of the budget and the manner of billing and collection of Commercial Annual Assessments shall be as provided in the Bylaws for the Commercial Association.

**14.2.5 Commercial Special Assessments.** In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a special Assessment, applicable to that year only ("Commercial Special Assessment"), for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Commercial Annual Assessments. Commercial Special Assessments which in the aggregate in any fiscal year exceed an amount equal to fifteen percent (15%) of the budgeted gross expenses of the Commercial Association for the fiscal year may be levied only if approved by a majority of the voting rights voting on such matter. Commercial Special Assessments shall be apportioned as provided in Section 14.2.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Commercial Board.

**14.2.6 Commercial Emergency Assessments.** If the Commercial Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Commercial Owners' Assessments on a current basis, the Commercial Board shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefore, and levy an emergency Assessment for the amount required to meet all such expenses on a current basis ("Commercial Emergency Assessment"). Any Commercial Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to twenty-five percent (25%) of the budgeted gross expenses of the Commercial Association for the fiscal year may be levied only if approved by not less than a majority of the voting rights voting on such matter, together with the written consent of the Declarant. Commercial Emergency Assessments shall be apportioned as set forth in Section 14.2.3 above and payable as determined by the Commercial Board.

**14.2.7 Commercial Individual Assessments.** Any common expense or any part of a common expense benefiting fewer than all of the Commercial Lots may be assessed exclusively against the Commercial Lots benefited ("Commercial Individual Assessment"). Commercial Individual Assessments shall include, without limitation, default assessments levied against any Commercial Lot to reimburse the Commercial Association for costs incurred in bringing such Commercial Lot or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations of the Commercial Association. Unless otherwise provided by the Commercial Board, Commercial Individual Assessments shall be due 30 days after the Commercial Board has given written notice thereof to the Owners subject to Commercial Individual Assessments.

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**14.2.8 Operations Fund.** The Commercial Association shall keep all funds received by it as Assessments, other than reserves described in Section 14.2.9 below, separate and apart from its other funds, in an account to be known as the "Commercial Operations Fund." The Commercial Association shall use the Commercial Operations Fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Commercial Property and in particular for the improvements and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Commercial Common Areas, the Project Amenities and the Commercial Lots situated upon the Commercial Property, including, but not limited to:

- (a) Payment of the cost of maintenance, utilities and services;
- (b) Payment of the cost of insurance as described in the Bylaws of the Commercial Association;
- (c) Payment of taxes assessed against the Commercial Common Areas and any Improvements thereon; and
- (d) Payment of the cost of other services which the Commercial Association deems to be of general benefit to the Commercial Owners, including but not limited to accounting, legal and administrative services.

**14.2.9 Commercial Reserve Fund.** The Declarant shall establish a reserve fund for replacement of those items to be maintained by the Commercial Association at its expense, all or a part of which will normally require replacement, in whole or in part, in more than three (3) years and less than thirty (30) years ("Commercial Reserve Fund"). Such Commercial Reserve Fund shall be funded by Assessments against the individual Commercial Lots assessed for maintenance of the items for which the Commercial Reserve Fund is being established. The

Assessments under this section begin accruing against each Commercial Lot from the date the first Commercial Lot in the Property is conveyed. The Declarant may defer payment of the accrued Assessments for a Commercial Lot until the Commercial Lot is conveyed. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The Commercial Reserve Fund shall be established in the name of the Commercial Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The Commercial Reserve Fund shall be used only for replacement of Commercial Common Area property or Project Amenities as determined by the Commercial Board and shall be kept separate from the Commercial Operations Fund. No funds collected for the Commercial Reserve Fund shall be used for ordinary current maintenance and operation purposes. Assessments paid into the Commercial Reserve Fund are the property of the Commercial Association and are not refundable to sellers or Owners of Commercial Lots.

**14.2.10 Covenants to Pay.** Declarant and each Commercial Lot Owner covenants and agrees to pay the Commercial Association the Assessments and any additional charges levied pursuant to this Section 14.2.10.

(a) **Funds Held in Trust.** The assessments collected by the Commercial Association shall be held by the Commercial Association, and shall be used solely for the operation, care, and maintenance of the Commercial Property and Project Amenities as provided in this Declaration. No Owner shall have any individual claim on or interest in such funds.

(b) **Offsets.** No offsets against any assessment shall be permitted for any reason, including, without limitation, any claim that the Commercial Association is not properly discharging its duties.

**14.2.11 Default in Payment of Assessments; Enforcement of Liens.**

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

(b) **Commercial Association Lien.** At any time any assessment (of any type provided for by this Declaration or the Commercial Bylaws) or installment thereof is delinquent, the Commercial Association, by and through the Commercial Board or any management agent, may file a notice of lien in the deed records of Clackamas County, Oregon against the Commercial Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorneys' fees (whether or not suit or action is instituted) and other appropriate costs properly chargeable to a Commercial Lot Owner by the Commercial Association, until such amounts are fully paid. Said lien may be foreclosed at any time, but not later than six (6) years after the latest lienable charge has been imposed. The lien of the Commercial Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded prior to the Commercial Association's notice of lien and any mortgage or deed of trust granted to an institutional lender which is recorded prior to the Commercial Association's notice of lien.

(c) Interest; Fines; Late Fees; Penalties. The Commercial Board in its reasonable discretion may from time to time adopt resolutions to set the rate of interest, and to impose late fees, fines and penalties on delinquent Assessments or for violations of the provisions of this Declaration, the Commercial Bylaws and the Commercial Rules and Regulations adopted by the Commercial Board or the Commercial ARC. The adoption of such impositions shall be communicated to all Commercial Lot Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing addresses of such Commercial Lot Owners. Such impositions shall be considered assessments which are lienable and collectible in the same manner as any other assessments. Provided, however, fines or penalties for violation of this Declaration, the Commercial Bylaws or any Commercial Rule and Regulation, other than late fees, fines or interest arising from a Commercial Lot Owner's failure to pay regular, special or reimbursement assessments, may not be imposed against a Commercial Lot Owner or his Commercial Lot until such Owner is given an opportunity for a hearing as elsewhere provided herein.

(d) Acceleration of Assessments. In the event a Commercial Lot Owner is delinquent in payment of any assessment or installment on any assessment, the Commercial Association, upon not less than ten (10) days' written notice to the Commercial Lot Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

14.3 Inter-Association Collections. Each Association promptly shall pay to the other all amounts owing as provided in this Declaration. Any amount owing pursuant to this Declaration shall be past due thirty (30) days after invoice for the same. Amounts past due from one Association to the other shall bear interest at the greater of the rate of twelve percent (12%)

per annum or a rate four (4) points above a prime rate announced from time to time by a commercial bank in the Portland, Oregon metropolitan area selected by the creditor Association.

Any Association required to retain an attorney to collect any sum due hereunder shall be entitled to its costs and reasonable attorneys' fees in such collection efforts, regardless of whether suit is filed. Without limiting any remedies otherwise available at law or equity to either Association, any Association owed money by another Association shall be authorized to act on behalf of the delinquent Association's Board of Directors to levy an Assessment of the delinquent Association's owners, and the creditor Association shall be entitled to exercise all powers of the delinquent Association in collecting Assessments from such owners. The creditor Association shall be entitled to its collection costs in effecting collection.

