

AFTER RECORDING RETURN TO:
 Karna R. Gustafson
 Landye Bennett Blumstein LLP
 1300 SW Fifth Avenue, Suite 3600
 Portland, OR 97201



**DECLARATION OF
 PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
 FOR TANAGER PLANNED DEVELOPMENT**

Declarant: Tanager Development, LLC

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**DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR TANAGER PLANNED DEVELOPMENT**

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR TANAGER PLANNED DEVELOPMENT (“Declaration”) is made by Tanager Development, LLC, an Oregon limited liability company (“Declarant”).

Recitals

Tanager Development LLC ("TDLLC") is the owner of all the real property and improvements thereon located in the County of Deschutes, State of Oregon, described as follows:

Lots 1-10, as shown on the plat map of Lakes at Tanager PUD filed for record in the plat records of the County of Deschutes, State of Oregon (the “Property”).

Declarant is the developer of the Property.

Tract A is part of the plat map of Lakes at Tanager PUD, but not subject to the Declaration. Tract A is subject to the Easement and Maintenance Agreement (“EMA”) described in Section 2.1.1 herein.

Declarant intends to develop Tanager Planned Development as a Class I planned community under the Oregon Planned Community Act. To establish Tanager Planned Development as a planned community, Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the Property, under a comprehensive general plan of improvement and development for the benefit of Tanager Planned Development.

Tanager Planned Development is subject to Deschutes County land use decisions, File Nos. 247-17-000636-CU, 247-17-000637-TP, 247-17-000639-CU, 247-17-000640-SP and 247-17-000641-LM. Declarant has deemed it desirable for the efficient preservation of the values and amenities in Tanager Planned Development to create a nonprofit corporation, to which will be delegated and assigned the powers and authority to maintain and administer the Property, to administer and enforce the covenants, conditions, and restrictions of this Declaration, and to collect and disburse the assessments and charges hereinafter created.

NOW THEREFORE, Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the Oregon Planned Community Act as may be amended from time to time (ORS 94.550 to 94.783) and subject to the following covenants, conditions, restrictions, easements, charges and liens, which shall run with the land, which shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof, and which shall inure to the benefit of the Association and of each Owner.

ARTICLE 1
DEFINITIONS

1.1 “Additional Property” shall mean and refer to any Lots and Common Area which may be subsequently annexed to Tanager Planned Development and subject to this Declaration.

1.2 “Architectural Review Committee” or “ARC” shall refer to that committee constituted and acting pursuant to Article 6 of this Declaration.

1.3 “Articles” shall mean the Articles of Incorporation for the nonprofit corporation, Tanager Homeowners’ Association, as filed with the Oregon Secretary of State.

1.4 “Association” shall mean and refer to Tanager Homeowners’ Association, its successors and assigns.

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

1.6 “Bylaws” shall mean and refer to the Bylaws of the Association which shall be recorded in the Deschutes County, Oregon, deed records.

1.7 “Common Area” shall mean and refer to any Common Area in any Additional Property annexed to Tanager Planned Development, including any improvements located thereon, which areas and improvements are intended to be devoted to the common use and enjoyment of the members. There is no Common Area currently in Tanager Planned Development.

1.8 “Commonly Maintained Property” shall mean any property owned by a person or entity other than the Association for which the Association has the obligation to maintain, repair and replace.

1.9 “Declaration” shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration.

1.10 “Declarant” shall mean and refer to Tanager Development, LLC , and its successors or assigns, or any successor or assign to all or the remainder of their interest in the Property.

1.11 “Easement and Maintenance Agreement” or “EMA” shall mean and refer to that document recorded in the deed records of Deschutes County, Oregon on _____ as Document No. _____.

1.12 “Easement Area” shall mean and refer to that real property and improvements thereon which is required to be maintained, repaired and replaced pursuant to the EMA.

1.13 “General Plan of Development” shall mean Declarant’s general plan of development of the Property, as approved by appropriate governmental agencies, as may be amended from time to time.

1.14 “Home” shall mean and refer to any portion of a structure situated on a Lot and designed and intended for use and occupancy as a residence by a single family or household.

1.15 “Lot” shall mean and refer to each and any of Lots 1-10 and any Lots subsequently created on Additional Property annexed to Tanager Planned Development.

1.16 “Members” shall mean and refer to the Owners of the Lots.

1.17 “Mortgage” means a recorded first mortgage, first trust deed, a first contract of sale that creates a first lien against a Lot, and “mortgagee” means the holder, beneficiary or vendor of such mortgage, trust deed or contract of sale, but only when such holder, beneficiary or vendor notifies the Association in writing of the existence of such mortgage and gives the Association a current name and mailing address.

1.18 “Occupant” shall mean and refer to the occupant of a Home, whether such person is an Owner, a lessee or any other person authorized by the Owner to occupy the Home.

1.19 “Open Space” shall mean and refer to the Tract A designated on the Plat, the use and ownership of which is described in Article 5 herein.

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

1.21 “Plat” shall mean and refer to the Plat of Lakes at Tanager PUD recorded in the Plat Records of Deschutes County, Oregon.

1.22 “Property” shall have the meaning attributed to such term in the Recitals of this Declaration and any Additional Property annexed to Lakes at Tanager PUD.

1.23 “Recreation-Oriented Facility” shall mean and refer to the ponds located on the property described on Exhibit A, which is subject to the EMA. The north pond is used for recreation purposes, but shall not be used for motorized boating. The south pond is used for motorized boating activities. The Recreation-Oriented Facility is not part of the Plat of Lakes at Tanager PUD. Owners shall have no right to use the Recreation-Oriented Facility unless he, she or it is a party to the EMA.

1.24 “Rules and Regulations” shall mean and refer to the documents containing rules and regulations and policies adopted by the Board or the Architectural Review Committee, as may be from time to time amended.

1.25 “Tract” shall mean and refer to Tract(s) as shown on a plat. The Additional Property, if annexed, may include Tracts.

1.26 “Wildfire Mitigation Plan” or “WMP” shall mean and refer to the Wildfire Mitigation Plan approved for the Property by Deschutes County as part of the development plan.

1.27 “Wildlife Habitat Management Plan” or “WHMP” shall mean and refer to the Wildlife Habitat Management Plan approved for the Property by Deschutes County as part of the development plan.

ARTICLE 2

PROPERTY DEVELOPMENT

2.1 Development. The development of Tanager Planned Development shall consist of the Property, which shall be held, transferred, sold, conveyed and occupied subject to this Declaration. The Declarant does not choose to limit Declarant’s rights to add improvements not described in this Declaration. The roads in Tanager Planned Development shall be maintained, repaired and replaced as provided in the EMA.

