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**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
HENDRICKS HILL PLANNED UNIT DEVELOPMENT
EUGENE, OREGON**

This amended and restated declaration is made by Hendricks Hill Homeowners Association, an Oregon nonprofit corporation, hereinafter referred to as the Association.

RECITALS:

A The Hendricks Hill Planned Unit Development (Hendricks Hill) was created pursuant to those certain Protective Covenants, Conditions, Declarations and Restrictions for Hendricks Hill Planned Unit Development, Lane County, State of Oregon recorded with the Lane County real estate records on September 5, 1978 at Reception No. 78-60453 and rerecorded on January 31, 1979 at Reception No. 79-06059 (Original Declaration).

B. The Association has been incorporated as a nonprofit corporation under the laws of the State of Oregon for the purpose of maintaining, managing and operating Hendricks Hill.

C. The Association desires to provide for the preservation of values and amenities in Hendricks Hill and, to that end, wishes to subject the Real Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each of which is for the benefit of the Real Property, its owners and residents.

D. Pursuant to the authority provided in ORS 94.590, the Association hereby adopts the following Second Amended and Restated Declaration of Covenants and Restrictions, and declares, on behalf of itself, its successors, grantees, and assigns, as well as to any persons having, acquiring, or seeking to have or acquire any interest of any nature whatsoever in and to any part of the Real Property, as follows:

DECLARATIONS:

1. DEFINITIONS. Except as otherwise provided or modified by this Paragraph 1, the terms contained in this declaration have the meaning set forth in the Oregon Planned Community Act, ORS 94.550 et seq., and the statute and its definitions are incorporated herein. As used in this declaration and in the bylaws (the Bylaws) of the Association, the following terms have the following meanings:

1.1. "Articles" means the Articles of Incorporation for the Association, as filed with the Oregon Corporation Commissioner.

1.2. "Association" means Hendricks Hill Homeowners Association, an Oregon nonprofit corporation.

1.3. "Common Elements" means the common elements as set out in Paragraph 3.

1.4. "Dwelling" shall mean and refer to any building situated upon the Real Property designed and intended for occupancy as a residence by a single family.

1.5. "Lot" shall mean and refer to any parcel of land shown on the plat of the Real Property, except any Common Elements.

1.6. "Member" means all those Owners of Lots in Hendricks Hill who are entitled to membership in the Association as provided in Paragraph 4.1.

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

1.8. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, to include the seller of the fee simple interest in a Lot under a land sale contract, but, notwithstanding any applicable theory of a lien, mortgage or trust deed, shall not mean or refer to a lienholder, mortgagee, vendee under a land sale contract, or a beneficiary or trustee under a trust deed unless and until such lienholder, mortgagee, beneficiary or trustee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. For all purposes of the Declaration and the administration of the planned unit development, Lot ownership is determined on the basis of the records maintained by the Association. The record will be established by the Owner filing with the Association a copy of the deed to his or her Lot, to which must be affixed the certificate of the recording officer of the County of Lane, Oregon, showing the date and place of recording of the deed. No person may be recognized as an Owner

unless a copy of the deed showing him or her to be the current owner of a Lot has been filed with the Association as provided above.

1.9. "Real Property" shall mean and refer to all real property described as HENDRICKS HILL P.U.D., as platted in File #73, Slide #74 of Lane County Records.

2. PROPERTY SUBJECT TO THIS DECLARATION

2.1. PROPERTY. The Real Property is located in Eugene, Lane County, Oregon. The Real Property contains 71 Lots as shown on the plat. All of the Real Property shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions contained herein, which are for the purpose of protecting the value and desirability of, and which shall run with, the Real Property and be binding on all parties having any right, title or interest in the Real Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

2.2. NAME. The Real Property will be known as Hendricks Hill Planned Unit Development.

3. COMMON ELEMENTS.

3.1. DEFINITION. The Common Elements consist of all portions of the Real Property that are not part of a Lot, including, without limitation, the following:

- a. The land and improvements not part of a Lot;
- b. All roads; and
- c. All other elements that are normally in common use.

3.2. MAINTENANCE, REPAIR, AND REPLACEMENT OF COMMON ELEMENTS; LIABILITY FOR COMMON EXPENSE. Except as otherwise specifically provided in this declaration, the cost of maintenance, repair, and replacement of the Common Elements is a common expense, and the performance of such work is the responsibility of the Association, except that any damage caused by the negligence or intentional act of an Owner or his or her invitee, guest, tenant, or servant will be repaired by the Association at the Owner's sole cost and expense. Common expenses will be assessed and apportioned among the Owners as set forth in Paragraph 11 below.