#### ARTICLE 15

##### GENERAL PROVISIONS

15.1 Successor Declarant(s). The Declarant may assign and delegate one or more of the Declarant's rights and obligations hereunder to one or more successor Declarants. Each such assignment shall be in writing, be recorded in the Clackamas County real property records, specify the rights and obligations being assigned and delegated to the successor Declarant and identify the portion of the Property to which the assignment pertains. The successor Declarant will not acquire any rights as the successor Declarant as to any portion of the Property other than that portion of the Property identified in the written assignment.

15.2 Records. The Board of Directors for each Association shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. Each Board of Directors shall also keep detailed and accurate financial records including individual assessment accounts of Owners, the balance sheet, and income and expense statements.

Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid upon the account, and the balance due on the assessments. The minutes of each Association, the Board and committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by each Association for providing copies.

**15.3 Indemnification of Directors, Officers, Employees and Agents.** Each Association shall indemnify any Director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that he is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe his conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action,



suit or proceeding as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person, should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of an Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and members of the Association who participated with or benefited from the acts which created said liability.

15.4 Enforcement/Attorneys' Fees. The Commercial Association, Residential Association and the Residential Lot Owners or any mortgagee on any Residential Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to such parties or Residential Lot Owners by any proceeding at law or in equity. No individual Commercial Lot Owner shall have the right to enforcement of any provisions of this Declaration with respect to any Residential Lot or Residential Lot Owner. The Residential Association, Commercial Association and the Commercial Lot Owners or any mortgagee on any Commercial Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to such parties or Commercial Lot Owners by any proceeding at law or in equity. No individual Residential Lot Owner shall have the right to enforcement of any provisions of this Declaration with respect to any Commercial Lot or Commercial Lot Owner. Failure by an Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration, the prevailing party shall be entitled to its

attorney fees and costs in such suit or action to be fixed by the trial court, and in the event of an appeal, the cost of the appeal, together with reasonable attorney fees, to be set by the appellate court. In addition thereto, each Association shall be entitled to its reasonable attorney fees incurred in any enforcement activity taken to collect delinquent assessments, whether or not suit or action is filed.

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

15.6 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of thirty-five (35) years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless rescinded by a vote of at least ninety percent (90%) of the Residential and Commercial Lot Owners and ninety percent (90%) of the first mortgages on the Residential Lots and Commercial Lots. Provided however, amendments which do not constitute rescission of the planned community may be adopted as provided in Section 15.7. Additionally, any such rescission which affects the Common Area shall require the prior written consent of Clackamas County. Provided, however, that if any of the provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law or, in the event the rule against perpetuities applies, until twenty-one (21) years after the death of the last survivor of the now living descendants of President George W. Bush.

15.7 Amendment. Except as otherwise provided in Section 15.6 and the restrictions set forth elsewhere herein, those portions of this Declaration relating to the Residential Area or Association may be amended at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes of the Residential Association, and those portions of this Declaration relating to the Commercial Area or Association may be amended at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes in the Commercial Association. Any amendment must be executed, recorded and certified as provided by law. Provided, however, that no amendment of this Declaration shall effect an amendment of the Residential or Commercial Bylaws or Residential or Commercial Articles without compliance with the provisions of such documents, and the Oregon Non-Profit Corporation Act. Notwithstanding the foregoing, no amendment affecting any of the following may be adopted without the consent of the Declarant so long as Declarant owns any property within Eagle Landing, and without the consent of every Owner affected by such change:

- (a) The method of allocating assessments between Associations or among Owners of Lots within an Association;
- (b) Any provision requiring the maintenance of the Common Area to a certain level of quality;
- (c) Section 6.2.6;
- (d) This Section 15.7.

No amendment affecting any right of the Declarant herein contained may be effected without the express written consent of the Declarant or its successors and assigns. No amendment may amend this sentence or any other provision of this Declaration for the benefit of Clackamas County without the written consent of Clackamas County.

15.8 Release of Right of Control. The Declarant may give up its right of control in writing at any time by notice to the Residential Association and Commercial Association.

15.9 Unilateral Amendment by Declarant. In addition to all other special rights of the Declarant provided in this Declaration, the Declarant may amend this Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee or provide financing in connection with development of the Property and sale of Lots.

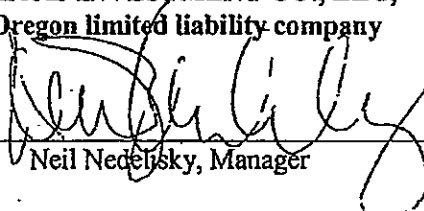
15.10 Estoppel Certificates. The Commercial Association, Residential Association or each Project Association (for purposes of this Section, the "Receiving Association") will, within twenty (20) days after notice from another Association (for purposes of this Section, the "Requesting Association"), execute and deliver to the Requesting Association an estoppel certificate stating whether or not the Requesting Association is in compliance with the terms of this Declaration (and specifying any noncompliance) and confirming the status of payment of Assessments by the Requesting Association. Failure by the Receiving Association to deliver the certificate within the specified time shall be conclusive on the Receiving Association that the Requesting Association is in compliance with the terms and conditions of this Declaration and has paid all Assessments due as of the date of request. The Requesting Party shall pay the Receiving Association a reasonable fee established by the respective Board from time to time.

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

1. Declaration;
2. Articles;
3. Bylaws;
4. Rules and Regulations.

IN WITNESS WHEREOF, the undersigned being Declarant herein, has executed this instrument this 29 day of June, 2004.

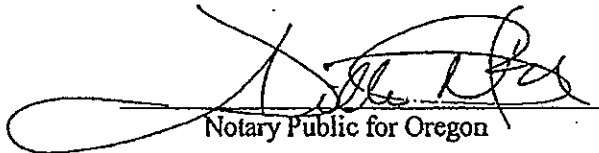
VERITAS INVESTMENT CO., LLC,  
an Oregon limited liability company

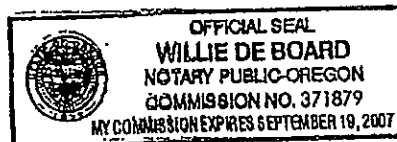
By:   
Neil Nedelsky, Manager

STATE OF OREGON                    )  
  ) ss.  
County of Clackamas            )

June 29, 2004

Personally appeared before me the above-named Neil Nedelsky, being duly sworn, did say that he is the Manager of VERITAS INVESTMENT CO., LLC, an Oregon limited liability company, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be its voluntary act and deed.

  
Notary Public for Oregon



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Return to: Stephen Russell  
Landy Bennett Blumlein  
1300 SW Fifth Ave Ste 3500  
Portland, OR 97201

Comment [ALS1]: Do NOT delete this paragraph mark.

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR EAGLE LANDING LANDSCAPE BUFFER AREA

This Declaration of Covenants, Conditions, and Restrictions for Eagle Landing Landscape Buffer Area is made this 29 day of June, 2004, by Veritas Investment Co., LLC, an Oregon limited liability company ("Declarant").

RECITALS

Declarant owns certain real property located in Clackamas County, Oregon, known as Eagle Landing and depicted on the plat of Eagle Landing recorded on June 30, 2004, in the Clackamas County plat records as 3856 (the "Eagle Landing Plat").