2.1.1 Easement and Maintenance Agreement. The Easement and Maintenance Agreement or “EMA” is a grant of a non-exclusive easement for use and access over certain real property (“Easement Area”) by and among various parties and an agreement to pay for the maintenance, repair, replacement and upkeep of the Easement Area. The Administrator of the EMA shall have the obligations related to maintenance, repair and replacement of the Easement Area. The Association shall have no obligations with respect thereto. The Easement Area that shall be maintained, repaired and replaced includes portions of land and improvements, including roads, parking lots, landscaping, open space, boat house, ponds, an entrance monument, wells, community water and irrigation system and lines that are not owned by the Association, but by third parties. The legal description of the Easement Area and the benefited properties are contained in the EMA. The parties to the EMA have agreed to share the costs of maintaining and operating such improvements in exchange for an easement from these third parties, granting permanent non-exclusive use of such improvements. Each Owner of a Lot in Tanager Planned Development is a party to the EMA and subject to the provisions therein.

2.1.2 Disclosure; No Appeal Rights.

Equipment, motorized boats, trailers, trucks, tractors, outdoor speakers, lights, storage tanks and other vehicles used in conjunction with the operation of the Recreation-Oriented Facility, parking lot and boat house will generate noise, dust, soil erosion, vibrations and other disruptions to residents at certain times. Owners have no right to restrict, object, oppose or appeal such activity.

The Declarant is not obligated to install or construct any improvements described herein or on any website, advertising or sales literature. If Declarant determines to install or construct certain improvements, the improvements shall not be required to be as specifically as illustrated or installed in a manner set forth in any website, advertising or sales literature. The actual improvements, once constructed, may vary from the illustrations.

If the land use laws change, the owner of Tract A, its successors and/or assigns of Tract A reserves the right to sell, subdivide, develop, build upon and/or rezone Tract A and/or convert it to other uses, so long as such use is lawful under all applicable county and state laws. Owners have no right to restrict, object, oppose or appeal such activity.

The Project is adjacent to an active surface mine on the north, south and east sides of the Property. Equipment, trailers, trucks, tractors, lights storage tanks and other vehicles used in conjunction with the operation of the surface mine will generate noise, dust, soil erosion, vibrations and other disruptions to residents at certain times. Owners have no right to restrict, oppose, object or appeal such activity.

The Property is subject to a Wildfire Mitigation Plan and Wildlife Habitat Management Plan.

2.1.3 Waiver and Release. Owners in Tanager Planned Development hereby release and waive any claim, demand, damage, cause of action, challenge, expense or compensation, known or unknown whether existing now or arising in the future whenever arising against seller, the Declarant, KC Development Group LLC or their affiliates, agents, brokers, successors, employees, contractors, representatives, officers, directors and members or against the Association or any board member thereof, relating to or arising from the condition of the Lots, Tract A and Easement Area and all uses thereof. This waiver is absolute and unconditional, and this release and waiver applies whether or not Owner has knowledge of any potential cause of action for such claims. This waiver applies to claims under any legal theory, including, but not limited to, negligence, negligence per se, negligent or intentional misrepresentation, warranty, covenant of quiet enjoyment, implied covenants, defective construction, breach of contract, unlawful trade practice, breach of fiduciary duty, strict liability, nuisance, trespass or any other theory, whether arising from statute, contract, tort or otherwise. Owner acknowledges that seller would have required a significantly higher purchase price for the Lot purchased if Owner declined to provide the foregoing release and waiver. This release and waiver shall be binding upon Owner, all successor owners or occupants of the Lot, the Association, and their respective employees, contractors, property managers, brokers, heirs, successors, assigns, guests and invitees. Owners agree that claims of the Association are derivative of claims of Owners and that the Association will be bound by the foregoing waiver. This waiver shall act as a complete bar and defense against any released or waived claim.

2.2 Amendment. This Article may not be amended without the consent of KC Development Group LLC and the Declarant.

ARTICLE 3

OWNERSHIP AND EASEMENTS

3.1 Non-Severability. Each of the easements granted or reserved herein shall be deemed to be established upon the recordation of this Declaration and/or plat 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 Tanager Planned Development.

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

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

3.3.1 Easements on Plat. The Lots are subject to the easements and rights-of-way shown on the Plat.

3.3.2 Easements Reserved by Declarant for Construction and Sales. So long as Declarant owns any Lot, Declarant reserves an easement over, under and across the Lots in order to carry out sales activities necessary or convenient for the sale of Lots. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress to, from, over, in, upon, under and across the Lots 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 in such a way as not to interfere unreasonably with the occupancy, use, enjoyment or access to an Owner's Lot by such Owner or such Owner's family, tenants, employees, guests or invitees.

3.3.3 Additional Utility and Drainage Easements. This Declaration shall be subject to all easements granted or acquired by Declarant for the installation and maintenance of utilities and drainage facilities necessary for the development of Tanager Planned Development. No structure, planting or other material that may damage or interfere with the installation or maintenance of utilities, that may change the direction of flow of drainage channels in the easements, or that may obstruct or retard the flow of water through drainage channels in the easement areas shall be placed or permitted to remain within any easement area.

3.3.4 Association's Easements. The Association and its duly authorized agents and representatives shall have easements over the Lots as are necessary to perform the duties and obligations of the Association, as set forth in this Declaration, the Bylaws, and the Articles, as the same may be amended.

3.3.5 EMA Administrator Easements. The EMA Administrator and its duly authorized agents and representatives shall have easements over the Lots as are necessary to perform the duties and obligations of the EMA.

3.3.6 Future Easements. Declarant reserves the non-exclusive right and power to grant and record such easements as may be desired, in the sole discretion of Declarant, in connection with the development of the Property, Additional Property and/or adjacent property without the approval of any Owner.

3.4 Public Use. Public use of the Property to the extent permitted, shall be subject to limitations on liability under ORS 105.682.

ARTICLE 4

LOTS AND HOMES

4.1 Use. Lots shall only be used for residential purposes. Except with the Board's consent no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot or in any Home, and no goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business shall be kept or stored on any Lot or in any

Home. Nothing in this Section shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to construct residences on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any residence as a sales office or model home for purposes of sales in Tanager Planned Development, and (c) the right of the Owner of a Lot to maintain such Owner's personal business or professional library, keep such Owner's personal business or professional records or accounts, handle such Owner's personal business or professional telephone calls or confer with business or professional associates, clients or customers in such Owner's residence. The Board shall not approve commercial activities otherwise prohibited by this Section unless the Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances.

4.2 Construction of Homes. No construction of a Home or any other structure shall occur on a Lot unless the approval of the ARC is first obtained pursuant to Article 6. Consideration such as siting, shape, size, color, design, height, solar access, or material may be taken into account by the ARC in determining whether or not to consent to any proposed work. The following restrictions are minimum standards applicable to all Lots:

4.2.1 Floor Area. The covered area of a Home, including indoor living space and covered patio outdoor living space, shall not be less than 3000 square feet, not including garages; the indoor living space must be a minimum of 2500 square feet;

4.2.2 Building Height. Structures in the Landscape Management Combining Zone ("LMCZ") shall not exceed 30 feet in height measured from the natural grade on the side(s) facing the road, river or stream; structures not in the LMCZ shall not exceed 30 feet in height measured from the finished grade on all sides facing the road, river or stream;

4.2.3 Garages. At least a two (2) car garage shall be constructed on the Lot;

4.2.4 Building Envelopes. All Homes within Tanager Planned Development shall be constructed within the predetermined building envelope on each Lot. Each Home must be constructed entirely within the designated building envelope and the siting of any accessory structures must be approved by the ARC prior to the commencement of construction. In all cases, structures shall comply with the Deschutes County code, the Wildfire Mitigation Plan and Wildlife Habitat Management Plan.