3.3. INCOME FROM COMMON ELEMENTS. All income derived from any coin-operated vending machines and/or any other income derived from the Common Elements will be income of the Association. The Board of Directors, in its discretion, may use such income to help meet the expense of maintaining the Common Elements or for such other purpose as may benefit the Association and the Owners in a substantially equal manner.

3.4. SALE OF COMMON ELEMENTS. Except as to the grant of easements for utilities and similar or related purposes, no sale, dedication, grant of a security interest in, or transfer of the Common Elements shall be effective unless approved by 75 percent of the votes held by Owners. Any instrument of conveyance must be executed by the president and secretary of the Association, must be acknowledged in the manner provided for acknowledgment of such instruments by such officers, and must state that the grant was approved by the requisite percentage vote of the Owners.

3.5. USE OF COMMON ELEMENTS. The Common Elements may be used for furnishing services and facilities to Owners. Every Owner, subject to the terms and provisions of this declaration and the Bylaws, has an easement to enjoy and use the Common Elements in the manner for which they were intended. Additional restrictions and regulations are set forth in the Bylaws and any rules or regulations adopted pursuant to the provisions of the Bylaws.

4. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.

4.1. MEMBERSHIP. Every person or entity who is an Owner of any Lot shall be a Member of the Association.

4.2. VOTING RIGHTS. All Owners shall be entitled to one vote for each Lot owned. When more than one person is an Owner of any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, or if unable to agree, they may cast fractional votes proportionate to their ownership interest, but in no event shall more than one vote be cast with respect to any such Lot. The vote applicable to any Lot being sold under a recorded contract of purchase and sale shall be exercised by the contract vendor unless the contract expressly provides otherwise. "Majority" or "Majority of Owners" means the Owners of more than 50 percent of the voting rights allocated to the Lots by this declaration. The calling and conducting of meetings of the Association and the exercise of voting rights is controlled by Paragraphs 2. and 4. of the Bylaws.

5. OPERATION OF THE ASSOCIATION. Control of the Association shall be vested in the Members, operating through the elected board of directors. The Association and the board of directors have the powers and duties granted to them by this declaration, any applicable supplemental declaration, the Articles, the Bylaws, ORS 94.550 et. seq, and all other provisions of the Oregon Planned Community Act.

6. PERMITTED USES AND RESTRICTIONS. Each Lot shall be for the exclusive use and benefit of the Owner and residents thereof, subject, however, to all of the following limitations and restrictions:

6.1 USE AND OCCUPANCY. The Lots are to be used exclusively for residential purposes. All Dwellings are to be occupied by only one family.

6.2. GOVERNMENTAL RESTRICTIONS. All uses, occupancy, construction and other activities conducted on any Lot shall conform with and be subject to applicable zoning, use restrictions, setback requirements, construction and building codes of all local, state and federal public authorities.

6.3. COMMON ELEMENTS. No Owner shall construct or place any structure, material, planting, equipment or any object of any kind on any portion of the Common Elements, unless granted written permission by the board of directors, and then only in strict compliance with such authorization.

6.4. LIMITATION ON BUILDINGS. No more than one single-family Dwelling may be erected or constructed on any Lot. All buildings shall be constructed on-site. No Dwelling may consist of a modular home.

6.5. GARAGES. No garage shall be used for heavy commercial vehicles or construction equipment.

6.6. EXTERIOR COLORS. All exterior color selections and changes in color must be submitted to the Architectural Review Board for review and approval, first as color chips, for preliminary approval, then on a loose panel or real wall for final approval. Exterior colors must be in harmony with and blend into the natural colors found around the Dwelling and, generally, around Hendricks Hill.

6.7. CONSTRUCTION. All Dwellings or other buildings or structures must be built to plans approved prior to the start of construction by the Architectural Review Board, and shall be built of good quality materials.

6.8. LANDSCAPING. All land included within the common elements shall be maintained by a contractor hired by the Association and the expense thereof shall be a common expense which will be assessed and apportioned among the Owners as set forth in Paragraph 11 below.

6.9. SIGNS. No signs shall be erected or maintained on any Dwelling or Lot except:

- a. Such signs as may be required by law;
- b. A residential identification sign having a total face area not greater than 72 square inches;
- c. An appropriate sign of reasonable type, size and appearance advertising the Dwelling for sale or rent, but only attached to the building or free-standing, not attached to a tree.
- d. Informational and directional signs erected or maintained by the Association .