In December 1998, Eagle Landing was the subject of a comprehensive plan map amendment and zone change approved by the Clackamas County Board of Commissioners under File Nos. Z0-531-98-CP / Z0 532-98-Z, as modified February 20, 2003, under File Nos. Z0802-02-CP and Z0803-02-Z (the "Zone Change").

Under the terms of the Zone Change, a portion of Eagle Landing, the easternmost and southernmost 100 feet of that portion of Eagle Landing zoned R-7, is required to be used as a "landscaped corridor ... to provide additional buffering and protection for the existing adjacent residences [located to the east of this area]." The portion of Eagle Landing subject to this requirement is depicted on the above-referenced Eagle Landing Plat (the "Property"). The purpose of this Declaration is to provide notice of the requirement to preserve the Property as a landscaped corridor as required by the Zone Change.

PAGE 1. DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

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Clackamas County Official Records  
Sherry Hall, County Clerk

2004-060417



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NOW, THEREFORE, Declarant, on behalf of itself and all successors and assigns, and any persons hereafter claiming any interest in the Property, hereby declares that the Property shall be held, occupied, and enjoyed subject to the following terms and provisions.

**IT IS HEREBY DECLARED:**

1. Landscaped Corridor. The Property shall be used as a landscaped corridor to provide additional buffering and protection for the residences located to the east of the Property, and for no other purpose. The Property shall be landscaped and maintained in a manner consistent with the purpose of buffering the residential properties adjacent to and east of the Property from the residential uses located to the west of the Property.

2. Permitted Uses. The Property may be used for landscaping with trees, shrubs, groundcover, lawn, water features, berms, fences, and other similar features consistent with the primary buffering purpose referenced above. Patios and walkways constructed of pervious pavers or other materials that allow for storm water infiltration shall be permitted, except that within any given area of 2,000 contiguous square feet within the Property, such patios and walkways shall not cover more than ten percent (10%) of such area, and the areas immediately adjacent to any such patios must be landscaped with trees, shrubs or large plants so as to materially obscure such patios from view from neighboring properties. The Property shall be used in a manner consistent with any landscape plan(s) for the area approved by Clackamas County.

3. Prohibited Uses. The Property may not be improved with buildings or structures, except for fences, walkways, benches or similar improvements consistent with the buffering purpose stated above. No wooden decks or improvements made of other impervious material shall be permitted.

PAGE 2. DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

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4. **Enforcement.** This Declaration may be enforced by any owner of any portion of the Property, by any owner of any real property contiguous to the Property.

5. **Benefit.** This Declaration shall be binding upon and shall inure to the benefit of Declarant and its successors and assigns, including, without limitation, any and all persons claiming any right, title or interest in the Property and any and all persons occupying any portion of the Property.

6. **Scope; Interpretation.** This Declaration is executed and recorded in order to evidence the requirements of the Zone Change, to assure the maintenance of a landscaped corridor to provide additional buffering and protection for the existing adjacent residences. The terms and provisions of this Declaration shall be interpreted in order to carryout such purpose. The covenants, conditions, and restrictions of this Declaration shall apply to all areas of the Property, regardless of whether any portion of such Property may later be included within the boundaries of a residential lot.

7. **Amendment.** This Declaration may be amended only by a writing duly executed by all owners of the Property and only with the written approval of the Clackamas County Planning Director.

8. **Section and Paragraph Captions.** Section and paragraph captions shall not be deemed to be a part of this Declaration unless the context otherwise requires. In construing this Declaration, if the context so requires, the singular shall be taken to mean and to include the plural, the masculine shall be taken to mean and to include the feminine and the neuter and, generally, all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to individuals, trusts, estates, personal representative, trustees and corporations.

PAGE 3. DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

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9. Waiver of Rights. The failure of any party to enforce any right, provision, covenant or condition provided in this Declaration shall not constitute a waiver of the right of any such party to enforce such right, provision, covenant or condition in the future.

10. Legal Proceedings. Failure to comply with any of the terms of this Declaration shall be grounds for relief, which may include, without limitation, a suit for injunctive relief. Relief may be sought by any party entitled to enforce this Declaration.

11. Costs and Attorneys' Fees. In any proceeding arising because of any party claiming any interest in the Property to comply with the terms and provisions of this Declaration, the prevailing party shall be entitled to recover the cost of the proceedings and such reasonable attorneys' fees as may be determined by the trial court or by the appellate court in any appeal thereof.

IN WITNESS WHEREOF, the undersigned Declarant of the subject Property has caused this Declaration to be executed this June 29, 2004 day of 2004.

**DECLARANT**

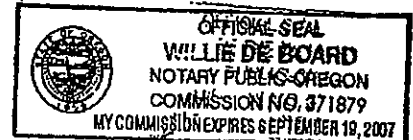
Veritas Investment Co., LLC, an Oregon limited liability company

By:   
Neil Nedelisky, Manager

STATE OF OREGON )  
County of Clackamas ) ss. June 29, 2004

Personally appeared before me the above-named NEIL NEDELISKY, who, being duly sworn, did say that he is the Manager of Veritas Investment Co., LLC, and that said instrument was signed in behalf of said company; and he acknowledged said instrument to be his voluntary act and deed.

  
Notary Public for Oregon



PAGE 4. DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

④



**EXHIBIT B  
TO MASTER DECLARATION FOR EAGLE LANDING**

AFTER RECORDING, RETURN TO:  
P. Stephen Russell III, P.C.  
Landye Bennett Blumstein, LLP  
1300 SW Fifth Avenue, Suite 3500  
Portland, OR 97201

**BYLAWS OF  
EAGLE LANDING RESIDENTIAL OWNERS ASSOCIATION**

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**EXHIBIT B  
TO MASTER DECLARATION FOR EAGLE LANDING**

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BYLAWS**

**OF**

**EAGLE LANDING RESIDENTIAL OWNERS ASSOCIATION**

**ARTICLE 1  
PLAN OF LOT OWNERSHIP; DEFINITIONS**

1.1 **Bylaws Applicability.** These Bylaws apply to the Lots and the Residential Common Area in the residential portion of Eagle Landing, a planned community in Clackamas County, Oregon, that have been subjected to the Master Declaration of Conditions, Covenants and Restrictions for Eagle Landing (the "Declaration"), as well as to the Eagle Landing Residential Owners Association (the "Association") and the entire management structure thereof.

1.2 **Lots; Property.** The Lots and the Residential Common Area may be collectively referred to in these Bylaws as the "Property" or "Project" and the Lots individually as a "Lot" or collectively as the "Lots."

1.3 **Personal Application.** All present or future Owners, tenants, Occupants, and their employees, and any other person that might occupy any portion of the Property in any manner, shall be subject to the provisions set forth in these Bylaws. The acquisition, rental, or occupancy of any of the Lots shall constitute acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

1.4 **Definitions.** Capitalized terms used but not defined herein shall have meanings attributed to them in Article 1 of the Declaration.

1.5 **Oregon Planned Community Act.** The Property, all Lots and Owners thereof, the Association and all Members thereof, shall be subject to the Oregon Planned Community Act, ORS 94.550 et seq. (the "PCA").