4.2.5 Roofing. The Home shall be required to have a fire retardant roof. Roofing material of composition or tile shall be permitted. The type and style of the roofing shall be approved by the ARC. There shall be no shake or any flammable roofing material permitted. If the ARC allows the Home to have a chimney, each chimney shall include a spark arrester.

4.2.6 Siding. No T-111 or vinyl siding shall be permitted.

4.2.7 Fencing. There shall be no fencing allowed between the Home and a pond or the Home and Tumalo Creek. All fencing shall comply with the WA Zone standard. Fenced

in enclosures not exceeding 5000 square feet shall be permitted along the side of the Home with the prior approval of the ARC. All other fencing shall require the prior approval of the ARC.

4.2.8 Tumalo Creek Lots. All Lots adjacent to Tumalo Creek shall use muted colors and earth tones. No exterior lighting will be allowed to be directed towards the Creek. All building material must be non-reflective, including the roofs. There shall be no fencing allowed between the Home and Tumalo Creek.

4.2.9 Fire Code Compliance. All Home construction shall comply with the construction standards required by the Wildfire Mitigation Plan. All new Homes must be constructed with automatic sprinkler systems and all individual driveways within Lots must comply with the emergency vehicle access design requirements. Although the Association shall have the right to take enforcement action against an Owner who fails to comply with the Wildfire Mitigation Plan, the Association shall have no liability for (i) failure to take action against a non-compliant Owner; or (ii) the failure of an Owner to comply with the Wildfire Mitigation Plan.

4.3 Construction Debris. Every contractor building any improvement in Tanager Planned Development shall furnish trash containers and at all times shall keep the premises free from accumulation of trash and scrap caused by construction. Trash shall not be allowed outside a designated trash and scrap area and any that does intrude beyond shall be cleaned up immediately. Upon completion of the work, all remaining trash and scrap shall be disposed of legally. To the extent possible, construction debris, excess materials and scrap shall be recycled. Tools, construction equipment, machinery, and surplus materials shall be removed from the site. The Association, ARC or Declarant shall be entitled to enter upon any construction site with five (5) days notice and to clean up, remove, recycle and dispose of materials on-site, to charge the contractor for any costs incurred by the Association, ARC or Declarant in performing such acts, and to recover such costs and attorneys' fees and costs whether or not a legal action against the contractor is filed. Such costs incurred by the Association, ARC or Declarant shall be lienable as an assessment as elsewhere provided herein.

4.4 Construction Activities and Noise. After occupancy of the first Home in Tanager Planned Development, construction activities which can be heard outside the Home are not permitted before 7:00 a.m. or past 7:00 p.m., Monday through Saturday and there shall be no construction activity on Sundays and Holidays. Holidays shall be determined by the Association. Radios which are audible outside of the Home or structure being built are not allowed on construction sites. Pets shall not be permitted on any construction site.

4.5 Landscaping. Each Owner other than Declarant shall obtain the ARC's prior approval of all landscaping plans before commencing installation of any landscaping. All landscaping, native and installed, shall be designed, constructed and maintained to standards in the Wildfire Mitigation Plan. All lawns will be irrigated with a pressurized irrigation sprinkler system operated and maintained under the EMA. Irrigation is subject to irrigation rights appurtenant to each Lot according to TID maps. The EMA Administrator shall control and monitor the irrigation schedule in its sole and unfettered discretion. All unimproved Lots shall be kept in compliance with the Wildfire Mitigation Plan and in a neat and orderly condition, free of brush, vines, weeds and other debris.

4.6 Maintenance of Lots and Homes. Each Owner shall maintain such Owner's 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, maintenance of windows, doors, garage doors, accessory buildings, driveways, walks, patios, chimneys, fencing, landscaping, trees and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the ARC. Each Owner shall repair damage caused to such Owner's Lot or improvements located thereon by fire, flood, storm, earthquake, riot, vandalism, or other causes within a reasonable period.

4.7 Rental of Homes. An Owner may rent or lease such Owner's Home or a portion thereof, provided that the following conditions are met:

4.7.1 Written Rental Agreements Required. The Owner and the tenant enter into a written rental or lease agreement specifying that (a) the tenant shall be subject to all provisions of the Declaration, Bylaws and Rules and Regulations, and (b) a failure to comply with any provision of the Declaration, Bylaws and Rules and Regulations shall constitute a default under the rental or lease agreement;

4.7.2 Minimum Rental Period. The period of the rental or lease is not less than seven (7) days; and

4.7.3 Tenant Must be Given Documents. The Owner gives each tenant a copy of the Declaration, Bylaws and Rules and Regulations.

4.8 Timeshare or Fractional Ownership. The creation of a timeshare estate on a Lot or Lots under ORS 94.813 to ORS 94.945, as may be amended from time to time, is prohibited. Fractional ownership with exclusive use periods shall be permitted in fractions of four (4) or less. Fractional ownership with exclusive ownership periods with five (5) or more Owners is prohibited.

4.9 Animals. No animals or livestock of any kind, other than a reasonable number of dogs, cats or other domesticated pets that are not kept, bred or raised for commercial purposes and that are reasonably controlled so as not to be a nuisance, shall be raised, bred, kept or permitted within Lots 1-10. Domestic animals in the Open Space shall be leashed. Lots annexed in Additional Property may be permitted to have livestock as provided in the supplemental declaration annexing said property. Any Lot Owner who maintains any animal upon any portion of Tanager Planned Development shall be deemed to have agreed to indemnify and hold the Association, each of its members and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal. Such Owner shall further abide by all governmental sanitary laws and regulations, leash and other local and state laws relating to animals and rules or regulations of the Association created by the Board of Directors.

Pet owners are responsible for the prompt removal of their pet's waste anywhere outside of their own property. Incessant barking or howling of a dog or other noise caused by an animal that is clearly audible will be considered a nuisance. Compliance with these rules shall be

determined by the Association at its sole discretion. However, nothing in the policies or the governing documents will prevent the Association from requiring the removal of any animal immediately, without prior and repeated notices that presents an actual threat to health or safety of persons within Tanager Planned Development.

The Board of Directors shall have the right to order any person whose animal is a nuisance to remove such animal from the premises upon the delivery of the third notice in writing of a violation of any rule, regulation or restriction governing animals within Tanager Planned Development. All animals shall be registered and inoculated as required by law.