6.10. LEASING/RENTALS.

a. Each Owner shall have the right to lease or rent his or her Dwelling for any period of time, subject to full compliance with applicable laws, the Articles, this declaration, the Bylaws, and any Rules and Regulations of the Association. All such leases or rental agreements shall be in writing and shall be deemed to provide that their terms shall be subject in all respects to the provisions of this declaration, the Articles, the Bylaws and any Rules and Regulations of the Association and that any failure by the lessee or renter to comply with the provisions of such documents shall constitute a default under said lease or rental agreement. The lessee's or renter's use and enjoyment of the Common Elements under such lease or rental agreement shall be subject to suspension by the board of directors for any of the causes set forth elsewhere in this declaration, including, without limitation, the nonpayment of assessments with respect to the Lot occupied by the lessee or renter. Any such lessee or renter shall be entitled to the use and enjoyment of the Common Elements; provided, an Owner may not sever the right to the use and enjoyment of the Common Elements from the right to occupy his or her Lot and the improvements thereon by means of a lease, rental agreement or otherwise.

b. The renting of a Dwelling on a daily or weekly basis or for any other period of less than three months is prohibited. Nothing herein shall be deemed to prevent the leasing, for a minimum of three consecutive months or more, of a Dwelling from time to time by the Owner, subject to all provisions of this declaration.

6.11. TEMPORARY OCCUPANCY. No travel trailer, mobile home, camper or any other temporary building or structure shall be used for a residence, either temporarily or permanently, on any Lot or the Common Elements by any Owner or by any guest or invitee of any Owner.

6.12. TRAILERS AND TENTS. No travel trailer, motor home, heavy commercial vehicle, construction equipment, camper, permanent tent or similar structure shall be kept, placed or maintained upon any Lot, any vehicular access area or Common Element in such a manner to be visible from neighboring property. This paragraph, however, shall not apply to temporary construction facilities maintained during and used exclusively in connection with the construction of any improvements approved by the Association.

6.13. ANIMALS AND PETS. No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the Real Property, except that no more than two dogs, cats or other household pets may be kept by the residents of any Dwelling, provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health of or unreasonably disturb any resident of Hendricks Hill.

6.14 NUISANCES. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Dwelling which will or may render the same or any portion thereof unsanitary, unsightly, offensive or detrimental to any other

Dwelling, and no activity shall be conducted or maintained which is or may be offensive or detrimental to any other Dwelling in the vicinity thereof or to the occupants of any such Dwelling. The following is a non-exclusive list of conduct that violates the standards of respect for persons and property in the Hendricks Hill community, and thus constitutes a nuisance under this section:

- a. Damage, destruction, theft, or unauthorized use of property belonging to others or located upon the Common Elements;
- b. Disorderly conduct (including that resulting from the use of alcohol or illegal drugs);
- c. Unreasonable noise;
- d. Conduct that results in unreasonable annoyance;
- e. Failure to comply with the reasonable directions of public safety authorities;
- f. Discharge of a firearm on or about the real property constituting the Hendricks Hill Planned Unit Development;
- g. Unauthorized possession, use, or threatened use of dangerous chemical or biological substances or explosives;
- h. Engaging in conduct that constitutes a significant fire hazard;
- 1. Prohibited alcohol use, which includes:
 - 1. Possession or consumption of alcohol by anyone under 21 years of age;
 - 2. Furnishing of alcohol to a person under 21 years of age; or
 - 3. Consumption of an alcoholic beverage upon the Common Elements, except in connection with a social gathering authorized in advance by the Board of Directors;
- J. Prohibited drug use, which includes the possession, manufacture, processing, sale, distribution, or cultivation of a drug, including but not limited to marijuana or narcotics, except as expressly permitted by law; and
- k. Lewd or indecent conduct, including public exposure of genitalia.

6.15. RESTRICTIONS ON FURTHER DIVISIONS. No Lot shall be further subdivided or partitioned. No portion of any Lot shall be conveyed by any Owner without the prior written approval of the Association.

6.16. PARKING. No overnight on-street parking shall be allowed except in parking areas specifically designated by the Association.

6.17. IMPROVEMENTS AND ALTERATIONS. No Dwelling, or other building or structure, or additions thereto, or exterior remodeling thereof, or fences, driveways or other paved areas shall be erected and placed or allowed to stand on any Lot until the size, locations, plans, specifications and color scheme have been approved in writing by the Architectural Review Board. No loam, sand, gravel or other soil material, or native plant material shall be removed from any Lot, except from construction permitted and approved by the Architectural Review Board. The construction of any approved structure, once begun, shall be carried forward to completion with reasonable diligence. Temporary buildings or structures used during the construction of a Dwelling shall be removed immediately after the completion of construction. Completion of construction shall be deemed to be the date on which a certificate of occupancy is issued by the City of Eugene.