**ARTICLE 2  
ASSOCIATION MEMBERSHIP, VOTING,  
MAJORITY OF OWNERS, QUORUM, PROXIES**

2.1 **Membership in the Association.** Upon recordation of a conveyance or contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be and shall remain a Member of the Association until such time as such person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the Property, Lot ownership shall be determined from the records maintained by the Association. The record shall be established by the Owner filing with the Association a copy of the deed to or land sale contract for such Owner's Lot, to which shall be affixed the certificate of the recording officer of the County of Clackamas, Oregon, showing the date and place of recording of such

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deed or contract. No person shall be recognized as an Owner unless a copy of the deed or contract has been filed with the Association as provided above showing such Owner to be the current Owner or contract purchaser of a Lot. Notwithstanding the foregoing, Declarant shall be the Owner of all previously unsold Lots, although no deed or land sale contract, with respect to such Lots, has been filed with the Association.

**2.2 Voting Rights.** Voting rights are allocated as set forth in the Declaration.

**2.3 Majority of Owners.** As used in these Bylaws, the term "majority" shall mean those Owners holding over fifty percent (50%) of the voting rights allocated to the Owners in accordance with the Declaration and Section 2.2 above. "Majority of Owners present" shall mean Owners holding over fifty percent (50%) of the votes present at any legal meeting.

**2.4 Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners holding fifty percent (50%) or more of the outstanding votes in the Association, as defined in Section 2.2 of this Article, shall constitute a quorum.

**2.5 Voting; Proxies; Ballots.** Owners may cast votes in person, by written ballot, or by proxy. Proxies must be filed with the Secretary of the Association ("Secretary") before or during the appointed meeting. A proxy shall expire one (1) year after the date it was signed unless a shorter period is specified in the proxy. The proxies may require the holder to cast a vote for or against any special proposal set out in the notice calling the meeting. Unless withdrawn, a proxy given to another person to vote at a specific meeting shall also be valid at an adjourned meeting called under the provisions of Section 3.7. A meeting of the Association may be by written ballot, as the Directors may elect, rather than at a formal gathering. Ballots for such meeting must be properly executed and returned in sufficient quantity to constitute a quorum and to pass the proposal specifically propounded on the ballot and must comply with the applicable provisions of the Oregon PCA and the Oregon Nonprofit Corporation Act. The Board must provide Owners with at least ten (10) days' notice in compliance with ORS 94.647 before written ballots are mailed or otherwise delivered. If, at least three days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner and instructions for marking and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed. Proxies and ballots must be retained by the Association for one (1) year from the date of determination of the vote.

**2.6 Authority to Vote.** All Owners, including those who have leased their Lot to a third party, shall be entitled to vote. An Owner's right to vote may not be revoked. A purchaser under a land sale contract entitled to immediate possession of the Lot shall be deemed the Owner thereof, unless otherwise provided in such contract. Section 11.2 of the Declaration governs voting rights of Owners who are members of a Subassociation.

**2.7 Fiduciaries and Joint Owners.** An executor, administrator, guardian or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Lot owned or held by such person in such capacity, whether or not the same shall have been

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transferred to such person's name, provided that such person has satisfied the Secretary that such person is the executor, administrator, guardian or trustee holding such Lot in such capacity. Whenever any Lot is owned by two (2) or more persons jointly according to the records of the Association, the vote of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such Lot shall be disregarded for all purposes, except for determining whether a quorum is present.

**ARTICLE 3**  
**ADMINISTRATION**

**3.1 Association Responsibilities.** The Owners shall constitute the Members of the Association. Except as otherwise provided in the Declaration or these Bylaws, decisions and resolutions of the Association shall require approval by a majority of the Owners present at any legal meeting. A legal meeting is one duly called pursuant to these Bylaws at which a quorum is present, in person or by proxy at a formal gathering or, if a vote is taken by written ballots, when ballots are returned representing more than fifty percent (50%) of the vote, unless a larger vote is required to approve a ballot item, in which case the quorum requirements shall be the number of votes required to approve the proposal. A Subassociation's vote as provided in Section 11.2 of the Declaration shall be counted as if all members of the Subassociation voted in accordance with the Subassociation's Board of Directors for purposes of this Section.

**3.2 Place of Meetings.** Formal meetings of the Association shall be held at suitable places convenient to the Owners as may be designated by the Board of Directors of the Association (the "Board"). If a vote is taken by written ballot, the Board shall count the returned written ballots within forty-eight (48) hours of the ballot return deadline. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned within fifteen (15) days after the ballot return deadline.

**3.3 Turnover Meeting.** Declarant shall call a meeting for the purpose of turning over administrative control of the Association from Declarant to the Members within the time set forth in Section 12.1.2 of the Declaration.

Declarant shall give notice of the Turnover Meeting to each Owner as provided in these Bylaws. If Declarant does not call such meeting as required under this Section 3, any Owner may do so.

At the Turnover Meeting, Declarant shall relinquish control of the administration of the Association and the Owners shall assume such control, elect the Board of Directors in accordance with the provisions of Article 4 of these Bylaws and change the registered agent of the Association with the Oregon Secretary of State. Additionally, Declarant shall deliver to the Association all business and financial records, together with all Association bank accounts, funds and other assets as required by ORS 94.616. The Turnover Meeting shall not be conducted by written ballot.

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**3.4 Transitional Advisory Committee.** Declarant shall form a transitional advisory committee (the "Committee") to provide for the transition of administrative control of the Association from Declarant to the Owners. Within sixty (60) days after Declarant has conveyed fifty percent (50%) or more of Lots then existing in the Project to Owners other than a declarant of a Subassociation, Declarant shall call a meeting of Owners for the purpose of selecting the Committee, which shall be organized as provided in Section 12.1.3 of the Declaration.

The Committee's function shall be facilitating the transfer of control of the administration of the Association from Declarant to the Owners. The Committee shall have access to the information, documents and records that Declarant must turn over to the Owners under the PCA and this Article 3.

Declarant shall give notice of the meeting required under this Section 3.4 to each Owner at least seven (7), but not more than fifty (50), days prior to the meeting. The notice shall state the purpose of the meeting and the time and place where it is to be held. If Declarant does not call such meeting within the time specified, an Owner may call such meeting. If the Owners, other than Declarant, do not select Members for the Committee under this Section 3.4, Declarant shall have no further responsibility to form the Committee.

**3.5 Annual Meetings.** The Board, by a Board action, shall cause the first annual meeting of the Association to be held during the calendar year following the calendar year in which the Turnover Meeting is held. The Board, at its discretion, from time to time, may change the meeting date, provided that the meeting is held annually. At such meetings, the Owners shall elect new members of the Board in accordance with the requirements of Section 4.7 of these Bylaws to replace those Directors whose terms have expired. The Owners also may transact such other business of the Association as may properly come before them. Annual meetings shall not be conducted by written ballot.

**3.6 Special Meetings.** The President shall call a special meeting of the Owners if so directed by a resolution of the Board or a petition, presented to the Secretary and signed by thirty percent (30%) or more of the Owners. All meetings called because of petition of Owners shall be held at a formal gathering, and not by written ballot, within sixty (60) days after the Secretary's receipt of the petition. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business other than that stated in such notice shall be transacted at a special meeting unless by consent of all the Owners of the Lots or as otherwise set out in these Bylaws.