4.10 Wildlife Protection. Each Owner shall comply with the Wildlife Habitat Management Plan. The capturing, trapping, injuring, or killing of wildlife within the Property is prohibited, except when reasonably necessary to avoid an imminent threat of personal injury or death to any person or to protect property from damage by rodents or other pests. The feeding of wildlife is also prohibited.

4.11 Nuisance. No noxious, odorous, harmful, illegal or offensive activities shall be carried on upon any Lot. Nor shall anything be done or placed on any Lot that interferes with or jeopardizes the enjoyment of, or that is a source of annoyance to, the Owner or other Occupants. Smoking or vaping of any substance that causes smells, odors, smoke, mist or haze, whether visible or not, to extend beyond the boundaries of the Lot shall constitute a nuisance. Growing of hemp and/or marijuana is not allowed anywhere on the Property. Marijuana/cannabis use is permitted on a Lot as long as the smell does not emanate beyond the Lot boundaries.

4.12 Parking. Parking is permitted in designated areas only. Parking is prohibited anywhere between the Home and a pond and the Home and Tumalo Creek. Boats, trailers, commercial vehicles, mobile homes, campers, and other recreational vehicles or equipment (“Special Vehicles and Equipment”), regardless of weight, shall not be parked on the Easement Area, any private roads or streets on or adjacent to the Property at any time or for any reason, except for loading or unloading. All but one (1) such Special Vehicles and Equipment shall be parked in a fully enclosed garage or parked behind the front elevation of the Home behind a six foot fully enclosed screened fence which may not extend beyond the front plane of the Home or garage. Owners must obtain prior approval to install such screening fence from the ARC.

Passenger vehicles may be parked in the driveway, but all but four (4) passenger vehicles may not be kept or stored in the driveway for more than fourteen (14) consecutive days in a one-month timeframe. Restrictions only apply to passenger vehicles visible from the street.

4.13 Vehicles in Disrepair. No Owner shall permit any vehicle that is in a state of disrepair (e.g. including, but not limited to, fails to run, cannot be moved under its own power in current condition, flat tires, unpainted or body parts missing) or that is not currently licensed to be abandoned or to remain parked upon the Easement Area or on any street on or adjacent to the Property at any time and may not permit them on a Lot for a period in excess of seven (7) days. A vehicle shall be deemed in a “state of disrepair” when the Board reasonably determines that its presence offends the occupants of the neighborhood. If an Owner fails to remove such vehicle within five (5) days following the date on which the Association mails or delivers to such Owner a notice directing such removal, the Association may have the vehicle removed from the

Property and charge the expense of such removal to the Owner as an assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

4.14 Soliciting. No soliciting is permitted at any time by any person, including, but not limited to, an Owner or guest, invitee or contractor of an Owner, or member of the general public, within the boundaries of Tanager Planned Development.

4.15 Signs. Except as provided herein, no signs shall be erected or maintained on any Lot except that not more than one (1) "For Sale" or "For Rent" sign placed by the Owner 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 Lot. Real estate signs shall be removed within three (3) days after the sale closing date.

4.16 Rubbish and Trash. No Lot or part of the Easement 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. Such containers shall be removed from the street within twenty-four (24) hours of garbage pick up. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets, the Easement Area or any other Lots. If an Owner fails to remove any trash, rubbish, garbage, yard rakings or any similar materials from any Lot, any streets or the Easement Area where deposited by such Owner or the Occupants of such Owner's Lot after notice has been given by the Board to the Owner, the Association may have such materials removed and charge the expense of such removal to the Owner. Such charge shall constitute an assessment, which may be collected and enforced as any other assessments imposed pursuant to the Declaration and Bylaws.

4.17 Fences and Hedges. Fences and boundary hedges are prohibited anywhere between the Home and a pond and the Home and Tumalo Creek. No fences or boundary hedges shall be installed or replaced without prior written approval of the ARC.

4.18 Service Facilities. Clotheslines shall be screened such that such facilities are not visible at any time from the street. All telephone, electrical, cable television, propane tanks, and other utility installations shall be placed underground in conformance with applicable law and subject to approval by the ARC.

4.19 Antennas and Satellite Dishes. Except as otherwise provided by law or this section, 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 Lot or Home. Exterior satellite and internet dishes with a surface diameter of one (1) meter or less and antennas designed to receive television broadcast signals or multi-channel multi-point distribution (wireless cable), may be placed on an Owner's Lot or Home. To the extent possible, such permitted dishes shall be placed in the rear of the Lot or Home. The Board or ARC may adopt reasonable rules and regulations governing the installation, safety, placement and screening of antennas, satellite dishes and other similar devices. This section and any rules adopted hereunder shall not unreasonably delay or increase the cost of installation, maintenance or use, or preclude reception of a signal of acceptable quality.

4.20 Exterior Lighting or Noise-making Devices. Except with the consent of the ARC, no exterior lighting or noise-making devices, other than security and fire alarms, shall be installed or maintained on any Lot. Provided, however, the Declarant or Administrator for the EMA shall be permitted to install and operate exterior lighting in conjunction with operating the south pond, parking lot and boat house adjacent thereto. All exterior lighting shall comply with the Deschutes County Outdoor Lighting Ordinance.

4.21 Grades, Slopes and Drainage. There shall be no interference with the established drainage patterns or systems over or through any Lot within Tanager Planned Development so as to affect any other Lot or Easement Area or any real property outside Tanager Planned Development unless adequate alternative provision is made for proper drainage and is approved by the ARC. The term “established drainage” shall mean the drainage swales, conduits, inlets and outlets designed and constructed for Tanager Planned Development.

4.22 View Preservation. Lot Owners agree not to plant or maintain trees or other vegetation in excess of twenty-five (25) feet that would impede the view of other Lot Owners. Declarant and/or the Association may unilaterally enter a Lot to trim, top and remove any tree or other vegetation in its sole and unfettered discretion that it deems to be detrimental to the view of Lot Owners.

The construction and/or installation of any Homes, outbuildings or other structures on a Lot and any non-native vegetation or landscaping shall not unreasonably impair the view from any other Home within Tanager. The ARC shall be the sole judge in its unfettered discretion as to whether a view has been impaired or impeded under this section. The ARC, in its discretion, may develop specific height restrictions that may pertain to specified areas within Tanager and procedures for addressing any complaints of view impairment.

4.23 Damage or Destruction to Home and/or Lot. If all or any portion of a Lot or Home is damaged by fire or other casualty, the Owner shall either (a) restore the damaged improvements or (b) remove all damaged improvements, and leave the Lot in a clean and safe condition. Any restoration proceeding under (a) 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 6 are complied with by the Owner. Except in the instance of a total or near total loss, the Owner must commence such work within sixty (60) days after the damage occurs and must complete the work within six (6) months thereafter.

4.24 Right of Maintenance and Entry by Association. If an Owner fails to perform maintenance and/or repair that such Owner is obligated to perform pursuant to this Declaration, and if the Board determines, after notice, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of Tanager Planned Development, the Board may cause such maintenance and/or repair to be performed and may enter any such Lot whenever entry is necessary in connection with the performance thereof. An Owner may request, and the Board shall conduct, a hearing on the matter. 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 Lot as an assessment, which may be collected and enforced as any other assessments authorized hereunder.