6.18. WATER AND SEWER SYSTEM. The Lots are serviced with city water and sewer; therefore, no private wells or septic systems are allowed.

6.19. LIGHTING. All exterior lamps shall be attached to a Dwelling no higher than the eaves, except for standard lampposts and walkway lamps. Light from any exterior lamp shall be directed downward so as to not unreasonably disturb the Owner of any other Dwelling.

6.20. ANTENNAS. No external television, satellite dishes, radio or other antennae or clotheslines or other similar structures may be erected in any location; provided, however, that digital satellite dishes with a circumference of 20" or less shall be permitted provided they are attached to a portion of the Dwelling not facing any street in a location approved by the Association. Nothing contained herein shall be construed as prohibiting an Owner from erecting an antenna if such prohibition would be in violation of applicable state or federal law.

6.21. VEHICLES. No vehicle other than those designated or used primarily for the transportation of nine or fewer persons shall be stored or parked on any Lot. For the purpose of this paragraph, panel trucks and pickup trucks of not more than three-quarter ton capacity shall be deemed to be designated and used primarily for the transportation of persons, provided that no more than one such truck shall be parked or stored on any Lot at a given time. Nothing in this paragraph shall be construed as prohibiting the temporary presence of delivery trucks, moving vans and the like on any Lot while actually making a pickup or delivery thereon.

6.22. BUSINESS ACTIVITIES. No business activities of any nature shall be conducted on any Lot except those approved in writing by the Association. No Lot shall be used for the public display or sale of goods, wares or merchandise of any kind, including those made on the Lot. No advertising signs shall be displayed on any Dwelling, except a small professional nameplate may be attached to the Dwelling having a total face area not greater than 72 square inches. Nothing in this paragraph, or in these restrictions generally, shall be interpreted as precluding the rendering of professional services on any Lot.

6.23. SPEED LIMIT. The speed limit on all roads is 15 miles per hour.

6.24. OFF ROAD VEHICLES. No off-road vehicles, dirt bikes or all-terrain vehicles shall operate within the Real Property, except for licensed vehicles operated solely on streets.

6.25. BURNING. No outside burning shall be allowed, except for barbeques.

6.26. WAIVING OF RESTRICTION. The Association shall have the right, in its absolute discretion, to waive any of the foregoing conditions or restrictions upon being shown that the same is unreasonable and unfeasible, as applied to any particular Lot or Lots.

6.27. RIGHT OF INGRESS AND EGRESS. Each Owner has a perpetual right of ingress and egress to and from the Owner's Lot. This right passes to all successors in interest to the Lot when the Lot is transferred voluntarily, involuntarily, or by operation of law. Any attempt to transfer voluntarily or involuntarily any Common Element ownership interest separately from the transfer of the Lot to which such interest pertains will be void.

6.28. DRAINAGE. No Owner shall in any way interfere with the established drainage over the Owner's Lot and each Owner will make adequate provisions for property drainage for the benefit of all affected Lots. For the purpose hereof, "established drainage" is defined as the drainage which occurred at the time the overall grading of Hendricks Hill was first completed.

7. PARTY WALLS.

7.1. GENERAL RULES OF LAW TO APPLY. Each wall that is built as a part of the original construction of a Dwelling on a Lot and placed on or immediately adjacent to the dividing line between the Lots owned by different persons shall constitute a party wall, and, to the extent not inconsistent with the provisions of this paragraph, the general rules of law regarding party walls and liability for property damage due to negligence of willful acts or omissions shall apply thereto.

7.2. SHARING OF REPAIR AND MAINTENANCE. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners whose Lots abut such wall.

7.3. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, an Owner who has used the wall may restore it and, if the other Owners thereafter made use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, the right of any such Owners to call for a larger contribution from the others

under any rule of law regarding liability for negligent or willful acts or omissions. The word "use" as referred to herein means ownership of a Dwelling or other structure which incorporates such wall or any part thereof.

7.4. WEATHERPROOFING. Notwithstanding any other provision of this paragraph, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

7.5. RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this paragraph shall be appurtenant to the land and shall pass to such Owner's successors in title.

7.6. ARBITRATION. Any dispute concerning a party wall or any provisions of this paragraph shall be arbitrated. Each party shall choose one arbitrator and such arbitrators shall choose an additional arbitrator, and the decision shall be by a majority of all the arbitrators.

7.7. ENCROACHMENTS. If any portion of a party wall or other part of a building or structure now or hereafter constructed upon a Lot encroaches upon any part of the Common Areas or upon the Lot or Lots used or designated for use by another Lot owner, an easement for the encroachment and for the maintenance of same is granted and reserved and shall exist, and be binding upon all present and future owners of any part of said property for the benefit of the present and future owners of such encroaching building or structure for the purpose of occupying and maintaining the same. In the event a structure consisting of more than one Dwelling becomes partially or totally destroyed or in need of repair or replacement, mutual and reciprocal easements are granted and reserved upon the Common Elements and in and upon each Dwelling and Lot for the benefit of the Association and the adjacent property owners to the extent reasonably necessary or advisable to make repairs or replacements, and minor encroachments resulting from any such repairs and/or replacements and the maintenance thereof are hereby granted and reserved for the benefit of the present and future Owners thereof. The easements for encroachment herein granted and reserved shall run with the land.

8. BYLAWS; ASSOCIATION; MANAGEMENT.

8.1. ADOPTION OF BYLAWS. The Association hereby adopts the Bylaws attached hereto as Exhibit A to govern the administration of the Association. The Bylaws shall be effective on the execution and recording of this declaration.

8.2. ASSOCIATION; MEMBERSHIP. The name of the Association shall be Hendricks Hill Homeowners Association. Each Owner of a Lot shall be a member of the Association, and membership is limited to Owners only. The Association serves as a means through which the Owners may take action with regard to the administration, management, and operation of Hendricks Hill. The Association will be an Oregon nonprofit corporation. The Association will operate under the name Hendricks Hill Homeowners Association.

8.3. MANAGEMENT; BOARD OF DIRECTORS. The affairs of the Association shall be governed by a board of directors as provided in the Bylaws. The board of directors shall elect officers consisting of a president, vice president, secretary, and treasurer, and such other officers as the board of directors deems prudent or convenient. Pursuant to the provisions of the Bylaws and the Oregon Planned Community Act, the board of directors may adopt administrative rules and regulations governing details of the operation, maintenance, and use of Hendricks Hill. The board of directors may contract with a professional manager or management firm to manage some or all of the affairs of the Association

9. MAINTENANCE AND REPAIR.

9.1. OWNER'S DUTY TO MAINTAIN. Every Owner must perform promptly all maintenance and repair work that is needed within his or her own Lot and Dwelling, to prevent any negative effect on other Lots or the Common Elements, and every Owner shall be responsible for the damages and liabilities that his or her failure to maintain and repair may cause.

9.2. REIMBURSEMENT OF ASSOCIATION. An Owner must reimburse the Association for any expenditures incurred in repairing or replacing any Common Elements that were damaged through the Owner's fault and that is not otherwise covered 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 is deemed to be the primary coverage.

10. ARCHITECTURAL CONTROL.

10.1. COMPOSITION. The Board of Directors shall serve also as an Architectural Review Board. A quorum for the Architectural Review Board action shall be a majority of its members.

10.2. DUTIES. It shall be the duty of the Architectural Review Board to regulate the external design, appearance, location and maintenance of all the Real Property and of improvements thereon, whether on a Lot or Common Element, and to regulate use of such Real Property as described in this Declaration. The Architectural Review Board may adopt general rules to implement the purposes and interpret the covenants of this paragraph, including, but not limited to, rules not less restrictive than those contained in this Declaration to assess fees for review and approval of plans and specifications, regulate animals and tenants, storage and use of recreational vehicles, storage and use of machinery, use of outdoor drying lines, trash containers, planting, maintenance and removal of vegetation on the Real Property.

10.3. APPROVAL REQUIRED. No outbuilding, fence, paved area, wall or other structure of any type shall be commenced, erected or maintained upon a Lot or Common Element, nor shall any exterior addition to, change in, painting or staining of, or alteration to any Dwelling, outbuilding, fence, paved area, wall or other structure on a Lot or Common Element of any type be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Architectural Review Board as to the harmony of external design, materials, color and location in relation to surrounding structures and topography.

10.4. PROCEDURE. An Owner wishing to take any action requiring approval under this paragraph 10 shall give notice of such proposed action to the Architectural Review Board, together with complete plans and specifications therefor. The Architectural Review Board shall meet to review the Owner's request within 30 days of receipt and shall render a decision by the vote of a majority of board members present within 45 days of receipt. At its sole option and discretion, the Architectural Review Board may have such plans and specifications reviewed by a professional engineer and/or architect. In such an event, the Owner submitting the plans and specifications shall be liable for any and all professional review fees and expenses. Interested Owners shall have an opportunity to comment on the request at all such meetings, which shall be open to all Owners. If the Architectural Review Board fails to render a written decision within the time allowed, the request shall be deemed to be approved.