**3.7 Notice of Meetings.** The Secretary shall mail a notice of each annual and special meeting, stating the purpose thereof and the time and place where such meeting is to be held, to each Owner of record at least ten (10) but not more than fifty (50) days before such meeting or the date on which ballots for a ballot meeting are required to be returned. The Board of Directors may propose that the Owners take an action by written ballot without a meeting, pursuant to the provisions of the PCA and the Oregon Nonprofit Corporation Act. Such notices shall be mailed to the Owner's address last given to the Secretary in writing by the Owner or such Owner's vendee. If Lot ownership is split or the Lot has been sold on a contract, notice shall be sent to a single address, of which the Secretary has been notified in writing by such

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parties. If no address has been given to the Secretary in writing, then mailing to the Project Lot shall be sufficient. The mailing of a notice in the manner provided in this Section 3.6 shall be considered notice served.

3.8 **Adjourned Meetings.** As permitted by ORS 65.214, if any gathering of Owners is not a legal meeting because a quorum has not attended, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than ten (10) days from the time of the original meeting. The adjournment provisions of this Section 3.7 do not apply to actions proposed to be taken by written ballot.

3.9 **Order of Business.** The order of business at all annual meetings shall be as follows:

- Roll call.
- Proof of notice of meeting or waiver of notice.
- Reading of minutes of the preceding meeting.
- Reports of officers.
- Reports of committees.
- Election of inspectors of election.
- Election of Directors.
- Unfinished business.
- New business.
- Adjournment.

**ARTICLE 4**  
**BOARD OF DIRECTORS**

4.1 **Number and Qualification.** The Board shall be composed of five (5) persons, all of whom must be an Owner or a co-owner of a Lot; provided, however, that if a Lot is owned by more than one (1) owner, only one (1) co-owner of that Lot may serve on the Board of Directors at any one time. An officer or employee of a corporation, the trustee of a trust, the personal representative of an estate, or an employee of a trust or estate may serve on the Board if the corporation, trust or estate owns a Lot.

4.2 **Powers and Duties.** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be done by the Owners.

4.3 **Other Duties.** In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board shall have authority to carry out and be responsible for the following matters:

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4.3.1. **Upkeep of Residential Common Area.** Care, upkeep and supervision of the Residential Common Area.

4.3.2. **Reserves.** Establishment and maintenance of replacement Reserve Accounts which the Board deems prudent for replacement of Residential Common Area improvements or facilities.

4.3.3. **Assessment Collection.** Designation and collection of assessments from the Owners, in accordance with these Bylaws and the Declaration.

4.3.4. **Budget; Voucher System.** Establishment of a budget and payment of all common expenses of the Association and institution and maintenance of a voucher system for such payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of Association funds, in accordance with these Bylaws and the Declaration.

4.3.5. **Insurance.** Procurement and maintenance of insurance policies and payment of premiums therefor out of the common expense funds in respect to the Residential Common Area, as more specifically provided in Article 8 of these Bylaws.

4.3.6. **Personnel.** Designation and dismissal of the personnel necessary for the maintenance and operation of the Project.

4.3.7. **Financial Statements.** Causing the preparation and distribution of annual financial statements of the Association to each of the Owners, as more specifically provided in the Declaration.

4.3.8. **Tax Returns.** Causing the preparation and filing of necessary income tax returns of the Association.

4.3.9. **Rules.** Adoption and amendment of administrative Rules and Regulations governing the details of operation and use of the Residential Common Area and administration of the Association; provided, however, that any such Rules and Regulations shall always be subject to rescission or amendment by the Association upon a majority vote of Owners present at any properly called meeting.

4.3.10. **Mailing List.** Maintaining a current mailing list for the Association.

4.3.11. **Copies of Documents.** Maintenance of copies suitable for duplication of the information and documents needed to comply with ORS 94.670.

4.4. **Limited Authority.** The Board shall not take any of the following actions, except with the vote or written assent of a majority of the voting power of the Owners other than Declarant:

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**4.4.1 Third Party Contracts.** Enter into a contract with a third party wherein the third person will furnish goods or services for the Residential Common Area or the Association for a term longer than one (1) year with the following exceptions:

(a) Management contract, the provisions of which have been approved by the Federal Housing Administration, U.S. Housing and Urban Development or Veterans Administration.

(b) A contract with a public utility company in Clackamas County, or a service contract if the rates charged for the materials or services are regulated by the Oregon Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(c) A prepaid casualty and/or liability insurance policy the term of which does not exceed three (3) years, provided that the policy permits short-rate cancellation by the insured.

**4.4.2 Capital Expenditures.** Incur aggregate expenditures for capital improvements (as opposed to maintenance, repair and replacement costs) to the Residential Common Area during any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

**4.4.3 Compensating Board Members.** Pay compensation to members of the Board or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

**4.5 Management Agent.** The Board may employ a management agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in Section 4.3 of these Bylaws.

**4.6 Interim Board and Officers.** Declarant hereby reserves administrative control of the Association until the Turnover Meeting. Declarant, in its sole discretion, may appoint and remove members of the Board and officers of the Association whose terms of service shall end on or before the date of the Turnover Meeting. However, at the Turnover Meeting, at least one (1) Director shall be elected by Owners other than Declarant, even if Declarant otherwise has voting power to elect all five (5) Directors.

**4.7 Election and Term of Office.** At the Turnover Meeting of the Association, the term of office of three (3) Directors shall be fixed for two (2) years. The term of office of two (2) Directors shall be fixed at one (1) year. Should the number of Directors serving on the Board be increased, the same sequential election terms shall apply as nearly as is practicable. Upon expiration of the initial term of office of each respective Director, such Director's successor shall be elected to serve a term of two (2) years. The Directors shall hold office until their successors have been elected and hold their first meeting. At the Turnover Meeting, upon agreement by

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vote of the Owners, the Owners may elect Directors by using a ballot that permits each Owner to vote for five (5) nominees. In such event, the three (3) nominees receiving the highest number of votes shall be the two (2) year Directors and the two (2) nominees receiving the next highest number of votes shall be the one (1) year Directors.

**4.8 Vacancies.** Vacancies on the Board caused by any reason other than the removal of a Director by a vote of the Association shall be filled for the balance of the term of each directorship by vote of a majority of the remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director until a successor is elected upon expiration of the term for which such person was elected by the other Directors to serve.

**4.9 Removal of Directors.** At any legal annual or special meeting (not including actions proposed to be taken by written ballot without a meeting), any one (1) or more of the Directors may be removed with or without cause, by a majority vote of the total voting power of the Owners and a successor may be then and there elected to fill the vacancy thus created; provided, however, that the notice of meeting shall specifically indicate that the removal of one (1) or more named Directors is an agenda item for such meeting. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at such meeting.

**4.10 Organizational Meeting.** The first meeting of a newly elected Board shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the Association meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to hold such meeting legally, providing a majority of the newly elected Directors are present.

**4.11 Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board may be called by the President on at least three (3) days' notice to each Director, given personally or by mail, telephone, e-mail or facsimile, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting.

**4.12 Special Meetings.** Special meetings of the Board may be called by the President or Secretary or on the written request of at least two (2) Directors. Special meetings of the Board may be called on at least three (3) days' notice to each Director, given personally or by mail, telephone, e-mail or facsimile, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting.