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

4.26 EMA Rules and Regulations. The Administrator of the EMA may create and enforce rules and regulations governing the use, maintenance and operation of the Easement Area and surrounding grounds and facilities in its sole and unfettered discretion. Owners shall be subject to such rules and regulations and the Administrator may enforce the same against Owners. The Administrator may enter a Lot to enforce compliance of the EMA, the rules adopted thereunder, the WMP, WHMP and may impose fines for violations thereof.

4.27 Ordinances and Regulations. The standards and restrictions set forth in this Article 4 shall be the minimum required. To the extent that local governmental ordinances and regulations are more restrictive or provide for a higher or different standard, such local governmental ordinances and regulations shall prevail.

4.28 Temporary Structures. No structure of a temporary character or any trailer, tent, shack, garage, barn or other temporary outbuilding shall be used on any Lot for more than fourteen (14) consecutive days in a one-month timeframe.

4.29 Declarant Exemptions and Amendment. The Declarant shall be exempt from the application of Sections 4.12 and 4.15. After conversion of Class B membership to Class A membership, this Article may not be amended without the consent of the Declarant as long as the Declarant owns a Lot or has the right to annex Additional Property to Tanager Planned Development.

4.30 Accessory Buildings. All accessory buildings and structures shall require prior approval of the ARC. No more than two (2) accessory buildings shall be permitted on any Lot. All accessory buildings and structures shall be designed, constructed and maintained compatible with the exterior materials, character and style of the Home. The ARC may require the accessory buildings to be painted the same color as the Home. No accessory building or structure shall be located between the Home and a pond or the Home and Tumalo Creek.

4.31 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association, any managing agent retained by the Association, Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection or other security system cannot be

compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants that the Association, its Board of Directors and committees, any managing agent retained by the Association, Declarant, KC Development Group LLC and any successor Declarant are not insurers and that each person using the Property assumes all risks for loss or damage to persons, to property and to the contents of Lots resulting from acts of third parties and releases such parties from any liability therefor.

4.32 Vehicular Access and Traffic. The roads in Tanager Planned Development are governed by the EMA. The Administrator of the EMA may promulgate, administer and enforce rules and regulations governing vehicular and pedestrian traffic, including safety measures and speed limits. Vehicular and pedestrian traffic includes, but is not limited to, motor vehicles, motorcycles, dirt bikes, trailers, skateboards, recreational vehicles and ATVs. All vehicles of any kind shall be operated in a careful, prudent, safe and quiet manner so as not to be a nuisance or annoyance to other residents.

ARTICLE 5 **OPEN SPACE**

5.1 Open Space. The Open Space is Tract A on the Lakes at Tanager PUD plat. The Open Space is part of the Easement Area governed by the EMA and the Administrator thereof. The Easement Area in the EMA, however, includes additional property not part of the Open Space. The Open Space is subject to the Wildfire Mitigation Plan and the Wildlife Habitat Management Plan.

5.2 Use of Open Space. There shall be no obstruction of any part of the Open Space. No Lot Owner shall store or keep items, equipment or vehicles in the Open Space. Current land use laws require the Open Space remain as such. Provided, however, if the land use laws change, the owner of Tract A, its successors and/or assigns of the Open Space, reserves the right to sell, subdivide, and/or rezone the Open Space and/or convert it to other uses, so long as such use is lawful under all applicable county and state laws.

5.3 Maintenance of Open Space. The Administrator shall be responsible for maintenance, repair, replacement, and upkeep of the Open Space pursuant to the EMA.

5.4 Funding. The Administrator will assess each Lot Owner for his or her share of the expenses relating to the EMA as provided therein.

ARTICLE 6 **ARCHITECTURAL REVIEW COMMITTEE**

6.1 Architectural Review. No improvement 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 improvement have been submitted to and approved in writing by the ARC. This Article's purpose is to assure quality of workmanship and materials and harmony between exterior design and the existing improvements and landscaping

and as to location with respect to topography and finished grade elevations. The ARC shall not be responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the applicant's responsibility. The procedure and specific requirements for review and approval of construction shall be set forth in design guidelines and standards adopted from time to time by the ARC. The provisions of this Article shall apply in all instances in which this Declaration requires the ARC's consent.

6.2 Architectural Review Committee, Appointment and Removal. The Declarant shall act as the ARC until the earlier of (i) the Declarant no longer owns any property subject to this Declaration or that may be annexed to Tanager Planned Development; or (ii) the date of which the Declarant records an instrument in the Deschutes County deed records stating that it is transferring the ARC review to the Association. After such time, the Board shall have the right to appoint and remove members of the ARC, and each ARC member shall serve for one (1) year. After the Board has the right to appoint the members of the ARC, the ARC shall consist of no fewer than three (3) members and no more than five (5) members. The Board may appoint itself as the ARC or any of its members to the ARC. If an ARC has not been appointed, the Board shall serve as the ARC.

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

6.4 Duties. The ARC shall consider and act upon the proposals and/or plans submitted pursuant to this Article. The ARC, from time to time and at its sole discretion, may adopt architectural rules, regulations and guidelines ("Architectural Standards").

6.5 ARC Decision. The ARC shall render its written decision approving or denying each application submitted to it within forty-five (45) working days after its receipt of all materials required with respect to such application. If the ARC fails to render such written decision within forty-five (45) days of its receipt of all required materials or request an extension, the application shall be deemed approved. The ARC shall be entitled to request one or more extensions of time, not to exceed thirty (30) days. In the event of such extension requests, if the ARC does not render a written decision within the extension period, the application shall be deemed approved. Provided, however, the applicant may agree to further extensions to allow the applicant to complete or supplement the application.

6.6 ARC Discretion. The ARC, at its sole discretion, may withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the ARC intends for Tanager Planned Development. The ARC may consider siting, shape, size, color, design, height, view preservation, solar access or other effect on the enjoyment of other Lots and any other factors that it reasonably believes to be relevant in determining whether or not to consent to any proposed work.

6.7 Nonwaiver. Consent by the 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.

6.8 Appeal. After the right to appoint ARC members has been assigned to the Board, pursuant to Section 6.2, any Owner adversely impacted by action of the ARC may appeal such action to the Board. Such appealing Owner shall submit to the Board a written notice of appeal, setting forth specific objections or mitigating circumstances justifying the appeal, within ten (10) days after the ARC's action. The Board shall issue a final, conclusive decision within forty-five (45) days after receipt of such notice, and such decision shall be final and binding upon the appealing Owner and the ARC. Provided, however, the Board shall make reasonable efforts to reach a decision within twenty (20) days. If the Board is serving as the ARC, then such appeal shall be deemed a request for reconsideration.