10.5. APPEAL. The decision of the Architectural Review Board under this paragraph (including any failure to approve or disapprove within the time allowed) shall be subject to appeal by any interested Owner as set forth in this paragraph. Upon the payment of a reasonable fee established by the Architectural Review Board to cover administrative costs, any interested Owner may appeal the decision of the Architectural Review Board to the Association members. The appeal shall be made in writing and shall be filed with the Secretary of the Association within 30 days of the decision of the Architectural Review Board. The board of directors shall call a special meeting to be held after 10 days' notice and within 30 days after the appeal has been filed with the Secretary of the Association. It shall require a vote of at least a majority of the votes of the Members to reverse or modify the decision of the Architectural Review Board.

10.6. EXEMPTIONS. The following actions shall be exempt from the provisions of this paragraph: the planting of any shrubs, flowers or other plants by any Owner on such Owner's Lot.

10.7. DELEGATION. The Board of Directors may delegate the duties of the Architectural Review Board to a committee appointed by the Board composed of not less than three Owners.

11. COVENANT

11.1. CREATION OF LIEN. Each Owner covenants and agrees to pay to the Association:

a. Annual assessments and charges for common expenses for the operation of the Association, including, but not limited to, insurance for the Association and Common Elements, and real and personal property taxes on the Common Elements;

b. Special assessments for capital improvements.

The assessments, together with interest thereon and the cost of collection thereof, shall be a charge on and a continuing lien upon the property upon which the assessment is made. Each such assessment, together with interest and the cost of collection, shall also be the personal obligation of the person who is the Owner of the Lot at the time when the assessment fell due.

11.2. LIMITED PURPOSE. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of Hendricks Hill and, in particular, for the maintenance of the roads.

11.3. DETERMINATION. The annual assessment shall be determined and assessed as provided in the Bylaws, and shall be in an amount based on the annual operating expenses of the Association, including, but not limited to, insurance for the Association and the Common Elements, and an amount to be set aside as a reserve account.

11.4. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments shall be subordinated to the lien of any Mortgage or Mortgages now or hereafter placed upon the Lots. Provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

11.5. EXEMPT PROPERTY. The following property subject to this declaration shall be exempted from the assessments, charges and liens created herein:

a. All Real Property expressly dedicated to and accepted by a local public authority and devoted to public use;

b. All Common Elements;

c. All other properties owned by the Association.

Notwithstanding any provision herein, no land or improvements devoted to residential use shall be exempt from assessments.

12. MORTGAGE HOLDER.

12.1. NOTICE OF ACTION. On the written request of a Mortgage Holder to the Association, identifying the name and address of the person and the Lot number or address of the Lot on which a Mortgage has been placed, the Mortgage Holder is entitled to timely notice of the following:

- a. Any condemnation loss or casualty loss that affects either a material portion of the Real Property or any Lot securing its Mortgage;
- b. Any 30-day delinquency in the payment of assessments or charges owed by an Owner on any Lot on which it holds a Mortgage;
- c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- d. Any proposed action that would require the consent of a specified percentage of eligible Mortgage Holders.

12.2. PRIOR CONSENT OF MORTGAGE HOLDERS. The termination of the status of the Real Property as a planned community shall require the prior written consent of all Mortgage Holders.

13. RESERVE ITEMS.

13.1. COMMON ELEMENT RESERVE ACCOUNT.

a. A reserve account must be established for the purpose of effecting any and all necessary repairs and replacements of the Common Elements of Hendricks Hill that will normally require replacement in more than three years and less than 30 years. The reserve accounts for replacement shall be funded by assessment against the same Lots that are assessed for the maintenance of the items for which the reserve account is established. Accordingly, the reserve account for replacement of those Common Elements, the maintenance of which is provided by assessment against all Owners, must be created by assessment against all Owners. The board of directors must prepare a schedule of the Common Elements having a remaining useful life of more than three and less than 30 years, together with the current replacement cost of such Common Elements. The amount of the periodic payments to the reserve account must be adjusted at regular intervals to recognize changes in remaining useful lives and replacement costs over time. Except as otherwise provided in the Oregon Planned Community Act, the reserve account must be used only for replacement of Common Elements and must be kept separate from accounts for maintenance.

b. The Board of Directors annually shall conduct a reserve study, or review and update an existing study, of the Common Elements to determine the reserve account requirements.

13.2. GENERAL OPERATING RESERVE. The board of directors shall create and maintain a general operating reserve account by allocation and payment thereto monthly of an amount determined by the board of directors. This account may be used to pay expenses that exceed budgeted amounts.

13.3. SPECIAL RESERVES. Such other special reserve funds may be set up by the Directors by special assessments of the Owners who benefit thereby as may be required by the Declaration or otherwise determined by the Association to be appropriate.

13.4. DEPOSIT OF RESERVE ACCOUNTS. Each reserve account must be kept in an account with a safe and responsible depository, must be accounted for separately and, if invested, the obligation or security must 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 here prevents sellers of Lots from treating their outstanding allocable share of reserve accounts as a separate or reimbursable item in a sales agreement. No Owner has any individual right in any of these reserves, although it is understood that the value of their respective Lots may increase in proportion to each Lot's right to receive repair, maintenance, and replacement there from.

14. GENERAL PROVISIONS

14.1. AMENDMENT. This declaration may be amended at any time by a properly recorded instrument executed by each member of the board of directors of the Association, certifying that the amendment was approved by a vote of three-quarters of the votes of the entire membership or their proxy at a meeting of the Association for which written notice of the proposed amendment had been sent to every Owner at least 30 but not more than 50 days prior to the meeting at which the amendment was adopted. Unless the amendment specifies otherwise, any amendment shall be effective upon recordation.

14.2. NOTICES. Any notice required to be sent to any Member or Owner under the provisions of this declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

14.3. RIGHTS-OF-WAY, LICENSES, AND OTHER SIMILAR INTERESTS/ENCROACHMENTS.

a. ENCROACHMENTS. There is an easement for any encroachment of the Common Elements on any Lot or an encroachment of any Dwelling

on the Common Elements or another Lot arising from the original construction, reconstruction, authorized repair, shifting, settling, or other movement of any portion of the Hendricks Hill improvements. Such easements exist indefinitely and may be terminated only by the voluntary act of the party who benefits from the easement.

b. EASEMENTS.

(1) An easement is reserved to the Association in and through any Lot and the Common Elements for the purpose of access at reasonable times and with reasonable notice for purposes of maintenance, repair and replacement of the Common Elements.

(2) The Association hereby reserves a blanket easement with respect to all Lots and the Common Elements for the purpose of maintaining, repairing and replacing electric and telephone lines, gas, water, sewer, storm drainage lines, radio and television cables and other services now or hereafter commonly supplied by public utilities or municipal corporations.

(3) The Association reserves a mutual and reciprocal easement for sidewalks over and across the front 10 feet of each Lot and over all Common Elements, for the purpose of constructing, maintaining and repairing sidewalks for the benefit of the Owners, their tenants and guests, subject, however, to rules and regulations reasonably restricting the right of use thereof for the safety and welfare of the public as may be promulgated from time to time by the Association and/or public authority. A corner Lot shall be considered to have two front sides for purposes of this sidewalk easement.

14.4. ASSOCIATION RIGHT OF ENTRY. In case of an emergency originating in or threatening his or her Dwelling and/or Lot, an Owner grants the right of entry to any person authorized by the board of directors or the Association, whether the Owner is present at the time or not.

14.5. ENFORCEMENT. Enforcement of this declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lot to enforce any lien created by this declaration. Failure by the Association or any Owner to enforce any covenant or restriction shall not be deemed a waiver of the right to do so thereafter.

14.6. INTERPRETATION. The rights and obligations of all members of the Association and any person dealing with the Association or any of its members with respect to matters pertaining to this declaration, the Articles, any supplemental declaration, or the Bylaws must be interpreted in accordance with and governed by the laws of the State of Oregon.

14.7. **WAIVER OF RIGHTS.** The failure of the Association, the board of directors, an officer, or an Owner to enforce any right, provision, covenant or condition provided in this declaration, any supplemental declaration, the Articles, or the Bylaws does not constitute a waiver of the right of any such party to enforce the right, provision, covenant, or condition in the future.

14.8. **LEGAL PROCEEDINGS.** Failure to comply with any of the terms of this declaration, any supplemental declaration, the Articles, the Bylaws and any rules or regulations adopted thereunder is grounds for relief, which may include, without limitation, fining the noncomplying Owner, bringing an action to recover money due, damages or a suit for injunctive relief, or an action to foreclose a lien, or any combination. Relief may be sought by the Association, the board of directors, an officer, a professional manager or management firm, or, if appropriate, by an aggrieved Owner.