**4.13 Waiver of Notice to Directors.** Before, at or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by such Director of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to Directors shall be required and any business may be transacted at such meeting.

**4.14 Board of Directors' Quorum.** At all meetings of the Board, a majority of the existing Directors shall constitute a quorum for the transaction of business, and the acts of the

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majority of the Directors shall be the acts of the Board. If quorum requirements are not met at any meeting of the Board, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

**4.15 Board Meetings Open to All Association Members.** Except for executive sessions, all meetings of the Board shall be open to any and all Members of the Association; provided, however, that no Association Member shall have a right to participate in the Board's meetings unless such Member is also a member of the Board. The President shall have authority to exclude any Association Member who disrupts the proceedings at a meeting of the Board. At the discretion of the Board, the following matters may be considered in executive session:

- (a) Consultation with legal counsel concerning rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (b) Personnel matters, including salary negotiations and employee discipline;
- (c) Negotiations of contracts with third parties;
- (d) Collection of assessments; and
- (e) For any other purpose permitted by the PCA.

Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session.

**4.16 Notice to Association Members of Board Meetings.** For other than emergency meetings, notice of special Board meetings shall be mailed to each Owner at least seven (7) days before the meeting by first class mail or e-mail or at least three (3) days' notice by hand delivery to each Lot Owner's address or by facsimile transmission. The Board shall give Owners notice of regular Board meetings at the beginning of each year by first class mail or other reasonable means setting out the time and place of the regular meetings. For any changed time or place, the notice requirements for special meetings shall apply.

**4.17 Emergency Meetings.** In the event of an emergency, telephonic meetings may be held by the Board. Such telephonic meetings shall be carried on by means of a "conference call" in which each Director may hear and speak with all other Directors. The Directors shall keep telephone numbers on file with the President to be used for telephonic meetings. No notice to either Directors or Association Members shall be required for a telephonic meeting of the Board, but the reason for the emergency shall be stated in the minutes of the meeting.

**4.18 Compensation of Directors.** No Director shall be compensated in any manner, except for out-of-pocket expenses, unless such compensation is approved by vote of the Owners.

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**ARTICLE 5  
OFFICERS**

5.1 **Designation.** The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by the Directors. The Directors may appoint an assistant treasurer and an assistant secretary, and any such other officers as in their judgment may be necessary.

5.2 **Election of Officers.** The officers of the Association may be elected by the Board at the organizational meeting of each new Board or any Board meeting thereafter, and shall hold office at the pleasure of the Board.

5.3 **Removal of Officers.** Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and such officer's successor may be elected at any regular or special meeting of the Board.

5.4 **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the Owners from time to time as the President may, in the President's discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

5.5 **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association and shall have charge of such books and papers as the Board may direct; and shall, in general, perform all the duties incident of the office of secretary.

5.6 **Treasurer.** The Treasurer shall have responsibility for Association funds and securities not otherwise held by the managing agent and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board.

5.7 **Directors as Officers.** Any Director may be an officer of the Association.

**ARTICLE 6  
OBLIGATIONS OF THE OWNERS**

6.1 **Assessments.** All Owners are obligated to pay assessments imposed by the Association to meet all the Association's general common expenses, as more particularly set forth in the Declaration. Assessments shall be payable on a periodic basis, not more frequently than monthly, as determined by the Board. Declarant (before turnover) and the Board (after



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turnover) may, but shall not be required to, impose interest or a service charge for late installment payments or allow a discount for payment of the annual assessment or any installment in advance.

**6.2 Investment of Reserve Account Funds.** Assessments paid into Reserve Accounts shall be kept with a safe and responsible depository, shall be accounted for separately and, if invested, the obligation or security shall be fully guaranteed as to principal by the United States of America or one of its agencies. Assessments paid into the Reserve Accounts are the property of the Association and are not refundable to sellers of Lots. However, nothing contained herein shall prevent sellers of Lots from treating their outstanding allocable share of Reserve Accounts as a separate or reimbursable item in a sales agreement. No Owner shall have any individual rights in any of these reserves, although it is understood that the value of an Owner's Lot may increase in proportion to such Lot's right to receive repair, maintenance and replacement therefrom.

**6.3 Initial Assessment.** Declarant shall pay all common expenses of the Association until the Lots are assessed for common expenses. Declarant shall determine the amount and date of commencement of the initial annual assessment to Owners other than Declarant. The assessment shall thereafter be subject to review by the Board.

**6.4 Income Tax Returns; Determination of Fiscal Year.**

**6.4.1 Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board.

**6.4.2 Tax Returns.** The Board, in its sole discretion, shall determine the manner in which all necessary income tax returns are filed and of selecting any and all persons to prepare such tax returns.

**6.5 Default.** Failure by an Owner to pay any assessment of the Association shall be a default by such Owner of such Owner's obligations pursuant to these Bylaws and the Declaration. The Association shall be entitled to the remedies set forth in the Declaration.

**6.6 Maintenance and Repair.**

**6.6.1 Lots.** Except as otherwise specifically provided in the Declaration and these Bylaws, every Owner must perform promptly all maintenance and repair work to such Owner's Lot and the exterior of the improvements thereon and keep the same in good repair and sanitary and neat condition.

**6.6.2 Residential Common Area.** The Association shall repair and maintain the Residential Common Area, subject to the provisions of subsection 6.6.3.

**6.6.3 Reimbursement of Association.** An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the Residential Common Area that was damaged through such Owner's fault and that is not otherwise covered

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by insurance policies carried by the Owner or the Association for the Owner's and the Association's benefit. In such circumstances, the insurance obtained by the Owner shall be deemed to be the primary coverage. The Board of Directors shall have the unfettered discretion to refuse to make a claim on the Association's policy even though coverage may pertain. Such discretion is for the purpose of maintaining the Association's insurability and controlling the amount of the premiums for the Association's insurance. Such charge shall be collectible as a Reimbursement Assessment as provided in the Declaration.

**6.7 Right of Entry; Easements for Maintenance.**

**6.7.1 Emergencies.** Present and future Owners, tenants, Occupants, and any other persons that occupy any portion of the Property, by virtue of acquisition, rental, or occupancy of any of the Lots, grant to the management agent or to any other person authorized by the Board or the Association the right to enter upon such Lot in the event of an emergency originating in or threatening any Owner's Lot.

**6.7.2 Maintenance Easements.** Declarant grants an easement to the Association in and through any Lot and the Residential Common Area providing access at reasonable times and with reasonable notice for purposes of maintenance, repair and replacement of the Residential Common Area. If, in performing such repair and maintenance, the Association needs to alter or damage any Lot or Residential Common Area, it may do so without providing compensation, provided that it promptly restores the Lot and/or Residential Common Area to substantially its prior condition.

**ARTICLE 7**  
**USE AND OCCUPANCY RESTRICTIONS; RULES OF CONDUCT**

In addition to the restrictions and rules of conduct set forth in the Declaration, the following shall apply:

**7.1 Use of the Residential Common Area.** No Owner shall place or cause to be placed on any portion of the Residential Common Area any trash, structure, equipment, improvement, furniture, package or object of any kind. Such areas shall be used for no purpose other than what is normal.

**7.2 Appearance of Lots.** Owners shall keep their Lots and the improvements thereon in good repair, clean, and with painted, stained or other finished exteriors compatible with the Architectural Standards, the Declaration and Rules and Regulations.