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

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

6.11 Noncompliance. If the ARC determines that an Owner has not constructed an improvement consistent with the specifications of an ARC approval or has constructed an improvement without obtaining ARC approval, sends a notice of noncompliance to such Owner, and such Owner fails to commence diligently remedying such noncompliance in accordance with such notice, then, effective at 5 p.m. on the third (3rd) day after issuance of such notice, the 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 on which the notice of noncompliance was issued. At the hearing, if the ARC finds that there is no valid reason for the continuing noncompliance, the ARC shall determine the estimated costs of achieving compliance and may issue a fine against the noncomplying Owner for such amount. The ARC also shall require the Owner to remedy such noncompliance. If the Owner does not comply with the ARC's ruling within such period or any extension thereof granted by the ARC, at its sole discretion, the ARC may remove the noncomplying improvement, remedy the noncompliance, and/or record a notice of noncompliance in the county deed records. The costs of any such action shall be assessed against the Owner either before or after any remedial action is taken.

6.12 Liability. Neither the ARC nor any member thereof shall be liable to any person or entity for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the ARC or a member thereof, provided only that the ARC or the member has, in accordance with its or his actual knowledge, acted in good faith.

6.13 Estoppel Certificate. Within fifteen (15) working days after the ARC's receipt of a written request from an Owner and the ARC's receipt of payment of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed by the Chairperson or other authorized member of the ARC certifying with respect to any Lot owned by the Owner, that, as of the date thereof either (a) all improvements made or done upon such Lot 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 and such Owner's heirs, devisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth therein. The certificate shall be conclusive as among Declarant, the ARC, the Association, all Owners, and all persons deriving any interest through any of them.

6.14 Consultants. The ARC may retain architects, attorneys, engineers, certified fire professionals and other consultants to advise the ARC concerning any aspect of the applications and/or compliance with any appropriate architectural criteria, this Declaration or standards and the Wildfire Mitigation Plan.

6.15 Fees. The ARC may charge applicants a reasonable application fee and additional costs incurred or expected to be incurred by the ARC to retain architects, attorneys, engineers and other consultants to advise the ARC concerning any aspect of the applications and/or compliance with any appropriate architectural criteria, this Declaration or standards and the Wildfire Mitigation Plan. Such fees shall be collectible as assessments.

6.16 Declarant and Successor Declarants Exempt From ARC. The Declarant, or successor to all of the unsold Lots shall be exempt from the requirement to submit and have plans approved by the ARC.

6.17 Amendment. After conversion of Class B membership to Class A membership, this Article may not be amended without consent of Declarant as long as the Declarant or KC Development Group LLC owns any Lot or has the right to annex Additional Property to Tanager Planned Development.

ARTICLE 7

MEMBERSHIP IN THE ASSOCIATION

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

7.2 Proxy. Each Owner may cast such Owner's vote in person, by written ballot or pursuant to a proxy executed by such Owner. An Owner may not revoke a proxy given pursuant to this Section 7.2 except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without

notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

7.3 Voting Rights. The Association shall have two (2) classes of voting members:

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

7.3.2 Class B. The Class B member shall be Declarant, its successors and assigns. The Class B member shall have three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier of the following dates (the "Termination Date"):

7.3.2.1 Twenty-five (25) years after the date this Declaration is recorded;
and

7.3.2.2 At such earlier time as Declarant elects in writing to terminate Class B membership.

After the Termination Date, each Owner, including Declarant, shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots subject to this Declaration, initially or through annexation.

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

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

ARTICLE 8

DECLARANT CONTROL

8.1 Interim Board and Officers. Declarant hereby reserves administrative control of the Association. Declarant, in its sole discretion, shall have the right to appoint and remove members of an interim board (the "Interim Board"), which shall manage the affairs of the Association and be invested with all powers and rights of the Board until the Turnover Meeting (as hereinafter defined). The Interim Board shall consist of from one (1) to three (3) members. Notwithstanding the provision of this Section 8.1, 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 three (3) Directors.

8.2 Turnover Meeting. Declarant shall call a meeting for the purposes of turning over administrative control of the Association from Declarant to the Class A members within sixty (60) days of the earlier of the following dates:

8.2.1 Latest Date. Twenty-five (25) years from the date this Declaration is recorded;

8.2.2 Optional Turnover. At such time as Declarant has elected in writing to terminate Class B membership.

Declarant shall give notice of the Turnover Meeting to each Owner as provided in the Bylaws. If Declarant does not call the Turnover Meeting required under this Section, any Owner may do so. Not later than ninety (90) days after the Turnover Meeting, the Association shall provide Declarant with an estoppel certificate that (i) certifies that Declarant has satisfied all of its obligations owed to the Association, including, without limitation, any obligations arising out of or related to this Declaration, or (ii) identifies with specificity the extent to which any such obligations remain unsatisfied.

ARTICLE 9

DECLARANT'S SPECIAL RIGHTS

9.1 General. Declarant is undertaking the work of developing Lots and other improvements within Tanager Planned Development. The completion of the development work and the marketing and sale of the Lots is essential to the establishment and welfare of the Property as a community. Declarant shall have the special rights set forth in this Article 9. This Article 9 shall not be amended without the Declarant's written consent.

9.2 Marketing Rights. Declarant shall have the right to allow or maintain a sales office and model on one or more of the Lots. Declarant, Declarant's assigns 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. Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations on the Property.

9.3 Right to Receive Notice and Attend Owner and Board Meetings. The Declarant shall have the right to receive notice of and to attend all Owner meetings and all Board meetings for a period of ten (10) years following the Turnover Meeting, regardless if Declarant owns any property or Lots in Tanager Planned Development. Provided, however, Board meeting notices shall be mailed to Declarant by US Mail.

9.4 Declarant Easements. Declarant reserves easements over the Property as more fully described in Article 3 hereof. Declarant reserves the right to grant additional easements over the Lots, without the consent of the Owners.

9.5 Dedications. Declarant reserves the right to dedicate or convey any portions of the Property and/or Tract A owned by Declarant to any governmental authority, quasi-governmental entity, special district, or entity qualifying under section 501(c)(3) of the Internal Revenue Code or similar provision, from time to time, for such purposes as Declarant may deem to be

appropriate, including, without limitation, for utility stations, equipment, fixtures and lines; streets and roads; sidewalks; trails; open space for habitat, wildlife, waterfowl, fish, vegetation, wetlands or other preservation purposes; recreation facilities; schools; fire, police, security, medical and similar services; and such other purposes as Declarant and such governmental authority or quasi-governmental entity shall determine to be appropriate from time to time. Any consideration received by Declarant shall belong solely to Declarant. Any real property dedicated or conveyed shall thereafter not be subject to this Declaration including any assessments thereunder. This Section shall in no way limit Declarant's other rights with respect to property owned by it.