14.9. **COSTS AND ATTORNEY FEES.** In any proceeding arising because of an alleged failure of an Owner to comply with the terms and provisions of this declaration, the Bylaws, the Articles, rules and regulations adopted under the Bylaws, or the Oregon Planned Community Act, the prevailing party is entitled to recover the cost of the proceedings and such reasonable attorney fees as may be determined by the trial court in any trial or by the appellate court in any appeal. In addition, the Association is entitled to recover costs and attorney fees incurred by it to collect delinquent assessments or fines, or to enforce the terms of this declaration, supplemental declaration, Articles, Bylaws or any rules or regulations promulgated thereunder whether or not any collection or foreclosure action or suit is filed.

14.10. **SEVERABILITY.** Invalidation of any one of the provisions contained herein by judgment or court order shall in no way affect the validity or enforceability of any other provision of this declaration, and such other provisions shall remain in full force and effect.

14.11. **COMPLIANCE.** Each Owner must comply with the provisions of this declaration, any supplemental declaration, the Articles, and the Bylaws, and with the administrative rules and regulations adopted thereunder, and with all other applicable covenants, conditions, and restrictions of record. Failure to comply will be grounds for suit or action, maintainable by the Association or any Owner in addition to other sanctions that may be provided in the Bylaws or in any existing administrative rules and regulations.

14.12. **DURATION.** This Declaration shall run with and bind the Real Property and each of the Lots affected and shall control the use of the Real Property and Lots for a period of twenty-five (25) years from the date this declaration is recorded, after which time the covenants, conditions and restrictions contained in this declaration shall automatically be extended for successive periods of ten (10) years, unless rescinded by vote of at least ninety percent (90%) of the Owners and all of the Mortgage Holders.

14.13. CONFLICTING PROVISIONS. This declaration is intended to comply with the provisions of the Oregon Planned Community Act, which provisions are incorporated herein. If any of the provisions here conflict with the provisions of the statutes, the statutory provisions apply. If a conflict arises between or among the provisions of this declaration, the Articles, the Bylaws, and any administrative rules and regulations, the provisions of this declaration must be paramount to those of the Articles, the Bylaws, and the rules and regulations, and the Articles will be paramount to the Bylaws and the rules and regulations, and those of the Bylaws will be paramount to the rules and regulations. For purposes of this Paragraph 14.13., the term "declaration" includes all amendments to this declaration and supplemental declarations, and the term "Bylaws" includes all amendments to the Bylaws.

14.14. 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 and feminine shall be taken to mean and to include 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.

CERTIFICATION

The undersigned certify:

- The foregoing Second Amended and Restated Declaration of Covenants and Restrictions for Hendricks Hill Planned Unit Development incorporate all adopted amendments previously in effect and no other changes have been made except, if applicable, to correct scrivener's errors or to conform format and style;
- The Board of Directors has adopted a resolution in accordance with ORS 94.590(6) to cause the Declaration of Covenants and Restrictions for Hendricks Hill Planned Unit Development to be restated and recorded under that subsection;
- The recording information from the Lane County Real Property Records, in Lane County, Oregon, relating to the original Declaration of Covenants and Restrictions for Hendricks Hill Planned Unit Development and all subsequent recorded amendments that are in effect and are hereby codified is as follows:
 - o Original Declaration of Covenants and Restrictions for Hendricks Hill Planned Unit Development: Recorded September 5, 1978, Reception No. 78-60453 and rerecorded on January 31, 1979 at Reception No. 79-06059
 - o Amendments adopted and incorporated into Amended and Restated Declaration of Covenants and Restrictions for Hendricks Hill Planned Unit Development: Recorded August 16, 2005, at Reception No. 2005-063918
 - o Amendments: Recorded October 11, 2011, at Reception No. 2011-045747

On a motion made, seconded and passed, the Board of Directors authorized and directed the President and Secretary of the Association to sign and record this Second Amended and Restated Declaration of Covenants and Restrictions for Hendricks Hill Planned Unit Development, Eugene, Lane County, State of Oregon.

HENDRICKS HILL HOMEOWNERS ASSOCIATION

By: Kelley S. Borgman
Kelley Borgman, President

By: Barbara Dewey
Barbara Dewey, Secretary

STATE OF OREGON)
) ss.
COUNTY OF LANE)

This instrument was acknowledged before me on Sept. 30, 2011, by KELLEY BORGMAN as President of Hendricks Hill Homeowners Association, an Oregon nonprofit corporation.

Rinda L Keaton
Notary Public for Oregon

STATE OF OREGON)
) ss.
COUNTY OF LANE)



This instrument was acknowledged before me on Oct 3, 2011, by BARBARA DEWEY as Secretary of Hendricks Hill Homeowners Association, an Oregon nonprofit corporation.

Rinda L Keaton
Notary Public for Oregon