**7.3 Nuisances.** No Owner or Occupant shall cause or permit such Owner's representatives, agents, employees, or family members to cause any nuisance or to make any use or engage in any practice on the Property that is a source of annoyance to other Owners and Occupants or that interferes with other Owners' and Occupants' peaceful possession and proper use of the Property. Owners and Occupants shall exercise extreme care about creating disturbances, making noises or using musical instruments, radios, televisions and amplifiers that

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may disturb other Owners and Occupants. Owners and Occupants shall keep all parts of their respective Lots in a clean and sanitary condition, free of any accumulation of rubbish, refuse or garbage and free of any fire hazard and shall not cause any accumulation of rubbish, refuse or garbage or any fire hazard on any other part of the Property. Owners and Occupants shall place all of their rubbish, refuse and garbage inside disposal containers. No Owner shall make or permit any use of such Owner's Lot or of the Residential Common Area that will increase the cost of insurance upon the Residential Common Area.

**7.4 Improper, Offensive or Unlawful Use.** No Owner or Occupant shall make any improper, offensive or unlawful use of any part of the Property. Owners and Occupants shall observe all valid laws, zoning ordinances and regulations of governmental bodies having jurisdiction over the Property. The responsibility for meeting the requirements of governmental bodies for maintenance, modification or repair of the Property shall be carried out and paid for in the same manner as the responsibility for the maintenance and repair of the Property concerned.

**7.5 Additional Rules.** In addition to the rules set forth in this Article 7, the Board may promulgate and amend, from time to time, Rules and Regulations concerning other use of the Property and shall furnish copies of such Rules and Regulations to any Owner or Occupant requesting such copies.

**7.6 Enforcement.** The Association, through its Board of Directors, shall have the power to enforce the covenants and restrictions in these Bylaws and in the Declaration. Owners shall also have the right to bring actions or suits regarding covenants and restrictions, but shall have no right or power to require the Association or Board of Directors to take any enforcement action.

**ARTICLE 8**  
**INSURANCE**

**8.1 General.** The Board shall obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided and additional insurance for such other risks of a similar or dissimilar nature as are now or as shall be hereafter customarily covered by insurance obtained by other planned communities similar in construction and design. Such additional insurance shall be governed by this Article 8.

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

**8.2.1 Liability.** A policy or policies insuring the Association, its Board, the Owners individually, and the manager against any liability to the public or the Owners and their invitees or tenants, incident to the ownership, supervision, control or use of the Property. Limits of liability under such insurance shall be not less than one million dollars (\$1,000,000) per occurrence for bodily injuries and property damage liability. Such limit and coverage shall be reviewed at least annually by the Board, which may increase the limit of and/or coverage, in its

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discretion. Said policy or policies shall be issued on a commercial General Liability form and shall provide cross liability endorsements wherein the rights of the named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

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

**8.3 Fidelity Bond.** For the benefit of the Association and Owners, the Board may obtain a fidelity bond naming such persons as may be designated by the Board as principals and the Association and the Owners as obligees, for the amount determined by the Board. The Board may pay for such bond out of the common expenses of the Association. In addition, the Board shall require that all officers and employees of the Association handling or responsible for Association funds to obtain adequate fidelity bonds and may pay for the premiums thereon.

**8.4 Insurance Companies Authorized.** All policies obtained under this Article 8 shall be written by a company licensed to do business in Oregon and holding a "Commissioner's Rating" of "A+" and a size rating of "AAA," or better, by Best's Insurance Reports, or as may be otherwise acceptable to all mortgagees and Directors.

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

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

**8.5.2 Noncancellation for Owner Conduct.** A provision that the master policy on the Property cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Owners.

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

**8.5.4 No Other Insurance Clauses.** A provision that any "no other insurance" clause in the master policy exclude individual Owners' policies and not otherwise prevent such individual policies from providing coverage for damage to Homes, Lots or Residential Common Area.

**8.6 Home and Lot Insurance.** The Association shall have no responsibility to procure or to assist Owners or Occupants in procuring property loss insurance or liability insurance other than as expressly stated in this Article 8. Owners and Occupants shall procure all other insurance coverage that they deem necessary or prudent for their protection, and shall be obligated to carry property insurance with extended coverage endorsements in the amount of the

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replacement value of such Owners' Homes and with minimum combined limits of \$100,000 per occurrence. Insurance coverage obtained and maintained by the Board of Directors may be brought into contribution with that obtained and maintained by Owners or mortgagees only in the Board of Directors' sole and unfettered discretion.

8.7 Review of Insurance Policies. At least annually, the Board shall review all insurance carried by the Association, which review shall include a consultation with a representative of the insurance carrier writing the master policy.

**ARTICLE 9**  
**AMENDMENT**

Except as otherwise provided in this Article, and the restrictions set forth elsewhere herein, these Bylaws may be amended at any time by an instrument approved by at least a majority of the total votes of Members that are eligible to vote. Any amendment must be executed, recorded and certified as provided by law. Provided, however, no amendment of these Bylaws may effect an amendment of the Declaration or the Articles without compliance with the provisions of such documents and the Oregon Nonprofit Corporation Act, and no amendment deleting or affecting any right of Declarant or its successor or assignee, including, without limitation, an amendment to this Article 9, may be adopted without the prior written consent of Declarant or its successor or assignee.

The Residential Association shall not be dissolved without a public hearing before the hearings officer and approval of Clackamas County, as provided by Clackamas County Zoning and Development Ordinance 1013.06A9g.

**ARTICLE 10**  
**RECORDS AND AUDITS**

10.1 General Records. The Board and the managing agent or manager, if any, shall preserve and maintain minutes of the meetings of the Association, the Board and any Board committees as required by ORS 94.670. The Board shall maintain a list of Owners entitled to vote at meetings of the Association. The minutes of the Association, the Board and Board committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies. Proxies and ballots shall be retained by the Association for one (1) year from the date the vote is determined.

10.2 Assessment Roll. The Board and the managing agent or manager, if any, shall maintain the assessment roll in a set of accounting books in which there shall be an account for each Lot. Such account shall designate the name and address of the Owner or Owners, the amount of each assessment against the Owner, the dates on which and the amounts in which the assessment comes due, the amounts paid upon the account and the balance due on the assessments.

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**10.3 Payment of Vouchers.** The Treasurer or management agent shall pay all expenses authorized by the Board. The Treasurer or management agent shall maintain and follow reasonable procedures to assure the accounts and proper records, and to assure that all expenditures are proper. Except in cases where an emergency exists (for example, a repair must be made immediately to prevent further damage), any voucher for non-budgeted items shall require the signature of the President; provided, however, that any withdrawal from Reserve Accounts shall require the signature of two Board members or one Board member and an officer of the Association who is not a Board member.

**ARTICLE 11**  
**COMPLIANCE WITH THE PLANNED COMMUNITY ACT; CONFLICTS**

These Bylaws are intended to comply with the provisions of the PCA, the provisions of which apply to Eagle Landing. In case of any conflict among the provisions of the PCA, the Articles, the Declaration, or these Bylaws, the provisions of the PCA shall control over those of the Articles and Declaration, and the provisions of the Declaration shall be control over those of the Articles and these Bylaws.

**ARTICLE 12**  
**INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS**

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

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**EXHIBIT B**  
**TO MASTER DECLARATION FOR EAGLE LANDING**  
**ARTICLE 13**  
**ASSESSMENT COLLECTION COSTS; SUITS AND ACTIONS**

An Owner shall be obliged to pay reasonable fees and costs (including, but not limited to, attorneys' fees) and actual administrative costs incurred in connection with efforts to collect any delinquent unpaid assessments from such Owner, whether or not suit or action is filed. Assessments against Owners may include fees, late charges, fines and interest imposed by the Board, in addition to amounts owed toward operating expenses and the funding of reserves. If the Association brings against any Owner or Owners a suit or action for the collection of any amounts due pursuant to or for the enforcement of any provisions of the Declaration, the Articles or these Bylaws, such Owner or Owners, jointly and severally, shall pay, in addition to all other obligations, the costs of such suit or action, including actual administrative expenses incurred by the Association because of the matter or act which is the subject of the suit, reasonable attorneys' fees to be fixed by the trial court and, in the event of an appeal, the cost of the appeal, together with reasonable attorneys' fees in the appellate court to be fixed by such court.

**ARTICLE 14**  
**MISCELLANEOUS**

**14.1 Notices.** All notices to the Association or to the Board shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board hereafter may designate from time to time. All notices to any Owner shall be sent to such address as may have been designated by such Owner from time to time, in writing, to the Board; or if no address has been designated, then to such Owner's Lot.

**14.2 Waiver.** No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof that may have occurred and the number of times that the pertinent restriction, condition, obligation or provision was not enforced.

**14.3 Invalidation; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws; provided, however, that if any of the provisions of these Bylaws would violate the rule against perpetuities or any other limitation on the duration of the provisions herein contained imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law, or in the event the rule against perpetuities applies, until twenty-one (21) years after the death of the last survivor of the now living descendants of Ex-President George Bush. As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

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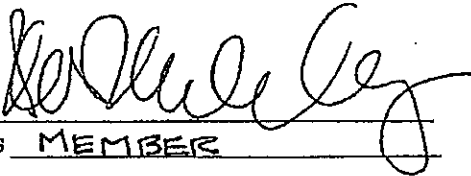
EXHIBIT B  
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ARTICLE 15  
ADOPTION

It is hereby certified that these Bylaws have been adopted by Veritas Investment Co., LLC, an Oregon limited liability company, Declarant of Eagle Landing, and shall be recorded in the Deed Records of Clackamas County, together with the Declaration for said planned community.

DATED this 29th day of JUNE, 2007.

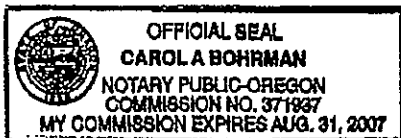
VERITAS INVESTMENT CO., LLC, an  
Oregon limited liability company

By:   
Its MEMBER

STATE OF OREGON                    )  
  ) ss.  
County of CLACKAMAS            )

Personally appeared before me the above-named NEIL NEDELISKY who, being duly sworn, did say that he is the MEMBER of VERITAS INVESTMENT CO., LLC, and that said instrument was signed in behalf of said limited liability company by authority of its members; and he acknowledged said instrument to be its voluntary act and deed.

  
Notary Public for Oregon



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FILED

JUN 11 2004

NONPROFIT ARTICLES OF INCORPORATION OF  
EAGLE LANDING RESIDENTIAL OWNERS ASSOCIATION

OREGON  
SECRETARY OF STATE

The undersigned natural person of the age of eighteen (18) years or more, acting as incorporator under the Oregon Nonprofit Corporation Law, adopts the following Articles of Incorporation:

ARTICLE 1

The name of the corporation shall be Eagle Landing Residential Owners Association (the "Corporation"), and its duration shall be perpetual.

ARTICLE 2

The purposes for which the Corporation is organized shall be to engage in any lawful activity for which corporations may be organized under ORS Chapter 65. The primary purpose of the Corporation shall be to serve as the governing body for the residential portion of Eagle Landing, a mixed use planned community being developed in Clackamas County, Oregon. Eagle Landing will be created by the Declaration of Covenants, Conditions and Restrictions for Eagle Landing (the "Declaration"), which will be recorded in the Deed Records of Clackamas County, Oregon. The real property which will constitute Eagle Landing consists of lots and common areas which will be set forth on the plat for Eagle Landing planned unit development which will be filed in the Plat Records of Clackamas County, Oregon. The lots and tracts of Eagle Landing are subject to the covenants, conditions, and restrictions set forth in the Declaration. The Corporation shall be a mutual benefit corporation. The Corporation shall have members. All owners of residential lots and parcels in Eagle Landing shall be members of the Corporation, and there shall be no other members.

ARTICLE 3

The address of the initial registered office of the Corporation shall be 400 Summerlinn Drive, West Linn, Oregon 97068, and the name of its initial registered agent at such address shall be Steve LoGuidice. The initial principal office of the Corporation shall be 400 Summerlinn Drive, West Linn, Oregon 97068, and notices shall be sent to this address.

ARTICLE 4

The name and address of the incorporator of the Corporation are as follows:

P. Stephen Russell III  
Landy Bennett Blumstein LLP  
1300 SW Fifth Avenue, Suite 3500  
Portland, OR 97201

*Handwritten signature*  
6/11

### ARTICLE 5

On dissolution or final liquidation of the Corporation, its assets shall be distributed to an unincorporated association of the same name or as otherwise permitted by applicable law.

### ARTICLE 6

No director or uncompensated officer of the Corporation shall be liable to the Corporation or its members for conduct as a director or officer for any act or omission occurring after the date when these Articles are filed with the Oregon Secretary of State, except such release of liability shall not apply to the following: (a) any breach of the director's or officer's duty of loyalty to the Corporation or its members; (b) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) any unlawful distribution; (d) any transaction from which the director or officer derived an improper personal benefit; and (e) any act or omission in violation of ORS 65.361 to 65.367.

### ARTICLE 7

The Corporation shall indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if: (a) the conduct of the individual was in good faith; (b) the individual reasonably believed that the individual's conduct was in the best interests of the Corporation, or at least not opposed to its best interests; and (c) in the case of any criminal proceeding, the individual had no reasonable cause to believe the conduct of the individual was unlawful.

The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

The Corporation shall not indemnify a director: (a) in connection with a proceeding by or in the right of the Corporation in which the director was adjudged liable to the Corporation; or (b) in connection with any other proceeding charging improper personal benefit to the director in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

Indemnification permitted under this section in connection with a proceeding by or in the right of the Corporation is limited to reasonable expenses incurred in connection with the proceeding.

### ARTICLE 8

The Board of Directors of the Corporation, by a majority vote, may amend these Articles with respect to any matter permitted in ORS 65.434. All other amendments to these Articles shall require approval of the owners of lots of Eagle Landing by the same percentage vote required to amend the Declaration.

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**ARTICLE 9**

I, the undersigned incorporator, declare under penalties of perjury that I have examined the foregoing and, to the best of my knowledge and belief, it is true, correct and complete.

DATED this 11<sup>th</sup> day of June 2004.

  
\_\_\_\_\_  
P. Stephen Russell III, Incorporator