9.6 Additional Improvements. Declarant does not agree to build any improvements not described in this Declaration.

9.7 Size and Appearance of Tanager Planned Development. Declarant shall not be prevented from increasing or decreasing the number of Lots that exist in Tanager Planned Development or that may be annexed to Tanager Planned Development or from changing the exterior appearance of the Tract A, including the landscaping or any other matter directly or indirectly connected with Tanager Planned Development in any manner deemed desirable by Declarant, provided that the Declarant obtains governmental consents required by law.

9.8 Development. Declarant reserves the right with respect to the Property and/or Tract A to petition for and obtain rezones, property exchanges, annexations to or incorporations within any boundary or jurisdiction of exchange of properties, amendments to the development plan, licenses, permits and governmental approvals as Declarant may deem to be appropriate in connections with the then or anticipated use of the Property and/or Tract A.

9.9 Right to Subdivide. Declarant hereby expressly reserves for itself and KC Development Group LLC, the right to unilaterally subdivide any Lot or Open Space owned by it without the approval of the Association or any Owner, but subject to the approval of Deschutes County. No Owner other than the Declarant or KC Development Group LLC may subdivide a Lot.

9.10 Consent. By purchasing a Lot in Tanager Planned Development, each Owner expressly consents to Declarant's and/or KC Development Group, LLC's further development of the Property, property adjacent to Tanager, or that may be annexed to Tanager. Owners shall not appeal, oppose or object to any development, county approval process, modification of a prior approval, land use application or other state permit or approval of Declarant's or KC Development Group, LLC.

9.11 Annexation of Additional Property. Additional Property may be added to Tanager Planned Development as subsequent phases without the approval of any other Owner or the Association. Owners have no right to restrict, oppose, object or appeal such activity on any land use application required therefore. Provided, however, such Additional Property must be annexed by a Supplemental Declaration not later than twenty-five (25) years from the date the Declaration is recorded. Note, annexation of Additional Property may be subject to additional Land Use review. The annexation of such real property shall be accomplished as follows:

9.11.1 Supplemental Declaration. The owner(s) of such real property shall record a supplemental declaration which shall be executed by or bear the approval of Declarant and shall among other things, describe the real property to be annexed, establish land classifications for the Additional Property, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration, except as revised by the supplemental declaration. The owner(s) of the real property to be annexed and/or the Declarant may allow different or less uses, restrictions, covenants and limitations on said annexed property than what the Declaration provides in their sole and unfettered discretion without the approval of the Association or any Owner.

9.11.2 Annexed Property a Part of Tanager Planned Development. The property included in any such annexation shall thereby become a part of Tanager Planned Development and the Association shall accept and exercise administration of any supplemental declaration with respect to such property.

9.11.3 Voting Rights of Annexed Lots. Upon annexation, additional Lots so annexed shall be entitled to voting rights as set forth in Section 7.3.

9.11.4 Annexed Lot Owners as Members. After complying with the procedures for annexation and upon conveyance of the first Lot in the annexed phase to an Owner, Owners of Lots in the annexed phase shall be members, shall be subject to this Declaration. The Association shall reallocate the regular assessments so as to assess each Owner of a Lot in Tanager Planned Development a share of the total expenses of the Association as provided in Article 10.

9.12 Deannexation and Amendment. Declarant reserves the right, at its sole option, to (a) amend this Declaration or any supplemental declaration by executing and recording an amendment (provided that the amendment is consistent with this Article), or (b) remove from the effect of this Declaration any property described in the Declaration or supplemental declaration concerning any future phase by executing and recording a rescission of the annexation of specified Lots or Tracts to this Declaration as long as all of the following conditions are satisfied at the time of the execution and recordation of the amendment or rescission: (i) no Lot in that phase has been conveyed to an Owner; and (ii) assessments have not commenced for any Lot in the annexed property.

ARTICLE 10

FUNDS AND ASSESSMENTS

10.1 Purpose of Assessments; Expenses. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, aesthetics and welfare of the Owners and Occupants of Tanager Planned Development, for the improvement, operation and maintenance of the Common Area and the Commonly Maintained Property, if any, for the payment of obligations of the Association, for the administration and operation of the Association and for insurance.

10.2 Covenants to Pay. Each Owner covenants and agrees to pay the Association the assessments and any additional charges levied pursuant to this Declaration or the Bylaws. All assessments for operating expenses, repairs and replacement and reserves shall be allocated among the Lots and their Owners as set forth in Section 10.4.2.

10.2.1 Funds Held in Trust. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely as set forth in Section 10.1. The assessments are the property of the Association and are not refundable to Owners or Lots. Upon the sale or transfer of any Lot, the Owner's interest in such funds shall be deemed automatically transferred to the successor in interest to such Owner.

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

10.2.3 Right to Profits. Association profits, if any, shall be the property of the Association and shall be contributed to the Current Operating Account.

10.3 Basis of Assessment; Commencement of Assessments. The Declarant shall pay all common expenses of the Association until the Lots are assessed for common expenses. The amount of the initial annual assessment to Owners other than the Declarant shall be determined by the Declarant. Assessments are to be levied against all Lots whether or not such Lots have been improved with a completed Home; provided, however, the Declarant or any affiliate, corporation, company or partnership of which the Declarant holds an interest and KC Development Group LLC shall be exempt from paying any and all assessments of any type, including, but not limited to, regular, reserve or special, on all Lots owned by it. When Additional Property is annexed to Tanager Planned Development, the Lots shall be subject to assessments from the date of the recording of the supplemental declaration, except that the Declarant or any affiliate, corporation, company or partnership of which the Declarant holds an interest and KC Development Group LLC shall be exempt from paying any and all assessments of any type, including, but not limited to, regular, reserve or special, on all Lots owned by it.

10.3.1 Commencement of Operating Assessments. The date of commencement of the assessments shall be determined by the Declarant; however, in no event shall they commence later than the turnover meeting; provided, however, the Declarant or any affiliate, corporation, company or partnership of which the Declarant holds an interest and KC Development Group LLC shall be exempt from paying the operation portion of the assessment on all Lots owned by it and/or him.

10.3.2 Commencement of Reserves. Except as provided herein, the reserve portion of the assessment shall commence for each Lot from date of first conveyance of that Lot from the Declarant to a third party. The Declarant or any affiliate, corporation, company or partnership of which the Declarant holds an interest and KC Development Group LLC shall be exempt from paying the reserve portion of the assessment on all Lots owned by it and/or him.

10.4 Annual Assessments. Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. The initial assessment and the

implementation thereof shall be determined by the Declarant and shall be prorated on a monthly basis. For prospective purposes, any portion of a month shall count as a full month. Annual assessments shall be levied on a fiscal year basis. The fiscal year shall be the calendar year unless another year is adopted by vote of the Association members. Unless otherwise specified by the Board, annual assessments shall be due and payable on the first day of each calendar year during the term of this Declaration.

