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Running Y Ranch Resort
Owners Association
5391 Running Y Road
Klamath Falls, OR 97601

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Klamath County, Oregon



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**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
RUNNING Y RANCH RESORT**

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**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
RUNNING Y RANCH RESORT**

**THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR RUNNING Y RANCH RESORT,**
(this "Declaration") to be effective upon its recording in the Deed Records of Klamath
County, Oregon is made and executed this 29 day of May, 2018, by **RUNNING
Y RANCH RESORT OWNERS ASSOCIATION**, an Oregon nonprofit corporation, and
RUNNING Y RANCH DEVELOPMENT, LLC, an Oregon limited liability company.

RECITALS:

A. Running Y Resort, Inc. was the declarant under that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort dated August 2, 1996 and recorded August 2, 1996 in the Deed Records of Klamath County, Oregon in Volume 1996 at Page 23548 (as the same has been amended from time to time, the "Original Declaration").

B. Running Y Ranch Development, LLC ("Declarant"), as successor to Running Y Resort, Inc., owns or owned approximately 3,540 acres within Klamath County, Oregon, adjacent to Klamath Lake. Declarant has developed or proposes to develop portions of such property, together with other property that may subsequently be acquired by Declarant, as a Class I planned community under the Oregon Planned Community Act, ORS 94.550 to 94.783, to be known as "**Running Y Ranch Resort**" pursuant to a Master Plan approved by Klamath County, Oregon. Declarant reserves the right to amend such Master Plan, subject to any approvals required by Klamath County, Oregon.

C. Purchasers of property within Running Y Ranch Resort hereby consent to the Master Plan for Running Y Ranch Resort, as the same may hereafter be amended. By adoption of such Master Plan and this Declaration, Declarant is not committing itself to take any action for which definite provision is not made below. One who acquires property in Running Y Ranch Resort will have the advantage of any further development of Running Y Ranch Resort, but shall not have any legal right to insist that there be development except as provided in this instrument or in the instruments which heretofore have been, or hereafter may be, recorded annexing areas to Running Y Ranch Resort and subjecting areas to this Declaration.

D. Running Y Ranch Resort currently includes, and may include in the future, a variety of different types of development parcels. For example, residential parcels within Running Y Ranch Resort may include single-family lots, townhouses, zero lot line or other common wall type structures, condominiums, fractional ownership dwellings, or timeshare interests. Recreation facilities may include facilities that are common areas for Running Y Ranch Resort and available only for use by Running Y Ranch Resort owners. Other recreation facilities, including one or more golf courses, may be privately owned by Declarant or third parties and available for use by the public. Finally, Running Y Ranch Resort may include one or more commercial developments; all in accordance with the Master Plan, as the same may hereafter be amended.

E. Declarant, or its predecessor, recorded the plat of Running Y Resort, Phase 1, in the Plat Records of Klamath County, Oregon. Declarant, or its predecessor, subjected the property described in such plat, except Lots 83 through 95 thereof, Running Y Road, Coopers Hawk Road and Osprey Lane, as shown thereon, to the conditions, restrictions, charges and

easements set forth in the Original Declaration for the benefit of such property and its present and subsequent owners, and established such property as the first phase of Running Y Ranch Resort and as a separate Neighborhood within Running Y Ranch Resort known as "**Ridge View Homesites.**" Additional areas and Neighborhoods were annexed to Running Y Ranch Resort and made subject to the Original Declaration by the Supplemental Declarations listed in the attached Exhibit A and more areas and Neighborhoods may be annexed in accordance with the provisions set forth in this Declaration.

NOW, THEREFORE, the Association and Declarant hereby declare that this Declaration shall supersede and replace the Original Declaration in its entirety and that the property described in the Plat of Running Y Resort, Phase 1 (except Lots 83 through 95 thereof, Running Y Road and Coopers Hawk Road and Osprey Lane as shown thereon) and all other property annexed to Running Y Ranch Resort pursuant to the Supplemental Declarations listed in the attached Exhibit A shall be held, sold and conveyed subject to the following easements, covenants, restrictions and charges, which will run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

ARTICLE 1.

DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 "**Additional Property**" means any land, whether or not owned by Declarant, which was made subject to the Original Declaration pursuant to the Supplemental Declarations listed in the attached Exhibit A or which is hereafter made subject to this Declaration as provided in Section 2.2 below.

1.2 "**Architectural Review Committee**" or the "**Committee**" means the committee appointed pursuant to Article 8 hereof.

1.3 "**Assessment Unit**" means a factor assigned to each Lot in accordance with Section 11.3 below for the purposes of determining such Lot's pro rata share of Annual Assessments, Special Assessments, Limited Common Area Assessments and Emergency Assessments.

1.4 "**Assessments**" means all assessments and other charges, fines and fees imposed by the Association on an Owner in accordance with this Declaration, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, Limited Common Area Assessments and Individual Assessments as described in Article 11.3 below.

1.5 "**Association**" means Running Y Ranch Resort Owners Association, an Oregon nonprofit corporation, formed to serve as the owners association as provided in Article 9 below, and its successors and assigns.

1.6 "**Bylaws**" means the Amended and Restated Bylaws of Running Y Ranch Resort Owners Association, a copy of which is attached hereto as Exhibit B, as the same may be amended from time to time in accordance with the provisions thereof.

1.7 "**Commercial Lot**" and "**Commercial Living Unit**" mean, respectively, any Lot or Living Unit used for nonresidential, commercial purposes, including, without limitation, rental apartment and hotel, motel or lodge-type projects and retail, restaurant, lounge or recreational uses, and designated as such in the Declaration annexing such Lot to Running Y Ranch Resort.

1.8 "**Commercial Neighborhood**" means any Neighborhood consisting of one or more Commercial Lots or Commercial Living Units.

1.9 "**Common Areas**" means those private ways, lots or tracts designated as such on any plat of the Property, or in this Declaration or any declaration annexing Additional Property to Running Y Ranch Resort, including any Improvements thereon, and shall also include Common Easement Areas, Limited Common Areas and any Lots converted to Common Areas as provided in Section 3.3 below.

1.10 "**Common Easement Areas**" means those easements established for the benefit of all property within Running Y Ranch Resort pursuant to any plat or declaration annexing additional property to Running Y Ranch Resort.

1.11 "**Condominium**" means any property submitted to the Oregon Condominium Act in the manner provided by ORS Chapter 100 or its successors.

1.12 "**Declarant**" means Running Y Ranch Development, LLC, an Oregon limited liability company, as successor to Running Y Resort, Inc., an Oregon corporation, and its successors and assigns if such successor or assignee should acquire Declarant's interest in the remainder of the proposed development, or less than all of such property if a recorded instrument executed by Declarant assigns to the transferee all of Declarant's rights under this Declaration.

1.13 "**Golf Course**" means any golf course or courses within or adjacent to the Resort.

1.14 "**Golf Course Owner**" means the person or entity operating or owning any Golf Course. In the event there is more than one operator or owner, the term shall mean all such operators and owners.

1.15 "**Improvement**" means every structure or improvement of any kind, including, but not limited to a fence, wall, driveway, swimming pool, storage shelter or other product of construction efforts on or in respect to the Property.

1.16 "**Initial Development**" means the real property referred to in Section 2.1 below.

1.17 "**Limited Common Areas**" means those Common Areas for the exclusive use of certain Lots as designated in this Declaration or the declaration annexing property to Running Y Ranch Resort, and shall include Neighborhood Common Areas in Neighborhoods that do not have an Association.

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

1.19 "**Lot**" means a platted or partitioned lot, tract or Condominium unit within the Property, with the exception of any tract or lot marked on a plat of the Property as being common or open space or so designated in this Declaration or the declaration annexing such property to Running Y Ranch Resort. Lot does not include Common Areas, Neighborhood Common Areas or Public Areas.

1.20 "**Master Plan**" means the Master Plan of Running Y Ranch Resort approved by Klamath County, Oregon, as the same may hereafter be amended.

1.21 "**Mortgage**" means a mortgage or a trust deed; "**mortgagee**" means a mortgagee or a beneficiary of a trust deed; and "**mortgagor**" means a mortgagor or a grantor of a trust deed.

1.22 "**Neighborhood**" means any separately designated and developed area constructed upon a portion of the Property and comprised of discrete types of development or use, including, without limitation, the following types of uses:

- (a) A Condominium project;
- (b) A timeshare or fractional interest project;
- (c) A hotel, motel, lodge or similar building or group of buildings;
- (d) An apartment or residential rental building or group of buildings;
- (e) A residential development of single-family detached houses;
- (f) Residential development of multi-plex, townhomes or zero lot line homes;
- (g) A commercial development of any kind, including retail, restaurant, lounge or recreational uses; or
- (h) Any other separately designated area within Running Y Ranch Resort devoted to a discrete purpose.

Any such Neighborhood shall be designated as a Neighborhood in the Neighborhood Declaration, this Declaration or the declaration annexing such portion of the Property to Running Y Ranch Resort. Any portion of the Property previously designated as a "Project" in any one of the Supplemental Declarations listed in the attached Exhibit A shall constitute a Neighborhood under this Declaration.

1.23 "**Neighborhood Assessments**" mean assessments levied pursuant to a specific Neighborhood Declaration.

1.24 "**Neighborhood Association**" means any association established for a specific Neighborhood pursuant to a Neighborhood Declaration.

1.25 "**Neighborhood Committee**" means a committee appointed or elected for a Neighborhood pursuant to Section 9.14 below.

1.26 "**Neighborhood Common Area**" means the area within a Neighborhood restricted in whole or in part to common use primarily by or for the benefit of the Owners

within the Neighborhood and their families, tenants, employees, guests and invitees. Any portion of the Property previously designated as a "Project Common Area" in any one of the Supplemental Declarations listed in the attached Exhibit A shall constitute a Neighborhood Common Area under this Declaration.

1.27 "**Neighborhood Declaration**" means a declaration of easements, covenants, conditions and restrictions establishing a plan of Condominium ownership or townhouse ownership, fractional ownership, timeshare ownership or otherwise imposing a unified development scheme on a particular Neighborhood.

1.28 "**Neighborhood Parcel**" means the portion of the Resort upon which a Neighborhood is located, as indicated, if appropriate, on the plat relating to the Neighborhood and as designated in the Neighborhood Declaration. Any portion of the Property previously designated as a "Project Parcel" shall constitute a Neighborhood Parcel under this Declaration.

1.29 "**Original Declaration**" means the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort dated August 2, 1996 and recorded August 2, 1996 in the Deed Records of Klamath County, Oregon in Volume 1996 at Page 23548.

1.30 "**Owner**" means the person or persons, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.31 "**Policies and Procedures**" means those policies, procedures, rules and regulations adopted by the Association pursuant to the authority granted in this Declaration, as the same may be amended from time to time.

1.32 "**Public Areas**" mean areas dedicated to the public or established for public use in any plat of the Property, or so designated in this Declaration or the Declaration annexing such property to Running Y Ranch Resort.

1.33 "**Recreational Facilities**" means recreational facilities or amenities owned by Declarant or any third party and located on the Property from time to time, including, but not limited to one or more Golf Courses and clubhouse, and parking for any such facilities.

1.34 "**Residential Lots**" and "**Residential Living Units**" mean, respectively, those Lots or Living Units to be used for residential purposes, exclusive of rental apartment and hotel, motel and lodge-type projects, and designated as such in this Declaration or in the declaration annexing such Lots to Running Y Ranch Resort.

1.35 "**Resort**" means Running Y Ranch Resort.

1.36 "**Running Y Ranch Resort**" means the Initial Development and any Additional Property annexed to this Declaration.

1.37 "**Sold**" means that legal title has been conveyed or that a contract of sale has been executed and recorded under which the purchaser has obtained the right to possession.

1.38 **This Declaration** means all of the easements, covenants, restrictions and charges set forth in this Amended and Restated Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort, together with any Policies and Procedures promulgated hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof, including the provisions of any supplemental declaration annexing property to Running Y Ranch Resort.

1.39 **Voting Unit** means any one or more of the interests in the Resort designated in Section 9.3 below, to which a right to vote in Association matters is allocated.

ARTICLE 2.

PROPERTY SUBJECT TO THIS DECLARATION

2.1 **Initial Development**. All of the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration:

All that certain real property located in Klamath County, Oregon, in that certain plat entitled "Running Y Resort, Phase 1" filed in the plat records of Klamath County, Oregon, on the 2nd day of August, 1996, in Book 23, page 63-69, except Lots 83 through 95 thereof, Running Y Road, Coopers Hawk Road and Osprey Lane, as shown on such plat.

The Initial Development contains 82 single-family Lots and will contain not more than 82 Living Units.

2.2 **Annexation of Additional Property**. The Additional Property annexed to the Original Declaration by the Supplemental Declarations listed in the attached Exhibit A is also owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration, as supplemented or modified by such Supplemental Declarations. Declarant may from time to time and in its sole discretion annex to Running Y Ranch Resort, as Additional Property any real property now or hereafter acquired by it, and may also from time to time and in its sole discretion permit other holders of real property to annex the real property owned by them to Running Y Ranch Resort. The annexation of such real property shall be accomplished as follows:

(a) The owner or owners of such real property shall record a declaration which shall be executed by or bear the approval of Declarant and shall, among other things, describe the real property to be annexed, designate the Neighborhood of which such property is a part, 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.

(b) The property included in any such annexation shall thereby become a part of Running Y Ranch Resort and this Declaration, and Declarant and the Association shall have and shall accept and exercise administration of this Declaration with respect to such Additional Property.

(c) Notwithstanding any provision apparently to the contrary, a declaration with respect to any Additional Property may:

(i) establish such new land classifications and such limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of the Additional Property.

(ii) with respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of such Additional Property.

(d) There is no limitation on the number of Lots or Living Units which Declarant may create or annex to Running Y Ranch Resort, except as may be established by applicable ordinances of the Klamath County, Oregon. Similarly, there is no limitation on the right of Declarant to annex common property, except as may be established by Klamath County, Oregon.

(e) Upon annexation, additional Lots so annexed shall be entitled to voting rights as set forth in Section 9.3 below.

(f) The formula to be used for reallocating the common expenses if additional Lots are annexed and the manner of reapportioning the common expenses if additional Lots are annexed during a fiscal year are set forth in Section 11.9 below.

2.3 Improvements. Declarant does not agree to build any Improvements other than as specified in any Property Report issued pursuant to the Interstate Land Sales Full Disclosure Act, but may elect, at its option, to build additional Improvements.

2.4 Withdrawal of Property. Declarant may withdraw property from Running Y Ranch Resort by an amendment to this Declaration executed by Declarant and recorded in the Deed Records of Klamath County, Oregon. All voting rights otherwise allocated to Lots being withdrawn shall be eliminated, and the common expenses shall be reallocated to the remaining Lots as provided in Section 11.9 below. Such withdrawal may be accomplished without prior notice and without the consent of any Owner if such withdrawal (a) is of all or a portion of the Initial Development or Additional Property annexed pursuant to a declaration described in Section 2.2 at any time prior to the sale of the first Lot in the plat of the Initial Development, or in the case of Additional Property, prior to the sale of the first Lot in the property annexed by a supplemental declaration, or (b) if the property to be withdrawn was originally included in error or if the withdrawal is for the purpose of making minor adjustments to boundary lines which do not reduce the total number of Living Units. In addition, Declarant may withdraw any property then owned by Declarant or the Association if such withdrawal is a result of any changes in Declarant's plans for the Resort, provided that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Resort and is approved by a majority of the voting rights of the Association.

ARTICLE 3.

NEIGHBORHOOD DESIGNATION AND LAND CLASSIFICATIONS

3.1 Neighborhood Designation. Ridge View Homesites, consisting of Lots 1 through 82 of the Initial Development, together with such Additional Property declared to be part of such Neighborhood in any supplemental declaration annexing Additional Property to Running Y Ranch Resort, is hereby designated as a Neighborhood within Running Y Ranch Resort. Any "Projects" established under the Supplemental Declarations listed in the attached Exhibit A shall be Neighborhoods for purposes of this Declaration.

3.2 **Land Classifications Within Initial Development.** All land within the Initial Development is included in one or another of the following classifications:

(a) Residential Lots, which shall consist of all Lots included within the Initial Development.

(b) Common Areas, which shall be the private ways shown as Thrush Lane, Sisken Lane, Kestrel Road, Merganser Road and Towhee Lane on the plat of the Initial Development.

(c) There are no Common Easement Areas, Limited Common Areas, Neighborhood Common Areas or Public Areas in the Initial Development.

3.3 **Conversion of Residential or Commercial Lots to Common Areas.** Declarant may elect to build common facilities on one or more Residential or Commercial Lots and designate such Lots as Common Areas by a declaration recorded in the deed records of Klamath County. Such declaration shall be executed by Declarant, as owner of the Lots.

3.4 **Consolidation of Lots.** The Owner of two adjoining Lots, with the approval of Declarant and the Architectural Review Committee, may elect to consolidate such Lots into one Lot. The consolidation shall be effected by the Owner's recording in the deed records of Klamath County a declaration stating that the two Lots are consolidated, which declaration shall include a written consent executed on behalf of the Architectural Review Committee by at least one member the Committee. Thereafter, the consolidated Lots shall constitute one Lot for all purposes of this Declaration, including voting rights and assessments. Once so consolidated, the consolidated Lot may not thereafter be partitioned, nor may the consolidation be revoked without the prior approval of the Architectural Review Committee.

ARTICLE 4.

PROPERTY RIGHTS IN COMMON AREAS

4.1 **Owners' Easements of Enjoyment.** Subject to provisions of this Article, every Owner and his or her invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and shall pass with the title to every Lot. The use of Limited Common Areas, however, shall be limited to the Owners and invitees of the Lots designated in the supplemental declaration establishing the Limited Common Area.

4.2 **Title to Common Areas.** Title to the Common Areas, except Common Easement Areas, shall be conveyed to the Association by Declarant free and clear of monetary liens prior to the date on which Class B membership in the Association ceases and is converted to Class A membership as described in Section 9.3(b). Title to Common Easement Areas, subject to the easements set forth in this Declaration, shall pass to the Owners of the respective Lots within which such areas are located, or to the public if part of dedicated street right-of-ways.

4.3 **Common Easement Areas.** Common Easement Areas shall be reserved as signage and visual landscape features, or as otherwise provided in the supplemental declaration establishing the Common Easement Area. Such areas are to be maintained by the Association and no changes in landscaping will be permitted without written authorization by the Architectural Review Committee. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or

encroach upon the Common Easement Areas. In the event any Common Easement Area is conveyed to the Association, such Common Easement Area shall then become a Common Area.

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

(a) **Easements.** Declarant grants to the Association for the benefit of the Association, and all Owners of Lots within the Resort, the following easements over, under and upon the Common Areas, including the Common Easement Areas:

(i) An easement on all Common Areas for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by or with the consent of Declarant or with the approval of the Board of Directors of the Association and any such easement shown on any plat of the Resort.

(ii) An easement for construction, maintenance, repair and use of Common Areas, including common facilities thereon.

(iii) An easement for the purpose of making repairs to any improvements on Common Areas.

Declarant or the Association may (and, to the extent required by law, shall) grant or assign such easements to governmental entities or other utilities performing utility services (including without limitation Running Y Utility Company) and to communication companies, and the Association may grant free access thereon to police, fire and other public officials and to employees of utility companies and communications companies serving the Resort.

(b) **Use of the Common Areas.** The Common Areas shall not be partitioned or otherwise divided into parcels for residential use, and no private structure of any type shall be constructed on the Common Areas. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas, including Common Easement Areas. Nothing in this Declaration shall prevent the placing of a sign or signs upon the Common Areas identifying the Resort or any Neighborhood or identifying trails or identifying items of interest, including directional signs, provided such signs are approved by the Architectural Review Committee and comply with any applicable sign ordinances. The Board of Directors of the Association shall have authority to abate any trespass or encroachment upon the Common Area at any time, by any reasonable means and with or without having to bring legal proceedings. A declaration annexing Additional Property may provide that the Owners of such Additional Property do not have the right to use a particular Common Area or facility located on such Common Area. In such case, those Owners will not be required to share in the costs of maintaining the facility, as is more particularly described in Section 11.9.

(c) **Semi-Public Recreational or Service Areas.** The Board of Directors of the Association may elect to designate certain portions of the Common Areas as semi-public recreational or service areas which may be used by members of the public on a fee-paying basis. In such event, Owners shall be permitted to use such facilities or services either on a free basis or for fees that are no higher than those charged to members of the public for an equivalent use or service. Any net proceeds from such facilities or services shall be paid to the Operations Fund.

(d) **Alienation of the Common Areas.** The Association may not encumber, sell or transfer the Common Areas owned directly or indirectly by the Association for the benefit of the Lots, unless such encumbrance, sale or transfer has been approved by a majority of the voting rights in the Association. This requirement shall not apply to the easements described in Section 4.4(a) above.

(e) **Limitations on Use.** Use of the Common Areas by the Owners, their family members, guests, tenants and contract purchasers, shall be subject to the provisions of this Declaration and to the following:

(i) The right of the Association to suspend such use rights of an Owner and the Owner's members, guests, tenants and contract purchasers to the extent provided in Article 12 below.

(ii) The right of the Association to adopt, amend and repeal Policies and Procedures in accordance with this Declaration.

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

4.6 Running Y Road and Coopers Hawk Road. Declarant hereby grants to the Association, and to each Owner, a nonexclusive easement to use Running Y Road and Coopers Hawk Road, as shown on the plat of the Initial Development, for ingress and egress and utility purposes. Declarant shall have the right to relocate the road as necessary for street alignments or to serve newly developed properties. Declarant will maintain Running Y Road and Coopers Hawk Road and the Owners, through the Association, shall reimburse Declarant for 20 percent of the cost of such maintenance. Such cost of maintenance shall include, without limitation, striping, snow removal, sweeping, repairs (including crack filling, patching and resurfacing), sign repair and replacement, and maintenance and power costs of street lighting. Declarant may, at any time, designate all or a portion of Running Y Road or Coopers Hawk Road as a Common Area, after which the Association shall be responsible for its maintenance. Declarant may reserve a nonexclusive easement for use of Running Y Road and Coopers Hawk Road for ingress and egress and utility purposes for other properties. The Declaration designating all or a portion of Running Y Road or Coopers Hawk Road as a Common Area shall set forth the share of the maintenance costs of Running Y Road or Coopers Hawk Road to be borne by any such areas.

4.7 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, the Owner's right of enjoyment of the Common Areas to the members of the Owner's family and tenants or contract purchasers who reside on the Resort, whose use

of the Common Areas shall be subject to this Declaration and the Policies and Procedures adopted under this Declaration.

ARTICLE 5.

PROPERTY RIGHTS IN LOTS

5.1 **Use and Occupancy.** The Owner of a Lot in the Resort shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and the Owner shall comply with the restrictions made applicable to such Lot by this Declaration or by any supplement to this Declaration or any applicable Neighborhood Declaration.

5.2 **Easements Reserved.** In addition to any easements shown on the recorded plats, and as set forth in Section 4.5, Declarant hereby reserves the following easements for the benefit of Declarant and the Association:

(a) **Adjacent Common Area.** The Owner of any Lot which blends together visually with any Common Area shall, if the Association elects from time to time to so require, permit the Association to enter upon the Lot to perform the maintenance of such Common Area.

(b) **Right of Entry.** Declarant, the Architectural Review Committee and any representative of the Association authorized by it may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use and/or improvements of such Lot are then in compliance with this Declaration. In addition, the utility service provider and its agents or employees shall have authority to access all parts of the Owner's Lot and the Common Areas on which sewerage or water facilities may be located, for the purpose of operating, maintaining or constructing such facilities, inspecting the condition of pipes and facilities, and completing repairs. The Owner will be given advance notice if possible. In the case of an emergency, as determined solely by the utility service provider, no prior notice will be required. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(c) **Utility Easements.** Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Lots, as shown on or described in the recorded plat. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot, and all improvements in it, shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Notwithstanding the provisions of this paragraph, no such easements shall exist along adjoining side lot lines on which a party wall exists.

ARTICLE 6.

GOLF COURSE

6.1 **Golf Course Easements and Indemnity.** Declarant hereby reserves for itself and for the benefit of any Golf Course Owner the easements set forth in this Section 6.1. Declarant reserves the right to grant or deed such easement rights to the person or entity

operating or owning any Golf Course which is part of or adjacent to the Resort and to impose such additional restrictions relating to such easements at that time and from time to time as may reasonably be required to effectuate the purposes of such easements. The reservation of such easements is made for the benefit of Declarant, the Golf Course Owner, the users of the Golf Courses, and for associated management, maintenance and service personnel, for Golf Course and related recreational purposes.

(a) **Private Ways.** All Common Area private ways shall be subject to an easement for Golf Course purposes, including signs, cart paths, irrigation systems and the right of ingress and egress for construction and maintenance and for players during the regular course of play on the Golf Course.

(b) **Golf Cart Path Easement.** Any easements for golf cart paths or trails designated as such on any plat of the Resort, or any declaration annexing Additional Property, shall be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and unhindered access between such paths and any Golf Course. Nothing shall be placed in or maintained on any golf cart path easement which shall interfere with utilization thereof as a playable part of the Golf Course, and all landscaping and other Improvements within a golf cart path easement shall require the approval of the Architectural Review Committee. The Golf Course Owner shall be responsible for maintaining such paths or trails.

(c) **Golf Course Easements over Adjoining Lots.** Any Golf Course easements over adjoining Lots designated as such on any plat or declaration annexing Additional Property will be developed as part of the Golf Course for purposes of landscaping or the placement of golf course facilities and may be used as part of the Golf Course. No Owner may landscape or place any Improvement within a Golf Course easement without the prior written consent of the Golf Course Owner and the approval of the Architectural Review Committee. Nothing in this provision shall be construed as requiring the Golf Course Owner to irrigate or landscape such easement areas.

(d) **Golf Balls.** Each Lot, Common Area and Neighborhood Common Area adjoining or adjacent to any Golf Course shall be subject to an easement permitting (i) golf balls to come upon such property; and (ii) for golfers at reasonable times and in a reasonable manner to come upon such property to retrieve golf balls.

6.2 **Design Review.** With respect to any Improvement constructed on any Lot adjoining a Golf Course, in addition to design review by the Architectural Control Committee pursuant to Article 8, such Improvement shall be subject to architectural review by the Golf Course Owner.

6.3 **Waiver and Indemnity.** In some cases, golf balls may have sufficient force and velocity to do serious harm to persons, pets, Improvements or personal property. Each Owner, for such Owner's family members, visitors, invitees and guests, assumes such risk and waives each right such person otherwise would have against Declarant, the Association, the Architectural Review Committee and the Golf Course Owner, operator and designer, to the fullest extent permissible by law, for each injury resulting from the design of any such Golf Course, or the location of a Lot, Common Area or Neighborhood Common Area in relation to the Golf Course, and agrees to indemnify and hold declarant, the association, the architectural review committee and the Golf Course Owner, operator and designer harmless from and against all claims and liability, including without limitation, legal fees and costs, in the event any person while on a Lot, Common Area or Neighborhood Common Area, receives any injury, or suffers property damage and thereafter seeks to recover against such persons or entities for compensation for such injury or damage, whether directly or indirectly, or as a

result of a third-party claim or cross claim. Each Owner and such Owner's family members, invitees, guests and visitors, waives each and every claim or right they may have to claim that the normal and customary operation of any such Golf Course constitutes a nuisance, or that any aspect of any such Golf Course operation should be limited to any specific hours of the day or to any specific days of the week. Each such person assumes the risks which are associated with the game of golf and the flight of golf balls over and upon their Lot, the Common Areas and Neighborhood Common Areas, including, without limitation, the possibility of damage to their property, real or personal, and injury to themselves, their family, pets, friends, invited guests, visitors or any other person.

6.4 Ownership and Operation of Golf Course. All persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant or any other person with regard to the continuing existence, ownership or operation of the Golf Course, if any, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed or joined into by Declarant. Further, the ownership and/or operation of the Golf Course, if any, may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations of the Golf Course by an independent entity or entities; (b) the creation or conversion of the ownership and/or operating structure of the Golf Course to an "equity" club or similar arrangement whereby the Golf Course or the rights to operate it are transferred to an entity which is owned or controlled by its members; or (c) the transfer of ownership or control of the Golf Course to one or more affiliates, shareholders, employees, or independent contractors of Declarant. No consent of the Association or any Owner shall be required to effectuate such transfer or conversion.

6.5 Right to Use. Neither membership in the Association nor ownership or occupancy of a Lot shall confer any ownership interest in or right to use the Golf Course. Rights to use the Golf Course will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the Golf Course Owner. The Golf Course Owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Course, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents.

6.6 View Impairment. Neither Declarant, the Association nor the Golf Course Owner guarantees or represents that any view over and across the Golf Course from adjacent Lots will be preserved without impairment. The Golf Course Owner, if any, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Course from time to time. In addition, the Golf Course Owner may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on the Golf Course from time to time. Any such additions or changes to the Golf Course may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

6.7 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Golf Course Owner, no amendment to this Article and no amendment in derogation of any rights reserved or granted to the Golf Course Owner by other provisions of this Declaration may be made without the written approval of the Golf Course Owner. The foregoing shall not apply, however, to amendments made by Declarant.

6.8 **Jurisdiction and Cooperation.** It is Declarant's intention that the Association and the Golf Course Owner shall cooperate to the maximum extent possible in the operation of the Resort. The Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Course.

ARTICLE 7.

RESTRICTIONS ON USE OF RESIDENTIAL LOTS

7.1 **Structures Permitted.** No structures shall be erected or permitted to remain on any Residential Lot except structures containing Living Units and structures normally accessory thereto. The foregoing provision shall not exclude construction of a private greenhouse, storage unit, private swimming pool or structure for the storage of a boat and/or camping trailer for personal use, provided the location of such structure is in conformity with the applicable governmental regulations, is compatible in design and decoration with the dwelling structure constructed on such Residential Lot, and has been approved by the Architectural Review Committee. Private wells may not be installed on any Lot.

7.2 **Residential Use.** Residential Lots shall only be used for residential purposes. Except with the consent of the Board of Directors of the Association, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Residential Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Residential Lot. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of Living Units, (b) the right of Declarant or any contractor or homebuilder to construct Living Units on any Residential Lot, to store construction materials and equipment on such Residential Lots in the normal course of construction, and to use any Living Unit as a sales or rental office or model home or apartment for purposes of sales or rental in Running Y Ranch Resort, and (c) the right of the Owner of a Residential Lot to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his Living Unit. The Board of Directors shall not approve commercial activities otherwise prohibited by this paragraph unless the Board of Directors determines that only normal residential activities would be observable outside of the Living Unit and that the activities would not be in violation of applicable governmental ordinances.

7.3 **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Residential Lot, nor shall anything be done or placed on any Residential Lot which interferes with or jeopardizes the enjoyment of other Residential Lots or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Residential Lot, nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

7.4 **Animals.** No animals of any kind shall be raised, bred or kept in or upon any Residential Lot, except dogs, cats and such other household pets as may be approved by the Association, and then only provided they are not kept, bred or maintained for any commercial purposes or in unreasonable numbers and provided they are not prohibited by any Neighborhood Declaration or supplemental declaration annexing Additional Property to the Resort. The Association may adopt reasonable regulations designed to minimize damage and disturbance to other Owners and occupants, including regulations requiring damage deposits, waste removal, leash controls, noise controls, occupancy limits based on size and facilities of the unit and fair share use of the Common Areas. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to health or

safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance.

7.5 Maintenance of Structures and Grounds. Each Owner shall maintain the Owner's Residential Lot and Improvements thereon in a clean and attractive condition, in good repair, and in such fashion as not to create a fire or other hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, walks and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the Architectural Review Committee. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on the Owners Residential Lot neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner, and shall be restored within a reasonable period of time.

7.6 Prohibited Vehicles. No mobile home, recreational vehicle (including campers) exceeding 1,500 pounds in gross weight, trailer of any kind, truck with a rated load capacity greater than one ton, or boat, shall be kept, placed, maintained or parked for more than six hours or such other period as may be permitted pursuant to the Association Policies and Procedures on any Residential Lot or Common Area, except in enclosed garages, areas designated by the Board of Directors of the Association, or screened from view in a manner approved by the Architectural Review Committee. No motor vehicle of any type may be constructed, reconstructed or repaired in such a manner as will be visible from neighboring property. No stripped down, partially wrecked, inoperative or junk motor vehicle, or sizeable part thereof, shall be permitted to be parked on any Residential Lot or Common Area.

7.7 Parking and Street Obstructions. Parking of vehicles of any type whatsoever on any portion of the streets within the Resort shall be permitted only as set forth in the Association Policies and Procedures. No Owner shall do anything which will in any manner prevent the streets within the Resort from at all times being free and clear of all obstructions and in a safe condition for vehicular use.

7.8 Signs.

(a) **General Prohibition; Exceptions.** No sign or billboard of any kind (including but not limited to, commercial or political signs) shall be displayed to the public view on any Residential Lot, except for:

- (i) directional signs established by Declarant or the Association;
- (ii) such signs as may be required for legal proceedings;
- (iii) during the time of construction of any Improvement, one job identification sign, the size, color and design of which shall have been approved by the Architectural Review Committee; and
- (iv) signs, billboards and other advertising devices or structures used by Declarant in connection with the development, subdivision, advertising and sale of any interest in a Lot.

The size and design of such signs shall be in accordance with the Design Guidelines established by the Architectural Review Committee.

(b) **Architectural Review Committee Regulation.** Signs advertising any interest in a Lot "for sale" or "for rent" shall be prohibited unless, in the sole discretion of the Architectural Review Committee such prohibition as applied to a specific Lot would work an unusual hardship, in which case a waiver may be granted. If such a waiver is approved, such signs shall be customary and reasonable dimensions and of a professional type and dignified appearance, and placed only in such location(s) as specified by the Architectural Review Committee. If at the time of such waiver the Association has specified the size, design and content of such "for sale" or "for rent" signs, only such approved size, design and content shall be used.

7.9 **Outside Storage.** Woodpiles, storage areas, machinery and equipment shall be prohibited upon any Residential Lot, unless obscured from view of neighboring property and streets by a fence or appropriate screen approved by the Architectural Review Committee. Colored tops and covers shall be of a color approved by the Architectural Review Committee. Trash cans and other moveable rubbish containers shall be allowed to be visible from the street or adjacent Residential Lot within the Resort only during the days on which rubbish is collected and after 9 p.m. of the preceding evening.

7.10 **Completion of Construction.** The construction of any building on any Residential Lot, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of construction, so as to present a finished appearance when viewed from any angle, and the Living Unit shall not be occupied until so completed. In the event of undue hardship due to weather conditions, or other causes beyond the reasonable control of the Owner, this time period may be extended for a reasonable length of time upon written approval from the Architectural Review Committee. The building area shall be kept reasonably clean and in workmanlike order during the construction period. All unimproved Residential Lots shall be kept in a neat and orderly condition, free of brush, vines, weeds and other debris, and grass thereon shall be cut or mowed at sufficient intervals to prevent creation of a nuisance or fire hazard.

7.11 **Landscape Completion.** Landscaping plans for each Residential Lot shall be submitted to the Architectural Review Committee and shall be in compliance with sod and planting limitations and tree preservation guidelines as may be established by such Committee or the Association from time to time. Such landscaping must be completed within one year from the date of issuance of the certificate of occupancy for the Living Unit constructed thereon. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Architectural Review Committee.

7.12 **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings, nor any uncompleted building shall be used on any Residential Lot at any time as a residence either temporarily or permanently.

7.13 **Antennas and Satellite Disks.** Exterior antennas and satellite receiver and transmission disks shall not be permitted to be placed upon any Residential Lot except as approved by the Architectural Review Committee.

7.14 **Limitations on Open Fires.** No incinerators or other open fires (except outdoor cooking facilities such as propane grills or portable barbecue units) shall be kept or maintained on any Residential Lot.

7.15 **Pest Control.** No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects or vermin.

7.16 **Minimum Dwelling Size.** No dwelling intended or used as the primary dwelling on a Residential Lot may be constructed or maintained unless the interior floor area of such dwelling (excluding garage) contains at least 1,800 square feet. The maximum permissible interior floor area shall be limited only by constraints of the building site area and other reasonable limitations as may be established by the Architectural Review Committee.

7.17 **Grades, Slopes and Drainage.** Each Owner of a Residential Lot shall accept the burden of, and shall not in any manner alter, modify or interfere with, the established drainage pattern and grades, slopes and courses related thereto over any Residential Lot or Common Area without the express written permission of the Architectural Review Committee, and then only to the extent and in the manner specifically approved. No structure, plantings or other materials shall be placed or permitted to remain on or within any grades, slopes, or courses, nor shall any other activities be undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow, or obstruct or retard the flow of water through drainage channels.

7.18 **Exterior Lighting.** All exterior lighting of a Residential Lot shall be subject to approval of the Architectural Review Committee.

7.19 **Paths and Trails.** No Owner, other than Declarant or the Association, may create any paths or trails within the Resort without the prior written approval of the Architectural Review Committee.

7.20 **Time-sharing or Fractional Interest Ownership Prohibited.** No purchaser of a Residential Lot, or interest therein, or use thereof, shall receive a right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of such property annually or on some other periodic basis if four or more such use or occupancy periods over a period of three years or more have been created with respect to such Lot, and any such attempted conveyance shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Lots not including such exclusive use periods.

7.21 **Association Policies and Procedures.** In addition, the Association from time to time may adopt, modify or revoke such Policies and Procedures governing the conduct of persons and the operation and use of Residential Lots and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Resort. A copy of the Policies and Procedures, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be furnished by the Association Board of Directors to each Owner and shall be binding upon all Owners and occupants of all Residential Lots upon the date of delivery. The method of adoption of such Policies and Procedures shall be as provided in the Bylaws of the Association.

7.22 **Application to Additional Property.** The provisions of Sections 7.1 through 7.21 shall not apply to Commercial Lots nor to Residential Lots if the declaration annexing the Residential Lots so specifies. The declaration annexing such Additional Property to this Declaration may establish additional or different restrictions governing the use of such Lots.

ARTICLE 8.

ARCHITECTURAL REVIEW COMMITTEE

8.1 **Architectural Review.** No Improvement shall be commenced, erected, placed or altered on any Lot, except Lots owned by Declarant, 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 Architectural Review Committee. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, to assure harmony of external design with the existing Improvements and as to location with respect to topography and finished grade elevations, and to avoid plan repetition. The procedure and specific requirements for review and approval of residential construction may be set forth in Design Guidelines adopted from time to time by the Architectural Review Committee. The Committee may charge a reasonable fee to cover the cost of processing the application. In all cases which the Architectural Review Committee consent is required by this Declaration, the provisions of this Article shall apply. This review is in addition to design review by the Golf Course Owner with respect to Lots adjoining the Golf Course as provided in Section 6.2 above.

8.2 Committee Decision. The Architectural Review Committee shall render its decision with respect to the construction proposal within thirty (30) working days after it has received all material required by it with respect to the application. In the event the Committee fails to render its approval or disapproval within forty-five (45) working days after the Committee has received all material required by it with respect to the proposal, or if no suit to enforce this Declaration has been commenced within one year after completion thereof, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with.

8.3 Committee Discretion. The Architectural Review Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the Committee intends for Running Y Ranch Resort or any specific Neighborhood therein. Consideration such as siting, shape, size, color, design, height, solar access, impairment of the view from other Lots within Running Y Ranch Resort or other effect on the enjoyment of other Lots or the Common Area, disturbance of existing terrain and vegetation, wildlife protection and any other factors which the Committee reasonably believes to be relevant, may be taken into account by the Committee in determining whether or not to consent to any proposed work. In the case of any Lot adjoining the Golf Course, the Committee shall forward the plans to the Golf Course Owner for review and approval. If rejected by the Golf Course Owner, the Committee shall similarly reject the plans.

8.4 Variance. The Architectural Review Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Architectural Review Committee from denying a variance in other circumstances. For purposes of this section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

8.5 Membership; Appointment and Removal. The Architectural Review Committee shall consist of as many persons, but not less than three, as the Declarant may from time to time appoint. The Declarant may remove any member of the Committee from office at its discretion at any time and may appoint new or additional members at any time. The Association shall keep on file at its principal office a list of the names and addresses of the members of the Committee. Declarant may at any time delegate to the Board of Directors of the Association the right to appoint or remove members of the Architectural Review Committee. In such event, or in the event Declarant fails to appoint an Architectural Review

Committee, the Board of Directors shall assume responsibility for appointment and removal of members of the Architectural Review Committee, or if it fails to do so, the Board of Directors shall serve as the Architectural Review Committee.

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

8.7 **Liability.** Neither the Architectural Review Committee nor any member of the Committee shall be liable to any Owner, occupant, builder or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member of the Committee, provided only that the member has, in accordance with the actual knowledge possessed by him or her, acted in good faith.

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

8.9 **Appeal.** At any time after Declarant has delegated appointment of the members of the Architectural Review Committee to the Board of Directors of the Association pursuant to Section 8.5, any Owner adversely affected by action of the Architectural Review Committee may appeal such action to the Board of Directors of the Association. Appeals shall be made in writing within ten (10) days of the Committee's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Board of Directors of the Association within fifteen (15) working days after receipt of such notification.

8.10 **Effective Period of Consent.** The Architectural Review Committee's consent to any proposed work shall automatically be revoked one year after issuance unless construction of the work has been commenced, or the Owner has applied for and received an extension of time from the Committee.

8.11 **Estopel Certificate.** Within fifteen (15) business days after written request is delivered to the Architectural Review Committee by any Owner, and upon payment to the Committee of a reasonable fee fixed by the Committee to cover costs, the Committee shall provide such Owner with an estoppel certificate executed by a member of the Committee and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date of the certificate, either: (a) all Improvements made or done upon or within such Lot by the Owner comply with this Declaration; or (b) such improvements do not so comply, in which event the certificate shall also identify the noncomplying Improvements and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any mortgagee or other encumbrancer, shall be entitled to rely on such certificate with respect to the matters set forth in the certificate, such matters being conclusive as between Declarant, the Architectural Review Committee, the Association and all Owners, and such purchaser or mortgagee.

ARTICLE 9.

ASSOCIATION

Declarant shall organize an association of all of the Owners within Running Y Ranch Resort. Such Association, its successors and assigns, shall be organized under the name "**Running Y Ranch Resort Owners Association**" or such similar name as Declarant shall designate, and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Resort and all Owners of property located therein.

9.1 **Organization.** Declarant shall, before the first Lot is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers and obligations of the incorporated association, existing immediately prior to its dissolution, shall thereupon automatically vest in the successor unincorporated association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association.

9.2 **Membership.** Every Owner of one or more Lots within the Resort shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Resort, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

9.3 **Voting Rights.** Voting rights within the Association shall be allocated as follows:

(a) **Residential Lots and Commercial Lots.** Residential Lots shall be allocated one Voting Unit per Living Unit located on such Lot. Condominium units shall be entitled to one Voting Unit for each Condominium unit. A single-family Residential Lot shall be allocated one vote regardless whether the Living Unit has been constructed on such Lot. Each Commercial Lot shall be entitled to the number of Voting Units set forth in the declaration annexing the Commercial Lot to Running Y Ranch Resort.

(b) **Classes of Voting Membership.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to Voting Units for each Lot owned computed in accordance with Section 9.3(a) above. When more than one person holds an interest in any Lot, all such persons shall be members. Except as may otherwise be specified in the declaration, annexing such Lot to Running Y Ranch Resort or in the Neighborhood Declaration pertaining to such Lot, the vote for such Lot shall be exercised as they among themselves determine. In no event, however, shall more Voting Units be cast with respect to any Lot than as set forth in Section 9.3(a) above.

Class B. The Class B member shall be the Declarant and shall be entitled to three times the Voting Units computed under Section 9.3(a) for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) Declarant has completed development of all Lots and Common Areas permitted under the Master Plan, and Lots representing seventy-five percent (75%) of the Voting Units computed in accordance with this section have been sold and conveyed to Owners other than Declarant; or
- (ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

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

- (a) The powers, duties and obligations granted to the Association by this Declaration.
- (b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon.
- (c) The powers, duties and obligations of a homeowners association pursuant to the Oregon Planned Community Act, whether or not such Act is applicable to the Association.
- (d) Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Resort.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

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

- (a) **Maintenance and Services.** The Association shall provide maintenance and services for the Resort as provided in Article 10 and other provisions of this Declaration.
- (b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association.
- (c) **Rulemaking.** The Association shall make, establish, promulgate, amend and repeal Policies and Procedures as provided in Section 7.21 of this Declaration.
- (d) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article 11 of this Declaration.

(e) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Policies and Procedures adopted by the Association, including, without limitation, enforcement of the decisions of the Architectural Review Committee.

(f) **Employment of Agents Advisers and Contractors.** The Association, through its Board of Directors, may employ the services of any person or corporation as managers, hire employees to manage, conduct and perform the business, obligations and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited, landscape architects, recreational experts, architects, planners, attorneys and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Resort.

(g) **Borrow Money, Hold Title and Make Conveyances.** The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas, subject to Section 4.4(d) above, and encumber the Common Areas as security for the repayment of such borrowed money. The Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of the Common Area, and shall accept any real or personal property, leasehold or other property interests within Running Y Ranch Resort conveyed to the Association by Declarant.

(h) **Transfer, Dedication and Encumbrance of Common Area.** Except as otherwise provided in Section 4.4(d) above, the Association may sell, transfer or encumber all or any portion of the Common Area to a person, firm or entity, whether public or private, and dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for public purposes.

(i) **Create Classes of Service and Make Appropriate Charges.** The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefor to the users of such services, including but not limited to reasonable admission and other fees for the use of any and all recreational facilities situated on the Common Areas, without being required to render such services to those of its members who do not assent to such charges and to such other Policies and Procedures as the Board of Directors deems proper. In addition, the Board of Directors shall have the right to discontinue any service upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain.

(j) **Joint Use Agreements.** The Board of Directors of the Association may enter into joint use agreements with other associations, entities or persons relating to the joint use of recreational or other facilities, including the joint use of the Common Areas.

(k) **Implied Rights and Obligations.** The Association may exercise any other right or privilege reasonably to be implied from the existence of any right or privilege expressly given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

9.6 Liability. A member of the Board of Directors or an officer of the Association shall not be liable to the Association or any member of the Association for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts. In the event any

member of the Board of Directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

9.7 Interim Board. An interim board of directors (the “**Interim Board**”) consisting of five (5) directors, two (2) of whom shall be appointed by Declarant and three (3) of whom shall be elected by the Class A members as provided herein, shall serve as the Board of Directors of the Association until termination of the Class B membership. At the next annual meeting of the members following termination of the Class B membership, all directors of the Interim Board shall resign and be replaced by their successors, who shall be elected in accordance with Section 9.10. The president or secretary of the Association shall call a meeting of the Class A members of the Association within one hundred twenty (120) days following the recordation of this Declaration for the election of three (3) directors to the Interim Board by the Class A members. If the president or secretary of the Association fails to call the meeting within the required 120-day period, then the meeting may be called and noticed by any one of the Class A members. One director shall be elected for a one year term, and two of the directors shall be elected for two year terms. The director elected who receives the fewest number of votes shall serve the one year term. Thereafter, the directors elected to the Interim Board by the Class A members shall each serve a term of two (2) years unless they sooner resign, are disqualified from serving, or are removed or replaced in accordance with this Section 9.7 or Section 9.10; provided, however, that the terms of the directors elected to the Interim Board by the Class A members shall be adjusted accordingly so that the expiration of the terms coincide with the date on which the annual meeting of the Association is held in the year in which the terms expire so that their successors may be elected at the annual meeting. Voting for election of directors to the Interim Board by the Class A members shall be by plurality and based on the Voting Units calculated in accordance with Section 9.3(a) above. The directors appointed to the Interim Board by Declarant shall only be removed and replaced by Declarant. The directors elected to the Interim Board by the Class A members shall only be removed and replaced by the Class A members. In the event of a vacancy on the Interim Board due to the death, resignation or disqualification of a director elected by the Class A members, the president or secretary of the Association shall call a meeting of the Class A members for the purpose of electing a replacement director to serve the remainder of the unexpired term of the director being replaced. Such meeting shall be held within sixty (60) days of the effective date of the death, resignation or disqualification of the director. If the president or secretary of the Association fails to call the meeting within the required 60-day period, then the meeting may be called and noticed by any one of the Class A members. Additionally any director elected to the Interim Board by the Class A members may be removed from the Interim Board by the Class A members in accordance with Section 4.7 of the Bylaws. Directors elected to the Interim Board by the Class A members shall be Owners of Lots, provided, however, if a corporation, limited liability company, partnership or other entity owns a Lot or owns an interest in an entity that owns a Lot, a member, manager, officer, employee or agent of the corporation, limited liability company, partnership or other entity may serve as a director on the Interim Board elected by the Class A members. Directors appointed to the Interim Board by Declarant need not be Owners of Lots.

9.8 Turnover Meeting. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Resort to the Association not later than one hundred twenty (120) days after Lots representing seventy-five percent (75%) of the Voting Units computed in accordance with Section 9.3(a) above have been sold and conveyed to Owners other than Declarant. If the Declarant fails to call the turnover meeting

as required by this section, any Owner or mortgagee of a Lot may call the meeting by giving notice as provided in the Bylaws.

9.9 **Declarant Control After Turnover.** After the turnover meeting described in Section 9.8 above, Declarant shall continue to have the voting rights described in Section 9.3(b) above and the right to appoint, remove and replace two (2) of the interim directors as provided in Section 9.7 until termination of the Class B membership.

9.10 **Election of Directors.** Effective as of the next annual meeting following termination of Class B membership, the Board of Directors of the Association will be composed and elected as follows:

(a) Four directors shall be elected by all Owners of single-family Residential Lots. Voting for such directors shall be based upon one vote for each such Residential Lot owned by such Owner.

(b) Three directors shall be elected by the owners of all Residential Lots and Living Units (other than single-family Residential Lots and Living Units on single-family Residential Lots) and all Condominium Living Units. Voting for such directors shall be based upon one vote for each such Living Unit. In the case of timeshare or fractional ownership of the Living Unit, the vote for such Living Unit shall be cast as provided in the applicable timeshare or co-ownership declaration.

(c) Two directors elected by all Owners of Commercial Lots and Commercial Living Units. Voting shall be based upon the then current assessed value of the Owners Commercial Lot or Living Unit compared to the total assessed value of all Commercial Lots and Living Units within the Resort.

In the event there is no property of a particular category in the Resort, then no directors shall be elected for such category and the number of directors shall be decreased accordingly. The terms of office of directors shall be as set forth in the Bylaws.

9.11 **Nominations For Election to the Board of Directors.** Nominations for election to the Board of Directors, including the Interim Board (except directors appointed to the Interim Board by Declarant in accordance with Section 9.7 above), shall be made by a nominating committee (the "**Nominating Committee**"). Nominations for election to the Board of Directors (except directors appointed to the Interim Board by Declarant in accordance with Section 9.7 above) may also be made from the floor at any meeting called for the election of directors. The Nominating Committee shall consist of a chairman, who shall be a director, and two (2) or more Class A members. The Nominating Committee shall be appointed by the Board of Directors prior to each meeting of the members called for the purpose of electing directors to make as many nominations for election to the Board as the Nominating Committee shall in its discretion determine, but not less than the number of vacancies that are to be filled.

9.12 **Contracts Entered into by Declarant or Prior to Turnover Meeting.** Notwithstanding any other provision of this Declaration, any leases or contracts (including management contracts, service contracts and employment contracts) entered into by the Declarant or the Board of Directors on behalf of the Association prior to the turnover meeting described in Section 9.8 above shall have a term of not in excess of three (3) years. In addition, any such lease or contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) nor more than

ninety (90) days' notice to the other party given at any time after the turnover meeting described in Section 9.8 above.

9.13 Neighborhood Associations. Nothing in this Declaration shall be construed as prohibiting the formation of Neighborhood Associations within Running Y Ranch Resort, including, without limitation, Condominium associations, neighborhood associations, fractional interest associations, timeshare associations and associations of commercial owners. By a majority vote, the Owners of Lots within a Neighborhood may elect to establish a Neighborhood Association for such Neighborhood. The Board of Directors of the Association shall assist the Neighborhood Associations in the performance of their duties and obligations under their respective Neighborhood Declarations, and the Association shall cooperate with each Neighborhood Association so that each of those entities can most efficiently and economically provide their respective services to Owners. It is contemplated that from time to time either the Association or a Neighborhood Association may use the services of the other in the furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation. The payment for such contract services or a variance in services provided may be reflected in an increased Assessment by the Association for the particular Neighborhood or by an item in the Neighborhood Association's budget which shall be collected through Neighborhood Assessments and remitted to the Association. If a Neighborhood Association fails or is unable to perform a duty or obligation required by its Neighborhood Declaration, then the Association may, after reasonable notice and an opportunity to cure given to the Neighborhood Association, perform such duties or obligations until such time as the Neighborhood Association is able to resume such functions, and the Association may charge the Neighborhood Association a reasonable fee for the performance of such functions.

9.14 Neighborhood Committees. With respect to any Neighborhood within Running Y Ranch Resort that does not have a Neighborhood Association, the Board of Directors of the Association may appoint a Neighborhood Committee composed of three (3) to five (5) Owners of Lots within such Neighborhood, which committee shall be responsible for establishing any Policies and Procedures pertaining to Limited Common Areas for such Neighborhood, for decisions pertaining to the operation, use, maintenance, repair, replacement or improvement of such Limited Common Areas, and for such other matters pertaining to the Neighborhood as the Board of Directors may elect to delegate to the Neighborhood Committee. Following the termination of the Class B membership, the Board of Directors of the Association shall provide for election of such committee members by Owners of Lots within such Neighborhood.

ARTICLE 10.

MAINTENANCE, UTILITIES AND SERVICES

10.1 Maintenance and Lighting of Common Areas. The Association shall be responsible for exterior lighting for and perform all maintenance upon the Common Areas, Common Easement Areas, Limited Common Areas and landscaping within dedicated rights of way, including but not limited to, grass, trees, walks, private roads, entrance gates, street lighting and signs, parking areas, walkways and trails, unless the maintenance thereof is assumed by a public body. Such areas shall be maintained in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. The Association shall pay its share of the cost of maintaining Running Y Road and Coopers Hawk Road as provided in Section 4.6. The Board of Directors shall prepare, implement, review and update a maintenance plan (the "**Maintenance Plan**") for the maintenance, repair and replacement of all property for which the Association has maintenance, repair or replacement responsibility

under this Declaration, the Bylaws or the Oregon Planned Community Act. The Maintenance Plan shall describe the maintenance, repair or replacement to be conducted, include a schedule for maintenance, repair or replacement, be appropriate for the size and complexity of the maintenance, repair and replacement responsibility of the Association and address issues that include, but are not limited to, warranties and the useful life of the items of which the Association has maintenance, repair or replacement responsibility. The operating and reserve budgets of the Association shall take into account such costs. The Board of Directors shall review and update the Maintenance Plan as necessary.

10.2 Maintenance of Utilities. The Association shall perform or contract to perform maintenance of all private utilities within Common Areas, such as sanitary sewer service lines, domestic water service lines and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. Each Owner shall be responsible for maintaining utility lines within his Lot.

10.3 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Resort, 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 system, burglar alarm system 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, Declarant, and any successor Declarant are not insurers, and that each person using the Resort assumes all risks for loss or damage to persons, to units and to the contents of Lots and Living Units resulting from acts of third parties.

10.4 Services. The Association may provide or contract for such services as the Board may reasonably deem to be of benefit of the Resort, including, without limitation, garbage and trash removal for Common Areas.

10.5 Neighborhood Maintenance. The Association may, in the discretion of the Board of Directors, assume the maintenance responsibilities set out in any Neighborhood Declaration for any Neighborhood located on the Resort, after giving the responsible Neighborhood Association reasonable notice and an opportunity to correct its deficient maintenance. In such event, all costs of such maintenance shall be assessed only against those Owners of Lots in the Neighborhood to which the services are provided and shall be Individual Assessments for purposes of this Declaration. The assumption of this responsibility may take place either by contract or because, in the opinion of the Board of Directors, the level and quality of service then being provided is not consistent with the community-wide standard of Running Y Ranch Resort.

10.6 Owner's Responsibility. Except as otherwise provided in this Declaration, applicable Neighborhood Declarations, or by written agreement with the Association, all maintenance of the Lots and all structures, landscaping, parking areas, and other Improvements thereon, shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in accordance with the community-wide standard of Running Y Ranch Resort. The Association shall, in the discretion of the Board of Directors, assume the maintenance responsibilities of such Owner if, in the opinion of the Board of Directors, the level and quality of maintenance being provided by such Owner does not satisfy such

standard, and the Neighborhood Association, or the Neighborhood in which the Lot is located, has failed to adequately provide such maintenance. Before assuming the maintenance responsibilities, the Board of Directors shall notify the Owner and any applicable Neighborhood Association in writing of its intention to do so, and if such Owner or the Neighborhood Association has not commenced and diligently pursued remedial action within thirty (30) days after mailing of such written notice, then the Association may proceed. The expenses of such maintenance by the Association shall be reimbursed to the Association by the Owner, together with interest as provided in Section 12.6 below. Such charges shall be an Individual Assessment and lien on the Lot as provided in Sections 11.8 and 12.3 below.

ARTICLE 11.

ASSESSMENTS

11.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of Running Y Ranch Resort and for the improvement, operation and maintenance of the Common Areas.

11.2 Types of Assessments. The Association may levy Annual Assessments, Special Assessments, Emergency Assessments, Limited Common Area Assessments and Individual Assessments, all as more particularly described below.

11.3 Apportionment of Assessments. Lots owned by Declarant or by any successor developer or builder who has purchased one or more parcels from Declarant for development and resale shall not be subject to Assessments until such time as the Lot is occupied for a residential or a commercial use, as applicable, subject to accrual of reserves as described in Section 11.11 below. The Lots of any such successor developer or builder shall not be exempt from Assessments, unless Declarant shall have notified the Association in writing that the Lots are exempt. All other Lots shall pay a pro rata share of the Annual Assessments, Special Assessments, Emergency Assessments and Limited Common Area Assessments commencing upon the date such Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such Assessment divided by the total number of Assessment Units subject to Assessment, times the number of Assessment Units assigned to such Lots as follows:

(a) **Residential Lots.** Each Residential Lot (including Condominium Units) shall be assigned one Assessment Unit for each Living Unit located on the Lot. A single family Residential Lot shall be assigned one Assessment Unit, regardless whether the Living Unit has been constructed on the Lot.

(b) **Commercial Lots.** Each Commercial Lot shall be assigned Assessment Units for such Lot on such basis as may be determined in the declaration annexing the Commercial Lot to Running Y Ranch Resort.

Notwithstanding the provisions of this section, however, a supplemental declaration annexing a specific Common Area facility may specify a special allocation of assessing the costs of operating and maintaining the facility on such Common Area in order to more fairly allocate such cost, taking into the account the extent of use or other factors.

11.4 Annual Assessments. The Board of Directors of the Association shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the

Association, any previous over assessment and any common profits of the Association. In addition, the budget shall take into account the number of Assessment Units as of the first day of the fiscal year for which the budget is prepared and the number of Assessment Units reasonably anticipated to become subject to assessment during the fiscal year. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the reserves required by Section 11.11 below. Annual Assessments for such operating expenses and reserves ("Annual Assessments") shall then be apportioned among the Lots as provided in Section 11.3 above. The method of adoption of the budget and the manner of billing and collection of Assessments shall be as provided in the Bylaws.

11.5 **Special Assessments.** In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment ("Special Assessment"), applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Annual Assessments. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to five percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the Voting Units voting on such matter, together with the written consent of the Class B member, if any. Special Assessments shall be apportioned as provided in Section 11.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

11.6 **Emergency Assessments.** If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors of the Association shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment"). Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to five percent of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the Voting Units voting on such matter, together with the written consent of the Class B member, if any. Emergency Assessments shall be apportioned as set forth in Section 11.3 above and payable as determined by the Board of Directors.

11.7 **Limited Common Area Assessments.** Annual Assessments, Special Assessments and Emergency Assessments relating to maintenance, upkeep, repair, replacement or improvements to Limited Common Areas ("Limited Common Area Assessments") shall be assessed exclusively to the Lots having the right to use such Limited Common Areas.

11.8 **Individual Assessments.** Any common expense or any part of a common expense benefitting fewer than all of the Lots may be assessed exclusively against the Lots benefitted ("Individual Assessment"). Individual Assessments include, without limitation, charges for services provided under Sections 9.5(i), 9.12, 10.5 and 10.6. Individual Assessments shall also include default assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration or the Policies and Procedures of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the

Board of Directors has given written notice thereof to the Owners subject to Individual Assessments.

11.9 **Annexation of Additional Property.** When Additional Properties are annexed to Running Y Ranch Resort, the Lots included therein shall become subject to Assessments from the date of such annexation, except for those Lots exempt from assessment pursuant to Section 11.3 above. All other Lots shall pay such Assessments in the amount then being paid by other Lots. The Board of Directors of the Association, however, at its option may elect to recompute the budget based upon the additional Lots subject to assessment and additional Common Areas and recompute Annual Assessments for all Lots, including the new Lots, for the balance of the fiscal year. Notwithstanding any provision of this Declaration apparently to the contrary, a declaration annexing Additional Property may provide that such Additional Property does not have the right to use a particular Common Area or facility located thereon, in which case such Additional Property shall not be assessed for the costs of operating, maintaining, repairing, replacing or improving such Common Area or facility.

11.10 **Operations Fund.** The Association shall keep all funds received by it as Assessments, other than reserves described in Section 11.11, separate and apart from its other funds in an account in the name of the Association to be known as the "**Operations Fund.**" The Operations Fund shall be maintained in accordance with the requirements of ORS 94.670(2) and any other applicable provisions of the Oregon Planned Community Act. The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Resort and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots situated upon the Resort, including but not limited to:

- (a) Payment of the cost of maintenance, utilities and services as described in Article 10.
- (b) Payment of the cost of insurance as described in the Bylaws of the Association.
- (c) Payment of taxes assessed against the Common Areas and any improvements thereon.
- (d) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to, accounting, legal and secretarial services.

11.11 Reserve Fund.

(a) **Establishment of Account.** The Association shall conduct a reserve study as described in paragraph (c) of this section and establish a reserve fund in the name of the Association (the "**Reserve Fund**") for the major maintenance, repair or replacement of those items to be maintained by the Association all or a part of which will normally require major maintenance, repair or replacement in more than one (1) year and less than thirty (30) years, and for exterior painting if any items to be maintained by the Association include exterior painted surfaces. The Reserve Fund need not include those items that can reasonably be funded from the Operations Fund or those items for which one or more Owners are responsible for maintenance, repair or replacement under the provisions of this Declaration or the Bylaws.

(b) **Funding of Reserve Fund.** The Reserve Fund shall be funded by Assessments against the individual Lots assessed for maintenance of the items for which the Reserve Fund is being established. The Assessments under this section begin accruing against each Lot from the date the first Lot in the Resort is conveyed. The Declarant may defer payment of the accrued Assessments for a Lot until the Lot is conveyed. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current estimated cost of maintenance, repair or replacement at the end of the item's useful life. The Reserve Fund shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current maintenance, repair and replacement costs over time. The Association is responsible for administering the Reserve Fund and making periodic payments into it. The Reserve Fund shall be maintained in accordance with the requirements of ORS 94.670(2) and any other applicable provisions of the Oregon Planned Community Act.

(c) **Reserve Study.** The reserve portion of the Annual Assessment shall be based on a reserve study described in this paragraph (c) and other sources of information. The Board of Directors annually shall conduct a reserve study, or review and update an existing reserve study, to determine the Reserve Fund requirements and may adjust the amount of payments as indicated by the reserve study or update and provide for other reserve items that the Board of Directors, in its discretion, may deem appropriate. The reserve study shall include The reserve study shall:

- (i) Identify all items for which reserves are to be established;
- (ii) Include the estimated remaining useful life of each item as of the date of the reserve study; and
- (iii) Include for each item, as applicable, an estimated cost of maintenance, repair and replacement at the end of its useful life.

(d) **Use of Reserve Fund.** The Reserve Fund shall be used only for the purposes for which the reserves have been established and shall be kept separate from other funds. After the turnover meeting, however, the Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the Board of Directors has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board of Directors shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. Nothing in this section shall prohibit prudent investment of the Reserve Fund, subject to the requirements set forth in ORS 94.670(2). If, after reviewing the reserve study or reserve study update, the Board of Directors determines that the Reserve Fund will be adequately funded for the following year, then the Board may vote to reduce or eliminate the reserve portion of the Annual Assessments for that particular year. Additionally, following the turnover meeting, on an annual basis, the Board, with the approval of all Owners, may elect not to fund the Reserve Fund for the following year regardless of whether or not the Reserve Fund is fully funded. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

11.12 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Resort, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance,

shall be deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Association Bylaws. Such Assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 12.6, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Such Assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 12 below.

11.13 Voluntary Conveyance. In a voluntary conveyance of a Lot the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor of the Lot up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of an Owner or Owner's agent for the benefit of a prospective purchaser, the Board of Directors shall make and deliver a written statement of the unpaid Assessments against the prospective grantor of the Lot effective through the date specified in the statement, and the grantee in that case shall not be liable for any unpaid Assessments against the grantor not included in the statement.

ARTICLE 12.

ENFORCEMENT

12.1 Use of Common Areas. In the event any Owner shall violate any provision of this Declaration, the Bylaws of the Association or other Policies and Procedures adopted by the Association governing the use of Common Areas, then the Association, acting through its Board of Directors, shall notify the Owner in writing that the violations exist and the Owner is responsible for them, and may, after reasonable notice and opportunity to be heard, do any or all of the following: (a) suspend the Owner's voting rights and right to use the Common Areas for the period that the violations remain unabated, or for any period not to exceed sixty (60) days for any infraction of its Policies and Procedures, (b) impose reasonable fines upon the Owner, based upon a resolution adopted by the Board that is delivered to the Owner of each Lot in a manner permissible under the Oregon Planned Community Act, which fines shall be paid into the Operations Fund as Individual Assessments, or (c) bring suit or action against such Owner to enforce this Declaration. Nothing in this section, however, shall give the Association the right to deprive any Owner of access to and from the Owner's Lot.

12.2 Nonqualifying Improvements and Violation of General Protective Covenants. In the event any Owner constructs, or permits to be constructed on his Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on the Owner's Lot, then the Association acting through its Board of Directors shall notify the Owner in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his Lot, the Improvements thereon and the use thereof, into conformance with this Declaration. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, then the Association acting through its Board of Directors, shall have the right to do any or all of the following:

(a) Assess reasonable fines against such Owner, based upon a resolution adopted by the Board that is delivered to the Owner of each Lot in a manner permissible under the Oregon Planned Community Act, which fines shall constitute Individual Assessments for purposes of this Declaration;

(b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Operations Fund as an Individual Assessment, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings; or

(c) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

12.3 Default in Payment of Assessments; Enforcement of Lien. If an Assessment or other charge levied under this Declaration is not paid within thirty (30) days of its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event, the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owner's voting rights and right to use the Common Areas until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any Annual Assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from the Owner's Lot.

(b) The Association shall have a lien, in accordance with ORS 94.709, against each Lot for any Assessment levied against the Lot, including any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot and the Association may foreclose such lien in the manner provided in ORS 94.709.

(c) The Association may bring an action to recover a money judgment for unpaid Assessments under this Declaration without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) The Association shall have any other remedy available to it by law or in equity.

12.4 Notification of First Mortgagee. The Board of Directors shall notify any first mortgagee of any individual Lot of any default in performance of this Declaration by the Lot Owner which is not cured within sixty (60) days after notice of default to the Owner.

12.5 Subordination of Lien to Mortgages. The lien of the Assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the Assessment lien, but the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a decree of foreclosure or nonjudicial sale thereunder shall extinguish any lien of an Assessment notice of which was recorded after the recording of the mortgage or trust deed. Such sale or transfer, however, shall not release the Lot from liability for any

Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

12.6 Interest, Expenses and Attorneys' Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the prevailing Portland, Oregon prime rate at the time, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board of Directors of the Association, which resolution shall be delivered to each Owner in a manner permissible under the Oregon Planned Community Act, not to exceed thirty percent (30%) of such Assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board of Directors of the Association. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due under this Declaration or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy remedies.

12.7 Assignment of Rents. As security for the payment of all liens arising pursuant to this Article 12, each Owner hereby gives to and confers upon the Association the right, power and authority, during the continuance of such ownership, to collect the rents, issues and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligation under this Declaration or the Bylaws to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten (10) days written notice to such Owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of any indebtedness to the Association, or in performance of any agreement hereunder, and in such order as the Association may determine. Such action shall not cure nor waive any default hereunder or invalidate any act done pursuant to this Declaration. The assignment of rents and powers described in the foregoing paragraph shall not affect, and shall in all respects be subordinate to the rights and powers of the holder of any first or second mortgage on any Lot, or any part thereof, to do the same or similar acts.

12.8 Nonexclusiveness and Accumulation of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted under this Declaration. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate or remedy any violation of this Declaration by appropriate legal proceedings.

12.9 Mediation Except as otherwise provided in this section, before initiating litigation, arbitration or an administrative proceeding in which the Association and an Owner

have an adversarial relationship, the party that intends to initiate litigation, arbitration or an administrative proceeding shall offer to use any dispute resolution program available within Klamath County, Oregon, that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party.

(b) If the party receiving the offer does not accept the offer within ten (10) days after receipt of the offer, such acceptance to be made by written notice, hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party, the initiating party may commence the litigation, arbitration or administrative proceeding. The notice of acceptance of the offer to participate in the program must contain the name, address and telephone number of the body administering the dispute resolution program.

(c) If a qualified dispute resolution program exists within Klamath County, Oregon and an offer to use the program is not made as required under paragraph (a) of this section, then litigation, arbitration or an administrative proceeding may be stayed for thirty (30) days upon a motion of the non-initiating party. If the litigation, arbitration or administrative action is stayed under this paragraph, both parties shall participate in the dispute resolution process.

(d) Unless a stay has been granted under paragraph (c) of this section, if the dispute resolution process is not completed within thirty (30) days after receipt of the initial offer, the initiating party may commence litigation, arbitration or an administrative proceeding without regard to whether the dispute resolution is completed.

(e) Once made, the decision of the court, arbitrator or administrative body arising from litigation, arbitration or an administrative proceeding may not be set aside on the grounds that an offer to use a dispute resolution program was not made.

(f) The requirements of this section do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation, arbitration or an administrative proceeding initiated to collect Assessments, other than Assessments attributable to fines. Except as otherwise required by the Planned Community Act, the following matters are excluded from the dispute resolution terms of this Section 12.9: (i) judicial or non-judicial foreclosure or any other action or proceeding to enforce assessments, fines, interest or a trust deed, mortgage, Association lien, or land sale contract; (ii) a forcible entry and detainer action; (iii) fines or other actions by the ARC, the Association or any Owner related to removal of a structure or other condition that violates this Declaration, the Bylaws, the Design Guidelines or any rules and regulations of the Association; (iv) denial by the Architectural Review Committee of requested design review approval; (v) actions for the appointment of a receiver; (vi) provisional remedies such as injunctions or the filing of a lis pendens; or (vii) the filing or enforcement of a mechanic's lien.

ARTICLE 13.

MORTGAGEES

13.1 **Reimbursement of First Mortgagees.** First mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common

Area. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

13.2 Right of First Mortgagees Relating to Maintenance. At any time that the Common Areas are not maintained or repaired by the Association to the extent reasonably necessary to protect and preserve the value of the Resort for security purposes, then the record mortgagee, upon giving written notice as provided in this section, shall be entitled to exercise the rights of the Owner of the Lot as a member of the Association to vote at all regular and special meetings of the members of the Association for a period of one year following the date of such notice. During this one-year period, the Association shall give notice of all regular and special meetings to both the Owner and the mortgagee, and the Owner may attend such meetings as an observer. Notice from the mortgagee under this section shall quote this Section 13.2 and shall be sent postage prepaid by certified United States mail, return receipt requested, to the Owner with a copy by regular mail to the Association at the last known address of each.

ARTICLE 14.

MISCELLANEOUS PROVISIONS

14.1 Amendment and Repeal.

(a) **How Proposed.** Amendments to or repeal of this Declaration shall be proposed by either a majority of the Board of Directors or at least thirty percent (30%) of the Owners. The proposed amendment or repeal must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment or repeal.

(b) **Approval Required.** This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Resort, may be amended or repealed by the vote or written consent of Owners holding at least seventy-five percent (75%) of the Voting Units in the Association, together with the written consent of the Class B member, if such Class B membership has not been terminated as provided in this Declaration. In no event shall an amendment under this section create, limit or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted under this Declaration or change the method for determining liability for common expenses, the method of determining the right to common profits or the method of determining voting rights of any Lot, unless the Owners of the affected Lots unanimously consent to the amendment. Declarant may not amend this Declaration to increase the scope of special Declarant rights reserved in this Declaration after the sale of the first Lot unless the Owners holding at least seventy-five percent (75%) of the Voting Units in the Association (other than the Voting Units held by Declarant), agree to the amendment.

(c) **Recordation.** Any amendment or repeal shall become effective only upon recordation in the Deed Records of Klamath County, Oregon of a certificate of the president and secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that such amendment, amendments or repeal have been approved in the manner required by this Declaration and ORS 94.590, and acknowledged in the manner provided for acknowledgement of deeds.

14.2 Regulatory Amendments. Notwithstanding the provisions of Section 14.1 above, until termination of the Class B membership, Declarant shall have the right to amend this Declaration and the Articles of Incorporation and Bylaws of the Association in order to

comply with the requirements of any applicable statute, ordinance or regulation of the Federal Housing Administration, the U.S. Department of Housing and Urban Development, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community or regulates the development or sale of real property.

14.3 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Resort and the Owners thereof for an initial period of thirty (30) years commencing on August 2, 1996, which is the date on which the Original Declaration was recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Resort and the Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the Voting Units in the Association. Any such termination shall become effective only if a certificate of the president or secretary of the Association, certifying that termination, as of a specified termination date, has been approved in the manner required in this Declaration, is duly acknowledged and recorded in the Deed Records of Klamath County, Oregon, not less than six (6) months prior to the intended termination date. Such termination shall not have the effect of denying any Owner access to the Owner's Lot unless such Owner and any mortgagee of such Lot have consented in writing to the termination.

14.4 Joint Owners. Unless otherwise provided in a Neighborhood Declaration, in any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

14.5 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Resort under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his Lot and other areas within the Resort. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner himself.

14.6 Notice of Sale or Transfer of Title. Any Owner selling, or otherwise transferring title to his or her Lot, shall give the Association written notice within seven (7) days after such transfer of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require.

The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

14.7 Nonwaiver. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

14.8 Construction; Severability; Number; Captions. This Declaration shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

As used in this Declaration, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

14.9 Notices and Other Documents. Any notice or other document permitted or required by this Declaration may be delivered personally, by mail, or by any other method permissible under the Oregon Planned Community Act. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: If to Declarant or the Association, at the address(es) on file with the secretary of the Association; if to an Owner, at the address given by the Owner at the time of purchase of a Lot, or at the Lot. The address of a party may be changed at any time by notice in writing delivered as provided in this section.

14.10 Certification. By execution of this Declaration, the president and secretary of the Association hereby certify that this Declaration was approved and adopted in accordance with Section 14.1 of the Original Declaration and ORS 94.590 and may be executed and recorded in accordance with ORS 94.590.

(Remainder of Page Intentionally Left Blank;
Signature Page Follows)

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first written above.

ASSOCIATION:

RUNNING Y RANCH RESORT OWNERS ASSOCIATION, an Oregon nonprofit corporation

By: Don Dasard

Name: DON DASARD

Title: President

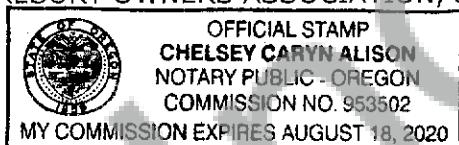
By: Karen L Smith

Name: Karen L Smith

Title: Secretary

STATE OF OREGON)
County of Klamath)ss.

June, 2018, by Donald Dasard, President of RUNNING Y RANCH
RESORT OWNERS ASSOCIATION, an Oregon nonprofit corporation, on its behalf.



Notary Public for Oregon

My commission expires: August 18, 2020

STATE OF OREGON)
County of Deschutes)ss.

May, 2018, by Karen L Smith, Secretary of RUNNING Y RANCH
RESORT OWNERS ASSOCIATION, an Oregon nonprofit corporation, on its behalf.

OFFICIAL STAMP
AMY LYCHE MOOR
NOTARY PUBLIC-OREGON
COMMISSION NO. 951926
MY COMMISSION EXPIRES JULY 07, 2020

Notary Public for Oregon

My commission expires: 7-7-2020

(Signatures Continued on Following Page)

DECLARANT:

RUNNING Y RANCH DEVELOPMENT, LLC, an
Oregon limited liability company

By: CLV PROPERTIES, LLC, an Oregon limited
liability company

Its: Sole Member

By:

Name: William D. LYNCH

Title: MANAGER

STATE OF _____)
)ss.
County of _____)

SEE CALIFORNIA Acknowledgment

The foregoing instrument was acknowledged before me on this _____ day of _____, _____, by _____, who is the Manager of CLV Properties, LLC, an Oregon limited liability company, sole member of RUNNING Y RANCH DEVELOPMENT, LLC, an Oregon limited liability company, on its behalf.

Notary Public for _____
My commission expires: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On June 13, 2018 before me, Deborah Etherton, Notary Public
(insert name and title of the officer)

personally appeared William D. Lynch,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Deborah Etherton (Seal)



EXHIBIT A

List of Supplemental Declarations

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort	Volume M96 Page 23548	08/02/1996
Declaration Annexing Lot 87 to Running Y Ranch Resort	Volume M97 Page 562	01/08/1997
Declaration Annexing the Sports and Fitness Center to Running Y Ranch Resort	Volume M97 Page 17757	06/10/1997
Declaration Annexing Common Area to Running Y Ranch Resort	Volume M97 Page 23689	07/25/1997
Declaration Annexing Lot 88 to Running Y Ranch Resort	Volume M97 Page 34692	10/21/1997
Re-record to correct error in Phase Number	Volume M98 Page 32472	09/03/1998
Declaration Annexing Lot 88 to Running Y Ranch Resort	Volume M98 Page 32472	09/03/1998
Declaration Annexing Lot 89 to Running Y Ranch Resort	Volume M98 Page 44452	12/04/1998
Declaration Annexing Lot 603 to Running Y Ranch Resort	Volume M99 Page 11066	03/30/1999
Declaration Annexing Common Area to Running Y Ranch Resort	Volume M00 Page 2796	01/27/2000
Declaration Annexing Common Area to Running Y Ranch Resort	Volume M01 Page 41909	08/20/2001
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	Volume M02 Page 53222	09/18/2002

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	Volume M02 Page 53225	09/18/2002
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	Volume M02 Page 56697	10/03/2002
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch (Consolidation of Lots)	M05-63769	09/08/2005
Declaration of Annexation Commercial Lots to Running Y Ranch Resort (Lots 93, 94 and 95, Running Y Resort, Phase 1)	M05-66609	10/14/2005
Supplemental Declaration to Declaration of Protective Covenants, Conditions, Restrictions And Easements for Running Y Ranch Resort	2006-025556	12/29/2006
Declaration of Annexation Commercial Lot to Running Y Ranch Resort (Lot 92, Running Y Resort, Phase 1)	2007-015432	08/31/2007
Declaration of Annexation Commercial Lot to Running Y Ranch Resort (Parcel 2, Land Partition No. 33-07)	2007-015943	09/11/2007
Declaration Annexing Common Area to Running Y Ranch Resort	2009-012653	09/24/2009

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2010-000880	01/25/2010
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2013-004633	05/01/2013
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2013-013067	11/22/2013
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2015-005251	05/22/2015
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2015-012766	11/23/2015
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2016-011078	10/18/2016

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2016-013132	12/9/2016
Re-Record to correct legal description in Section A of Recitals - Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2016-013664	12/22/2016
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2018-002798	03/14/2018
Supplement to Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort (Consolidation of Lots)	2018-003076	03/21/2018
Amendment to Commercial Declaration for Running Y Ranch Resort	2018-005493	05/02/2018
Declaration Annexing Phase 1 of Aspen Run to Running Y Ranch Resort	2007-014566	08/17/2007
Termination Declaration Declaration Annexing Phase 1 of Aspen Run to Running Y Ranch Resort	2007-018405	10/25/2007
Declaration Annexing Phase 1 of Aspen Run to Running Y Ranch Resort	2007-018406	10/25/2007
Re-record Termination Declaration Declaration Annexing Phase 1 of Aspen Run to Running Y Ranch Resort	2007-018601	10/30/2007

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
First Amendment to Declaration Annexing Phase 1 of Aspen Run to Running Y Ranch Resort	2008-009877	07/08/2008
Declaration Annexing Phase 1 of Eagles Landing to Running Y Ranch Resort	Volume M97 Page 34331	10/17/1997
Declaration Annexing Phase 2 of Eagles Landing to Running Y Ranch Resort	Volume M98 Page 37990	10/16/1998
Termination Declaration of Phase 2 of Eagles Landing at Running Y Ranch Resort	Volume M99 Page 15824	04/27/1999
Declaration Annexing Phase 2 of Eagles Landing to Running Y Ranch Resort	Volume M99 Page 22779	06/09/1999
Declaration Annexing Phase 3 of Eagles Landing to Running Y Ranch Resort	Volume M99 Page 36539	09/13/1999
Declaration Annexing Phase 4 of Eagles Landing to Running Y Ranch Resort	Volume M03 Page 83703	11/12/2003
Declaration Annexing Phase 5 of Eagles Landing to Running Y Ranch Resort	Volume M05 Page 51875	07/07/2005
Termination of Declaration of Co-Ownership Program at Eagles Landing	M05-62239	08/18/2005
Declaration Annexing Phase 6 of Eagles Landing to Running Y Ranch Resort	M06-07829	04/21/2006
Declaration Annexing The Meadows Phase 1 to Running Y Ranch Resort	Volume M04 Page 86072	12/16/2004

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Declaration Annexing The Meadows Phase 2 to Running Y Ranch Resort	Volume M05 Page 53638	07/13/2005
Declaration Annexing Phase 1 of Pelican Springs to Running Y Ranch Resort	Volume M98 Page 17490	05/22/1998
Amended and Restated Declaration Annexing Phase 1 of Pelican Springs to Running Y Ranch Resort	Volume M98 Page 23325	07/01/1998
Second Amended and Restated Declaration Annexing Phase 1 of Pelican Springs to Running Y Ranch Resort	Volume M98 Page 25019	07/13/1998
Declaration Annexing Phase 2 of Pelican Springs to Running Y Ranch Resort	Volume M99 Page 17683	05/07/1999
Declaration Annexing Phase 3 of Pelican Springs to Running Y Ranch Resort	Volume M01 Page 23634	05/22/2001
Amended and Restated Declaration Annexing Phase 3 of Pelican Springs to Running Y Ranch Resort	Volume M03 Page 93072	12/24/2003
Declaration Annexing Phase 4 of Pelican Springs to Running Y Ranch Resort	Volume M05 Page 38874	05/26/2005
Declaration Annexing Phase 5 of Pelican Springs to Running Y Ranch Resort	Volume M06 Page 04252	03/08/2006
Declaration Annexing Phase 1 of Ranch View Homesites to Running Y Ranch Resort	Volume M00 Page 17848	05/17/2000
Termination Declaration of Phase 1 of Ranch View Homesites to Running Y Ranch Resort	Volume M00 Page 37761	10/17/2000

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Declaration Annexing Phase 1 of Ranch View Homesites to Running Y Ranch Resort	Volume M00 Page 37764	10/17/2000
Declaration Annexing Phase 2 of Ranch View Homesites to Running Y Ranch Resort	Volume M00 Page 37773	10/17/2000
Re-record to correct Exhibit B Declaration Annexing Phase 1 of Ranch View Homesites to Running Y Ranch Resort	Volume M00 Page 43464	12/04/2000
Re-record to correct Exhibit B Declaration Annexing Phase 1 of Ranch View Homesites to Running Y Ranch Resort	Volume M01 Page 31156	06/27/2001
Termination Declaration of Phase 2 of Ranch View Homesites to Running Y Ranch Resort	Volume M00 Page 47164	12/29/2000
Amended and Restated Declaration Annexing Phase 1 of Ranch View Estates to Running Y Ranch Resort	Volume M03 Page 83710	11/12/2003
Declaration Annexing Phase 2 of Ranch View Estates to Running Y Ranch Resort	Volume M04 Page 67687	10/16/2004
Declaration Annexing Phase 3 of Ranch View Estates to Running Y Ranch Resort	Volume M04 Page 86076	12/16/2004
Declaration Annexing Phase 2 of Ridge View Homesites to Running Y Ranch Resort	Volume M96 Page 36964	11/25/1996
Declaration Annexing Phase 3 of Ridge View Homesites to Running Y Ranch Resort	Volume M97 Page 23691	07/25/1997
Declaration Annexing Phase 4 of Ridge View Homesites to Running Y Ranch Resort	Volume M98 Page 16916	05/18/1998

Supplemental Declaration	Recorded in the Office of the County Recorder, Klamath County, Oregon, in:	Recording Date
Re-record to correct Errors in Paragraph 4.1 &4.3 Declaration Annexing Phase 4 of Ridge View Homesites to Running Y Ranch Resort	Volume M98 Page 18438	06/01/1998
Declaration Annexing Phase 5 of Ridge View Homesites to Running Y Ranch Resort	Volume M00 Page 34549	09/21/2000
Declaration Annexing Phase 6 of Ridge View Homesites to Running Y Ranch Resort	Volume M03 Page 10954	02/24/2003
Declaration Annexing Phase 7 of Ridge View Homesites to Running Y Ranch Resort	Volume M03 Page 30152	05/06/2003
Re-record to correct Exhibit A Declaration Annexing Phase 7 of Ridge View Homesites to Running Y Ranch Resort	Volume M03 Page 34242	05/21/2003
Declaration Annexing Lot 834 to Ridge View Homesites at Running Y Ranch Resort	Volume M03 Page 69319	09/17/2003
Declaration Annexing Phase 1 of View Point Homesites to Running Y Ranch Resort	Volume M01 Page 50048	10/01/2001
Termination Declaration of Lots 792 – 795 and Lots 818 – 820 of Phase 1 of View Point Homesites at Running Y Ranch Resort	Volume M02 Page 19560	04/03/2002
Declaration Annexing Lots 827 – 833 of Phase 1 of View Point Homesites to Running Y Ranch Resort	Volume M02 Page 19564	04/03/2002
Declaration Annexing Phase 1 of Westridge Estates to Running Y Ranch Resort	Volume M03 Page 86361	11/24/2003
Declaration Annexing Phase 2 of Westridge Estates to Running Y Ranch Resort	Volume M04 Page 06363	02/02/2004

Supplemental Declaration**Recorded in the Office of the
County Recorder, Klamath
County, Oregon, in:****Recording
Date**

Re-record to correct Exhibit A
Declaration Annexing Phase 2 of
Westridge Estates to
Running Y Ranch Resort

Volume M04
Page 39030

06/17/2004

Supplemental Declaration Establishing
Common
Easement Area Phase 2 of Westridge
Estates

Volume M04
Page 78426

11/15/2004

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EXHIBIT B

Bylaws

(See Attached)

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**AMENDED AND RESTATED BYLAWS OF
RUNNING Y RANCH RESORT OWNERS ASSOCIATION**

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**AMENDED AND RESTATED BYLAWS OF
RUNNING Y RANCH RESORT OWNERS ASSOCIATION**

ARTICLE 1.

DEFINITIONS

1.1 **Association.** "Association" shall mean **RUNNING Y RANCH RESORT OWNERS ASSOCIATION**, a nonprofit corporation organized and existing under the laws of the State of Oregon.

1.2 **Articles of Incorporation.** "Articles of Incorporation" shall mean the Articles of Incorporation of the Association.

1.3 **Bylaws.** "Bylaws" shall mean these Amended and Restated Bylaws of Running Y Ranch Resort Owners Association, as the same may be amended from time to time in accordance with the provisions hereof.

1.4 **Declaration.** The "Declaration" shall mean the Amended and Restated Declaration of Protective Covenants, Conditions, Restrictions and Easements for Running Y Ranch Resort recorded on June 20 2018, in Volume 2018 at Page 007433 of the Deed Records of Klamath County, Oregon, as the same may be subsequently amended or supplemented pursuant to the terms thereof.

1.5 **Incorporation by Reference.** Except as otherwise provided herein, the terms which are defined in Article 1 of the Declaration are used in these Bylaws as therein defined.

ARTICLE 2.

MEMBERSHIP

2.1 **Membership.** Every Owner of one or more Lots within the Resort shall, during the entire period of such ownership, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

2.2 **Membership List.** The Secretary shall maintain at the principal office of the Association a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board of Directors.

ARTICLE 3.

MEETINGS AND VOTING

3.1 **Place of Meetings.** Meetings of the members of the Association shall be held at such reasonable place convenient to the members as may be designated in the notice of the meeting.

3.2 Turnover Meeting. Declarant shall call the first meeting of the Owners to organize the Association within one hundred twenty (120) days after Lots representing seventy-five percent (75%) of the Voting Units have been sold and conveyed to Owners other than the Declarant. Notice of such meeting shall be given to all Owners as provided in Section 3.5. If the Declarant fails to call the meeting, the meeting may be called and notice given by any Owner or mortgagee of a Lot. The expense of giving notice shall be paid or reimbursed by the Association. In the event of lack of quorum at such Turnover Meeting, it may be adjourned to the time of the first annual meeting. Nothing in this section shall be construed as preventing the Declarant from calling the Turnover Meeting prior to such date, or from calling informal, informational meetings of the Owners.

3.3 Annual Meeting. The annual meeting of the members for the election of directors (subject to the provisions of Section 4.2 regarding the Interim Board) and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day during the month of October or November of each year as the President may designate, or if the President should fail to designate a date by the first day of November, then at 7:30 pm on the third Saturday in November. The first annual meeting shall be held within one year from the date of the Turnover Meeting.

3.4 Special Meetings. A special meeting of the Association may be called at any time by the President or by a majority of the Board of Directors. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from members having twenty-five percent (25%) of the Voting Units entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice for the special meeting. If the members request a special meeting in accordance with this Section 3.4 and notice of the special meeting is not given within thirty (30) days after the date the written request is delivered to the President or Secretary, any member who signed the request may set the time and place of the special meeting and give notice of the special meeting as provided in Section 3.5.

3.5 Notice of Meeting.

(a) Written or printed notice stating the place, day and hour of the meeting, the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, any proposal to remove a director or officer and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting. Such notice shall be given personally, by mail, or by any other method permissible under the Oregon Planned Community Act, by or at the direction of the President, or the Secretary, or the persons calling the meeting, to each member entitled to vote at such meeting, and to all mortgagees who have requested such notice. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the member at his most recent address as it appears on the records of the Association or to the mailing address of his Lot.

(b) When a meeting is adjourned for thirty (30) days or more, or when a redetermination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

3.6 **Quorum.** At any meeting of the Association, members having twenty percent (20%) of the Voting Units entitled to be cast at such meeting, present in person, by proxy, or by absentee ballot, if absentee ballots are permitted by the Board of Directors, shall constitute a quorum, except when a larger quorum is required by the Declaration. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a member or members. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called until a quorum is present.

3.7 **Voting Rights.** Voting rights within the Association shall be allocated as follows:

(a) **Residential Lots and Commercial Lots.** Residential Lots shall be allocated one Voting Unit per Living Unit located on such Lot. Condominium units shall be entitled to one Voting Unit for each Condominium unit. A single-family Residential Lot shall be allocated one Voting Unit, regardless whether the Living Unit has been constructed on such Lot. Each Commercial Lot shall be entitled to the number of Voting Units set forth in the declaration annexing the Commercial Lot to Running Y Ranch Resort.

(b) **Classes of Voting Membership.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to Voting Units for each Lot owned computed in accordance with paragraph 9.3(a) of the Declaration. When more than one person holds an interest in any Lot, all such persons shall be members. Except as may otherwise be specified in the declaration annexing such Lot to Running Y Ranch Resort or in the Neighborhood Declaration pertaining to such Lot, the vote for such Lot shall be exercised as they among themselves determine. In no event, however, shall more Voting Units be cast with respect to any Lot than as set forth in Section 9.3(a) of the Declaration.

Class B. The Class B member shall be the Declarant and shall be entitled to three times the Voting Units computed under Section 9.3(a) of the Declaration for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) Declarant has completed development of all Lots and Common Areas permitted under the Master Plan, and Lots representing seventy-five percent (75%) of the Voting Units computed in accordance with the Declaration have been sold and conveyed to Owners other than Declarant; or

(ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

3.8 **Joint Ownership.** Unless otherwise provided in a Neighborhood Declaration, in any case in which two or more persons share the ownership of the Lot, the vote or consent of any one or more of such persons shall constitute the vote or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Secretary of the Association and the vote or right of consent involved shall then be

disregarded completely in determining the proportion of votes or consents given with respect to such matter. A valid court order may establish the right of co-Owners' authority to vote.

3.9 Method of Voting. Every member entitled to vote or to execute any waiver or consent may do so either in person, by absentee ballot (if authorized by the Board of Directors), or by written proxy duly executed and filed with the Secretary of the Association. An Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over the meeting or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 3.12. 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. An absentee ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for absentee ballots shall include instructions for return delivery of the completed absentee ballot and information about whether or not the absentee ballot may be canceled if it is returned in accordance with the instructions. If an absentee ballot is delivered by a member, the member may vote in person at the meeting if the member returned the absentee ballot and canceled the absentee ballot, if cancellation was permitted in the instructions included with the absentee ballot. An Owner may pledge or assign the Owner's voting rights to a mortgagee. In such a case, the mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled under these Bylaws and to exercise the Owner's voting rights from and after the time that the mortgagee shall give written notice of such pledge or assignment to the Board of Directors. A mortgagee may designate a representative to attend any meeting of the Association.

3.10 Majority Vote. The vote of a majority of the Voting Units entitled to be cast by the members present or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by law, by the Declaration, by the Articles of Incorporation, or by these Bylaws.

3.11 Rules of Order. Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Association shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association. A decision of the Association may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied. Additionally, a decision of the Association is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

3.12 Ballot Meetings.

(a) At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every member who is entitled to vote on the matter; provided, however, that action by written ballot may not substitute for: (i) the Turnover Meeting; (ii) the annual meeting of the Association if more than a majority of the Lots are the principal residences of the occupants; (iii) a meeting of the Association if the agenda includes a proposal to remove a director from the Board of Directors; or (iv) a special meeting of the Association called at the request of the members under ORS 94.650(2). All written ballots must set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall state the number of responses needed to satisfy any applicable quorum requirement, the required

percentage of votes needed for approval, and the period during which the Association will accept written ballots for counting. In the discretion of the Board of Directors, if a specific deadline is stated in the solicitation for the return of ballots, such deadline may be extended by written notice of the extension given to all members before the expiration of the deadline.

(b) The Board of Directors shall provide Owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. The notice shall state the general subject matter of the vote by written ballot, the right of the members to request secrecy procedures as specified in ORS 94.647, the date after which ballots may be distributed, the date and time by which any petition requesting secrecy procedures must be received by the Board of Directors, and the address where such a petition may be delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the members petition the Board of Directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the member, and instructions for mailing and returning the ballot. The secrecy procedures and the requirement to provide a secrecy envelope and return identification envelope shall not apply to the written ballot of a member if the consent or approval of that particular member is required under these Bylaws, the Declaration, the Articles, or the Oregon Planned Community Act.

(c) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed approved when the date for return of ballots has passed, a quorum of Owners has voted by written ballot, and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed rejected. If approval of a proposed action otherwise would require a meeting at which a specified percentage of Owners must authorize the action, the proposal shall be deemed approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed rejected when the number of votes cast in opposition renders approval impossible or when the date for return of ballots has passed and such required percentage has not been met. Votes may be counted from time to time before the final return date of the ballots to determine whether the proposal has passed or failed by the votes already cast on the date the ballots are counted, provided, however, that written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(d) Any vote that may be conducted by written ballot may also be conducted by electronic ballot subject to the procedures and requirements set forth in the Oregon Planned Community Act for electronic ballots. An electronic ballot shall mean any ballot given by electronic mail, facsimile transmission, posting on a website or other means of electronic communication approved by the Board of Directors.

ARTICLE 4.

DIRECTORS: MANAGEMENT

4.1 **Qualification.** The affairs of the Association shall be governed by a Board of Directors. All directors, other than interim directors appointed by Declarant, shall be Owners or co-Owners of Lots. For purposes of this section, a member, manager, officer, employee or agent of a corporation, limited liability company, partnership or other entity that owns a Lot or owns an interest in an entity that owns a Lot, shall be considered an Owner and may serve as a director of the Board of Directors.

4.2 Interim Board. An interim board of directors (the “**Interim Board**”) consisting of five (5) directors, two (2) of whom shall be appointed by Declarant and three (3) of whom shall be elected by the Class A members as provided herein, shall serve as the Board of Directors of the Association until termination of the Class B membership. At the next annual meeting of the members following termination of the Class B membership, all directors of the Interim Board shall resign and be replaced by their successors, who shall be elected in accordance with Section 9.10 of the Declaration. The President or Secretary shall call a meeting of the Class A members of the Association within one hundred twenty (120) days following the recordation of the Declaration for the election of three (3) directors to the Interim Board by the Class A members. If the President or Secretary fails to call the meeting within the required 120-day period, then the meeting may be called and noticed by any one of the Class A members. One director shall be elected for a one year term, and two of the directors shall be elected for two year terms. The director elected who receives the fewest number of votes shall serve the one year term. Thereafter, the directors elected to the Interim Board by the Class A members shall each serve a term of two (2) years unless they sooner resign, are disqualified from serving, or are removed or replaced in accordance with this Section 4.2 or Section 9.10 of the Declaration; provided, however, that the terms of the directors elected to the Interim Board by the Class A members shall be adjusted accordingly so that the expiration of the terms coincide with the date on which the annual meeting of the Association is held in the year in which the terms expire so that their successors may be elected at the annual meeting. Voting for election of directors to the Interim Board by the Class A members shall be by plurality and based on the Voting Units calculated in accordance with Section 3.7(a) above. The directors appointed to the Interim Board by Declarant shall only be removed and replaced by Declarant. The directors elected to the Interim Board by the Class A members shall only be removed and replaced by the Class A members. In the event of a vacancy on the Interim Board due to the death, resignation or disqualification of a director elected by the Class A members, the President or Secretary shall call a meeting of the Class A members for the purpose of electing a replacement director to serve the remainder of the unexpired term of the director being replaced. Such meeting shall be held within sixty (60) days of the effective date of the death, resignation or disqualification of the director. If the President or Secretary fails to call the meeting within the required 60-day period, then the meeting may be called and noticed by any one of the Class A members. Additionally any director elected to the Interim Board by the Class A members may be removed from the Interim Board by the Class A members in accordance with Section 4.7.

4.3 Transitional Advisory Committee. Unless the Turnover Meeting described in Section 3.2 above has already been held, Declarant shall call a meeting of the Owners for the purpose of forming a Transitional Advisory Committee. The meeting shall be called within sixty (60) days of conveyance to persons other than Declarant of Lots representing fifty percent (50%) of the Voting Units in the Association. Declarant shall give notice of the meeting as provided in Section 3.2, above. The committee shall consist of two (2) or more members elected by the Owners other than Declarant and not more than one representative of Declarant. The members shall serve until the Turnover Meeting. The Transitional Advisory Committee shall be advisory only and its purpose shall be to enable ease of transition from control of the administration of the Association by Declarant to control by the members. The committee shall have access to any information, documents and records which Declarant must turn over to the members at the time of the Turnover Meeting. If Declarant fails to call the meeting to elect a Transitional Advisory Committee within the time specified, the meeting may be called and notice given by any Owner.

4.4 Nominations for Election to the Board of Directors. Nominations for election to the Board of Directors, including the Interim Board (except directors appointed to the Interim Board by Declarant in accordance with Section 4.2 above), shall be made by a

nominating committee (the "**Nominating Committee**"). Nominations for election to the Board of Directors (except directors appointed to the Interim Board by Declarant in accordance with Section 4.2 above) may also be made from the floor at any meeting called for the election of directors. The Nominating Committee shall consist of a chairman, who shall be a director, and two (2) or more Class A members. The Nominating Committee shall be appointed by the Board of Directors prior to each meeting of the members called for the purpose of electing directors to make as many nominations for election to the Board as the Nominating Committee shall in its discretion determine, but not less than the number of vacancies that are to be filled.

4.5 Election and Tenure of Office. At the next annual meeting following termination of the Class B membership, the directors serving on the Interim Board shall resign and the directors specified in Section 9.10 of the Declaration shall be elected as provided in such section. One director from each category shall be elected for a one year term, with the remainder of the directors elected for two year terms. The director elected from each category who receives the fewest number of votes shall serve the one year term. Thereafter, all directors shall be elected for two year terms. All directors shall hold office until their respective successors have been elected as provided in such section.

4.6 Vacancies. A vacancy in the board of directors shall exist upon the death, resignation, disqualification or removal of any director. Vacancies in the board of directors, other than the Interim Board, shall be filled from the same class of Owners by vote of the remaining directors until the next annual meeting, at which time its vacancy shall be filled by election in the manner described in Section 9.10 of the Declaration. Each such director shall hold office for the balance of the unexpired term and until his or her successor is elected. Vacancies on the Interim Board shall be filled in accordance with Section 4.2.

4.7 Removal of Directors. Any director, other than the directors appointed to the Interim Board by Declarant, may be removed, with or without cause, at any meeting of the members entitled to vote on the election of such director by vote of a majority of the number of votes entitled to be cast at the election of such director. No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting.

4.8 Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors by the Owners. The powers and duties to be exercised by the Board of Directors shall include, but not be limited to those set forth in Section 9.5 of the Declaration and the following:

(a) Carry out the maintenance program described in the Declaration and these Bylaws.

(b) Determination of the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

(c) Preparation of a budget for the Association, and assessment and collection of the Assessments.

(d) Employment and dismissal of such personnel as necessary for such maintenance, upkeep and repair of the Common Areas.

(e) Employment of legal, accounting or other personnel for reasonable compensation to perform such services as may be required for the proper administration of the Association; provided, however, the Board may not incur or commit the Association to incur legal fees in excess of \$5,000 for any specific litigation or claim matter unless the Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five percent (75%) of the Voting Units present in person or by absentee ballot or proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitations set forth in this paragraph shall increase by ten percent (10%) on each fifth anniversary of the recording of the Declaration. To the extent required by the Oregon Planned Community Act, the Board of Directors shall notify the Owners before instituting litigation or administrative proceedings.

(f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

(g) Preparing or causing to be prepared and filed any required income tax returns or forms for the Association.

(h) Purchasing Lots at foreclosure or other judicial sales in the name of the Association, or its designee.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of directors), or otherwise dealing with Lots acquired by the Association or its designee.

(j) Obtaining insurance or bonds pursuant to the provisions of these Bylaws, and reviewing such insurance coverage at least annually.

(k) Making additions and improvements to, or alterations of, the Common Areas.

(l) From time to time adopt, modify, or revoke such Policies and Procedures governing the conduct of persons and the operation and use of the Lots and the Common Areas as the Board of Directors may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Resort. Such action may be modified by vote of not less than seventy-five percent (75%) of the Voting Units of each class of members present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of Policies and Procedures will be under consideration.

(m) Enforcement by legal means of the provisions of the Declaration, these Bylaws and any Policies and Procedures adopted thereunder.

(n) In the name of the Association, maintain a current mailing address of the Association.

(o) Subject to Section 9.12 of the Declaration, enter into management agreements with professional management firms, either alone or with Neighborhood Associations or other associations at Running Y Ranch Resort.

4.9 **Meetings.**

(a) Meetings of the Board of Directors shall be held at such place as may be designated from time to time by the Board of Directors or other persons calling the meeting.

(b) Annual meetings of the Board of Directors shall be held within sixty (60) days following the adjournment of the annual meetings of the members.

(c) Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by any two directors.

(d) Unless other rules of order are adopted by resolution of the Board of Directors, all meetings of the Board of Directors shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association. A decision of the Board of Directors may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied. Additionally, a decision of the Board of Directors is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

4.10 **Open Meetings; Notice.**

(a) All meetings of the Board of Directors shall be open to Owners, except that, in the discretion of the Board of Directors, the following matters may be considered in executive session: (i) consultation with legal counsel; (ii) personnel matters, including salary negotiations and employee discipline; (iii) negotiation of contracts with third parties; and (iv) collection of unpaid assessments. Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the President shall state the general nature of the action to be considered and when and under what circumstances the deliberations can be disclosed to the Owners. The statement, motion, or decision to meet in executive session must be included in the minutes of the meeting. A contract or action considered in executive session does not become effective unless the Board, following the executive session, reconvenes in an open meeting and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

(b) Meetings of the Board of Directors may be conducted by telephonic communication or by other means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting, except that if a majority of the Lots are principal residences of the occupants, then: (i) for other than emergency meetings, notice of each Board of Directors' meeting shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Owners of such meeting; (ii) emergency meetings may be held without notice, if the reason of the emergency is stated in the minutes of the meeting; and (iii) only emergency meetings of the Board of Directors may be conducted by telephonic communication or by other means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting. The meeting and notice requirements of this section may not be circumvented by chance, social meetings, or by other means.

(c) Notice of the time and place of meetings shall be given to each director orally or delivered in writing personally or by mail or telecopy at least twenty-four (24) hours before the meeting. Notice shall be sufficient if actually received at the required time or if mailed or telecopied not less than seventy-two (72) hours before the meeting. Notice mailed or telecopied shall be directed to the address shown on the Association's records or to the director's actual address ascertained by the person giving the notice. Such notice need not be given for an adjourned meeting if such time and place is fixed at the meeting adjourned.

(d) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. A director who is present at a meeting of the Board of Directors at which action is taken on any Association matter is presumed to have assented to the action taken unless the director votes against the action or abstains from voting on the action because the director claims a conflict of interest. When action is taken on any matter at a meeting of the Board of Directors, the vote or abstention of each director present shall be recorded in the minutes of the meeting. The directors may not vote by proxy or by secret ballot at meetings of the Board of Directors, except that the directors may elect officers of the Association by secret ballot.

4.11 Quorum and Vote.

(a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn from time to time but may not transact any business.

(b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors unless a greater number is required by law, the Declaration, the Articles of Incorporation or these Bylaws.

4.12 Liability. A member of the Board of Directors or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional acts. In the event any member of the Board of Directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

4.13 Compensation. No director shall receive any compensation from the Association for acting as such.

ARTICLE 5.

OFFICERS

5.1 Designation and Qualification. The officers of the Association shall be the President, the Secretary and the Treasurer and such Vice Presidents and subordinate officers as the Board of Directors shall from time to time appoint. The President shall be a member of the Board of Directors, but the other officers need not be directors. Officers need not be members of the Association. Any two offices may be held by the same person except the offices of President and Secretary.

5.2 **Election and Vacancies.** The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board to serve for one year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

5.3 **Removal and Resignation.**

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever in their judgment the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided that the Board of Directors may reject any post-dated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

5.4 **President.** The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and affairs of the Association. He shall preside at all meetings of the members and of the Board of Directors. He shall be ex officio a member of all the standing committees, including the executive committee, if any, shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.5 **Vice Presidents.** The Vice Presidents, if any, shall perform such duties as the Board of Directors shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Senior Vice President as designated by the Board of Directors.

5.6 **Secretary.**

(a) The Secretary shall keep or cause to be kept a Book of Minutes of all meetings of directors and members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at members' meetings and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the members and of the Board of Directors as is required by these Bylaws or by law. The Secretary shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

5.7 **Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of accounts shall at all reasonable times be open to inspection by any director. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

5.8 **Compensation of Officers.** No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the members. The Board of Directors may fix any compensation to be paid to other officers.

ARTICLE 6.

EXECUTIVE AND OTHER COMMITTEES

Subject to law, the provisions of the Articles of Incorporation and these Bylaws, the Board of Directors, by a vote of a majority of the directors in office, may appoint an executive committee and such other standing or temporary committees as may be necessary from time to time, consisting of not less than two of the directors in office and having such powers as the Board of Directors may designate. Such committees shall hold office at the pleasure of the Board and shall be in addition to any other committees required to be formed under or otherwise described in these Bylaws or the Declaration, including without limitation, the Transitional Advisory Committee, Nominating Committee and Architectural Review Committee and Neighborhood Committees.

ARTICLE 7.

ASSESSMENTS, RECORDS AND REPORTS

7.1 **Assessments.** As provided in the Declaration, the Association, through its Board of Directors, shall do the following:

(a) Assess and collect from the Owners the Assessments in the manner described in the Declaration.

(b) Keep all funds received by the Association as Assessments, other than reserves described in Section 11.11 of the Declaration, in the Operations Fund and keep all reserves collected pursuant to Section 11.11 of the Declaration in the Reserve Fund, and use such funds only for the purposes described in the Declaration.

(c) From time to time, and at least annually, prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If within thirty (30) days after the summary is provided to the Owners the Board of Directors is petitioned by Owners representing twenty percent (20%) of the Voting Units of the Association, the Board shall call a meeting of the Owners to consider rejection of the budget. The date of the meeting shall

be not less than fourteen (14) nor more than thirty (30) days after receipt of the petition. At the meeting, whether or not a quorum is present, the budget shall be adopted unless seventy-five percent (75%) or more of the Voting Units of the Association reject the budget. If the proposed annual budget is rejected, the last annual budget shall continue in effect until the Owners approve a subsequent budget.

(d) Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any Assessment shall be sent to every Owner subject thereto and to any first mortgagee requesting such notice. The due dates shall be established by the Board of Directors, which may fix a regular flat Assessment payable on a monthly, quarterly or annual basis. The Board of Directors shall cause to be prepared a roster of the Lots showing Assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner or mortgagee during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board of Directors, and every Owner as to the amounts of unpaid Assessments.

(e) When Additional Properties are annexed, the Board of Directors shall assess any Lots included therein in accordance with Section 11.9 of the Declaration.

(f) Enforce the Assessments in the manner provided in the Declaration.

(g) Keep records of the receipts and expenditures affecting the Operations Fund and Reserve Fund and make the same available for examination by members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each member written notice of each Assessment at least 30 days prior to the time when such Assessment shall become due and payable; and for a reasonable charge, if established by resolution of the Board of Directors, promptly provide any Owner or mortgagee who makes a request in writing with a written certificate of such Owner's unpaid Assessments.

7.2 Records. The Association shall keep and retain within the State of Oregon correct and complete financial records sufficiently detailed for proper accounting purposes, all minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors, all documents, information and records turned over to the Association by Declarant and all other records of the Association for all applicable periods of time set forth in the Oregon Planned Community Act, Oregon Nonprofit Corporation Act or any other applicable law.

7.3 Statement of Assessments Due. The Association shall provide, within ten (10) business days after receipt of a written request from an Owner, a written statement that provides: (i) the amount of assessments due from the Owner and unpaid at the time the request was received, including regular and special assessments, fines and other charges, accrued interest, and late payment charges; (ii) the percentage rate at which interest accrues on assessments that are not paid when due; and (iii) the percentage rate used to calculate charges for late payment or the amount of a fixed-rate charge for late payment, as applicable. The Association is not required to comply with this section if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.

7.4 **Inspection of Books and Records.** During normal business hours or under other reasonable circumstances, the Association shall make available to Owners, prospective purchasers and lenders, and to holders of any mortgage of a Lot, current copies of the Declaration, Articles, Bylaws, Rules and Regulations, amendments or supplements to such documents, the current operating budget and most recent financial statement of the Association, the reserve study, if any, and architectural standards and guidelines, if any. The Association, within ten (10) business days after receipt of written request by an Owner, shall furnish the information described in the preceding sentence to the Owner. In addition, the Association shall make all other records of the Association available for examination and, upon written request, available for duplication by an Owner or any mortgagee of a Lot that makes a request in good faith for a proper purpose, except for those records kept by or on behalf of the Association that may be withheld from examination and duplication under ORS 94.670(9)(b).

7.5 **Payment of Vouchers.** The Treasurer shall pay all vouchers for all budgeted items and for any nonbudgeted items up to \$1,000 signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher for nonbudgeted items in excess of \$1,000 shall require the authorization of the President.

7.6 **Execution of Documents.** The Board of Directors may, except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or for any amount.

7.7 **Reports and Audits.** An annual financial statement consisting of a balance sheet and income and expense statement for the preceding year shall be rendered by the Board of Directors to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. If the Annual Assessments exceed \$75,000 for the year, then the Board of Directors shall cause such financial statements to be reviewed within one hundred eighty (180) days after the end of the fiscal year by an independent certified public accountant licensed in Oregon in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants, or if the Annual Assessments are \$75,000 or less, shall cause such review within one hundred eighty (180) days after receipt of a petition requesting such review signed by at least a majority of the Owners. The Board of Directors need not cause such a review to be performed if so directed by an affirmative vote of at least sixty percent (60%) of the Owners, not including votes of Declarant with respect to Lots owned by Declarant. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association and furnish copies thereof to the members. At any time any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

ARTICLE 8.

INSURANCE

8.1 **Types of Insurance.** For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the common expense funds, the following insurance:

(a) **Property Damage Insurance.**

(i) The Association shall maintain a policy or policies of insurance covering loss or damage from fire, with standard extended coverage and "all risk" endorsements, and such other coverages as the Association may deem desirable.

(ii) The amount of the coverage shall be for not less than one hundred percent (100%) of the current replacement cost of the Improvements on the Common Areas (exclusive of land, foundation, excavation and other items normally excluded from coverage), subject to a reasonable deductible, provided that such deductible does not exceed any maximum allowable deductible under ORS 94.675 or any other applicable provision of the Oregon Planned Community Act.

(iii) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the Common Areas and all personal property and supplies belonging to the Association.

(b) **Liability Insurance.**

(i) The Association shall maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the Board of Directors, and the managing agent, against liability to the public or to Owners and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Common Areas, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of an Owner (other than as a member of the Association or Board of Directors) for liability arising out of acts or omission of such Owner and liability incident to the ownership and/or use of the part of the property as to which such Owner has the exclusive use or occupancy.

(ii) Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) on a combined single-limit basis.

(iii) Such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

(c) **Workers' Compensation Insurance.** The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

(d) **Fidelity Bonds or Insurance.**

(i) The Board of Directors may cause the Association to maintain blanket fidelity bonds or insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of, or administered by, the Association. In the event the Association has retained a management agent, the Board of Directors may require such agent to maintain fidelity bonds or insurance for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association.

(ii) The total amount of fidelity coverage required shall be based upon the best business judgment of the Board of Directors.

(iii) Such fidelity bond or insurance shall name the Association as obligee and shall contain waivers by the issuers of the bonds or the insurer of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds or insurance shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 10 days' prior written notice to the Association.

8.2 **Insurance by Lot Owners.** Each Owner shall be responsible for obtaining, at his or her own expense, homeowner's insurance covering the Improvements on the Owner's Lot and liability resulting from use or ownership of the Lot, unless the Association agrees otherwise. The insurance coverage maintained by the Association shall not be brought into contribution with the insurance obtained under this section by the Owners.

8.3 **Planned Community Act Requirements.** The insurance maintained by the Association shall comply with the requirements of the Oregon Planned Community Act, ORS 94.550 to 94.783.

8.4 **Miscellaneous.** At least annually, the Board of Directors shall review the insurance coverage of the Association. Premiums for insurance obtained by the Board of Directors on behalf of the Association pursuant to this Section 8 shall be a common expense of the Association. The Board of Directors may adopt a resolution prescribing responsibility for the payment of deductibles under the Association's insurance policies.

ARTICLE 9.

GENERAL PROVISIONS

9.1 **Seal.** The Board of Directors may, by resolution, adopt a corporate seal.

9.2 **Notice.** All notices to the Association or to the Board of Directors shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time. All notices to members shall be sent to the member's Living Unit or to such other address as may have been designated by the member from time to time in writing to the Board of Directors. Notices may be sent by any method permissible under the Oregon Planned Community Act.

9.3 **Waiver of Notice.** Whenever any notice to any member or director is required by law, the Declaration, the Articles of Incorporation, or these Bylaws, a waiver of notice in writing signed at any time by the person entitled to notice shall be equivalent to the giving of the notice.

9.4 **Action Without Meeting.** Any action which the law, the Declaration, the Articles of Incorporation or the Bylaws require or permit the members or directors to take at any meeting may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the members or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the members or directors, shall be filed in the records of minutes of the Association. In addition to the foregoing, the members may also take actions without a meeting by written or electronic ballot in accordance with Section 3.12.

9.5 **Conflicts.** These Bylaws are intended to comply with the Oregon Nonprofit Corporation Law, the Declaration, the Articles of Incorporation and, if applicable, the Oregon Planned Community Act, ORS 94.550 to 94.783. In case of any irreconcilable conflict, such statutes and documents shall control over these Bylaws.

9.6 **Effect of Bylaws.** These Amended and Restated Bylaws of Running Y Ranch Resort Owners Association amend, restate and replace in their entirety the Bylaws of Running Y Ranch Resort Owners Association (the "**Original Bylaws**").

9.7 **Approval and Certification.** By execution of these Amended and Restated Bylaws, the President and Secretary hereby certify that these Amended and Restated Bylaws were approved and adopted in accordance with Article 10 of the Original Bylaws and ORS 94.625 and may be executed and recorded in accordance with ORS 94.625. These Bylaws and any subsequent amendments to these Bylaws shall be recorded in the official records of Klamath County, Oregon.

ARTICLE 10.

AMENDMENTS TO BYLAWS

10.1 **How Proposed.** Amendments to these Bylaws shall be proposed by either a majority of the Board of Directors or by members having one-fourth of the Voting Units entitled to be cast for such amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon. Alternatively, the notice of the meeting shall state the general nature of the proposed amendment and the proposed amendment shall otherwise be made available to the members for review prior to the meeting.

10.2 **Adoption.** The proposed amendment must be approved by the membership at a regular or special meeting of the members called for that purpose, at which a quorum is present, by an affirmative majority of the Voting Units of the Association present at such meeting in person or by absentee ballot or by proxy, together with the written consent of the Class B member, if any. Those provisions of these Bylaws which are governed by the Declaration, however, may not be amended except as provided in the Declaration. Notwithstanding the provisions of the preceding paragraph, until termination of the Class B membership, Declarant shall have the right to amend these Bylaws in order to comply with the requirements of any applicable statute, ordinance or regulation of the Federal Housing Administration, the United States Department of Veterans Affairs, Rural Development or the Farm Service Agency of the United States Department of Agriculture, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community or regulates the development or sale of real property.

10.3 **Execution and Recording.** An amendment is not effective unless it is certified by the President and Secretary as having been adopted in accordance with these Bylaws and ORS 94.625, acknowledged in the manner provided for acknowledgment of deeds and recorded in the Deed Records of Klamath County, Oregon.

IN WITNESS WHEREOF, the undersigned have executed these Bylaws as of
May 29, 2018.

ASSOCIATION:

RUNNING Y RANCH RESORT OWNERS
ASSOCIATION, an Oregon nonprofit corporation

By: Don Pasaro
Name: Don Pasaro
Title: President

By: Karen L. Smith
Name: Karen L. Smith
Title: Secretary

DECLARANT:

RUNNING Y RANCH DEVELOPMENT, LLC, an
Oregon limited liability company

By: CLV PROPERTIES, LLC, an Oregon limited
liability company

Its: Sole Member

By: William D. Lynch
Name: William D. Lynch
Title: Manager