10.4.1 Budgeting. Regardless of the number of Members or the amount of assets of the Association, each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing: (a) estimated revenue and expenses; (b) the amount of the total cash reserves of the Association currently available; (c) an itemized estimate for the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the Common Area and Commonly Maintained Property, if any, as provided in Section 10.6.2; and (d) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves. For the first fiscal year, the budget shall be approved by the Board no later than the date on which annual assessments are scheduled to commence. Thereafter, the Board shall annually prepare and approve the budget and distribute a copy thereof to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, not less than thirty (30) days and not more than ninety (90) days prior to the beginning of the fiscal year.

10.4.2 Allocation of Assessments. Except for the exempt Lots as set forth in Section 10.3, the total amount in the budget shall be charged equally against all Lots subject to assessment. After annexation of Additional Property, the allocation and assessment of the charges in the budget shall be reallocated equally among the Lots which are subject to assessment.

10.4.3 Nonwaiver of Assessments. If before the expiration of any fiscal year the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment is fixed.

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

10.5.1 Correct Deficit. To correct a deficit in the operating budget, by vote of a majority of the Board;

10.5.2 Special Obligations of an Owner. To collect amounts due to the Association from an Owner for breach of the Owner's obligations under this Declaration, the Bylaws, or the Rules and Regulations, by vote of a majority of the Board;

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

10.6 Accounts.

10.6.1 Types of Accounts. Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a bank, which accounts shall be clearly designated as (a) the Current Operating Account and (b) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operating Account and shall deposit those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements into the Reserve Account.

10.6.2 Reserve Account. Declarant shall establish a Reserve Account, in the name of the Association, which shall be kept separate from all other funds held by the Association.

10.6.2.1 Calculation of Reserve Assessment; Reserve Study. The reserve assessment is based on the estimated remaining life and current replacement cost of Common Area and Commonly Maintained Property, if any, which normally requires major maintenance, repair or replacement, in whole or in part, within one (1) to thirty (30) years. Not less often than annually, the Board of Directors shall inventory all items of Common Area and Commonly Maintained Property, if any, and shall estimate the remaining life of each item and the current replacement cost of each of such items. The total Reserve Account assessment shall be equal to the sum of the estimated major maintenance, repair or replacement cost of each item which has an estimated life of greater than one (1) but less than thirty (30) years, divided by the estimated number of years of life for such item. The Board of Directors shall establish a thirty (30)-year plan for maintenance, repair and replacement of Common Area and Commonly Maintained Property, if any, with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair, and replacement schedule. The Board of Directors shall, within thirty (30) days after conducting the reserve study, provide to every owner a written summary of the reserve study and of any revisions to the thirty (30)-year plan adopted by the Board of Directors or the Declarant as a result of the reserve study. The reserve account assessment shall be allocated pursuant to Section 10.4.2. The Board of Directors shall annually conduct or update the reserve study and a maintenance plan.

10.6.2.2 Refunds of Assessments. Assessments paid into the Reserve Account are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers or Owners of Lots may treat their outstanding share of the Reserve Account's balance as a separate item in the sales contract providing for the conveyance of their Lot.

10.6.3 Current Operating Account. All costs other than those to be paid from the Reserve Account pursuant to Section 10.6.2 may be paid from the Current Operating Account.

10.7 Default in Payment of Assessments; Enforcement of Liens.

10.7.1 Personal Obligation. All assessments properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligations of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (that is, one other than through foreclosure or a deed in lieu of foreclosure), the grantees shall be jointly and severally

liable with the grantors for all Association assessments imposed through the recording date of the instrument effecting the conveyance. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.

10.7.2 Association Lien. The Association shall have a lien against each Lot for any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof that is delinquent. The Association's lien shall accumulate all future assessments or installments, reimbursement assessments, interest, late fees, penalties, fines, attorneys' fees (whether or not suit or action is instituted), actual administrative costs, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Recording of the Declaration constitutes record notice and perfection of the lien. Said lien may be foreclosed at any time pursuant to the Planned Community Act. The Association shall record a notice of a claim for assessments and other charges in the deed records of Deschutes County, Oregon, before any suit to foreclose may be filed. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded before the Association's notice of lien.

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

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

10.7.5 Association's Right to Rents; Receiver. In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of such Owner's Lot or shall be entitled to the appointment of a receiver.

ARTICLE 11

GENERAL PROVISIONS

11.1 Records. The Board shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board also shall keep detailed and accurate financial records, including individual assessment accounts of Owners, the balance sheet, and

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

11.2 Master Association. The Association may, pursuant to a resolution adopted by the Board, delegate any of the powers of the Association under the Planned Community Act, the Declaration and/or Bylaws to a master association and the master association may exercise such power. The Association may contract with the master association to perform any obligations or duties of the Association, the cost of which shall be charged to the Association.

11.3 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 which 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 which created said liability.

11.4 Enforcement; Attorneys' Fees. The Association and the Owners and any mortgagee holding an interest on a 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 Owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration (including without limitations, for the collection of assessments), the prevailing party shall be entitled to its actual administrative costs

incurred because of a matter or event which is the subject of the suit or action, attorneys' 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 attorneys' fees, to be set by the appellate court. In addition thereto, the Association shall be entitled to its reasonable attorneys' fees and costs incurred in any enforcement activity or to collect delinquent assessments, together with the Association's actual administrative costs, whether or not suit or action is filed.

11.5 Construction Defect Claim Procedure. No litigation shall be commenced against the Declarant or any Owner of a Lot in respect to any alleged defect in a Home except in compliance with the process set forth in ORS 701.560-701.595.

11.6 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.

11.7 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 Owners and ninety percent (90%) of the first mortgagees; provided, however, that amendments that do not constitute rescission of the planned community may be adopted as provided in Section 11.8.

11.8 Amendment. Except as otherwise provided in Section 11.7 or ORS 94.590, and the restrictions set forth elsewhere herein, this Declaration may be amended at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote. 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 Bylaws or Articles without compliance with the provisions of such documents, and the Oregon Nonprofit Corporation Act. No amendment affecting the general plan of development or any other right of Declarant herein contained may be effected without the express written consent of Declarant or its successors and assigns, including, without limitation, amendment of this Section 11.8. No amendment affecting the Easement Area may be effected without the express written consent of the parties to the EMA, their successor and assigns.

11.9 Release of Right of Control. Declarant may give up its right of control in writing at any time by notice to the Association.

11.10 Unilateral Amendment by Declarant. In addition to all other special rights of Declarant provided in this Declaration, 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.

Prior to the Turnover Meeting, no such amendment shall require notice to or approval by any Class A member.

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

- (a) Declaration;
- (b) Articles;
- (c) Bylaws;
- (d) Rules and Regulations.

IN WITNESS WHEREOF, Declarant has executed this instrument this _____ day of _____, 2020.

TANAGER DEVELOPMENT, LLC, an Oregon limited liability company

By: _____
Eric Cadwell, Manager

STATE OF OREGON)
) ss.
County of _____)

On this _____ day of _____, 2020, personally appeared before me the above-named Eric Cadwell, as the Manager of Tanager Development, LLC, an Oregon limited liability company, and that said instrument was signed in behalf of said company by authority of its members; and acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon