DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TERRA ESTATES
THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TERRA ESTATES ("Declaration") is made this ___th day of July, 2015 by Del Boca Vista LLC, an Oregon limited liability company, as the Declarant.

RECITALS

A. WHEREAS, the Declarant is the owner, or controls, of all that certain property and improvements thereon located in the City of Newberg, Yamhill County, State of Oregon, referred to as the Plat of TERRA ESTATES, recorded 10/16/2015, as Document No. 2015-16496 consisting of Lots 1 through 44 and certain easements noted on the Plat ("Terra Estates" or the "Real Property");

B. WHEREAS, the Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the Real Property under a general plan of residential development for the benefit of all of the Owners and the Lots within Terra Estates;

C. NOW, THEREFORE, the Declarant declares that the Real Property shall be held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges, and liens, or as noted herein, which shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in the Real Property or any part thereof and shall inure to the benefit of each Lot Owner. The Declarant is not committing itself to take any action other than as expressly provided herein by adoption of the covenants, conditions, and restrictions set forth in this Declaration. Anyone acquiring one or more Lots will have the advantage of any further development, but shall not have any legal right to insist that there be development except as expressly provided herein.

NOW, THEREFORE, the Declarant subjects the Real Property, together with any and all real property and improvements which may be added to the Real Property pursuant to the provisions of this Declaration, to the covenants, conditions, and restrictions set forth below.

COVENANTS CONDITIONS AND RESTRICTIONS

SECTION 1. INTRODUCTION

1.1 General Declaration. The covenants, conditions, and restrictions set forth in this Declaration shall run with and bind the Real Property, each Lot, and other division, if any, of the Real Property, the Owners, the Occupants and all other Persons acquiring any interest in the Real Property or any portion thereof, and the heirs, successors, and assigns of the Owners, the Occupants and such other Persons. These conditions, covenants, and restrictions shall inure to the benefit of and be burdens upon Declarant and upon all Owners, Occupants, future Owners and future Occupants.
SECTION 2. DEFINED TERMS

Throughout this Declaration, the following terms, when capitalized, shall have the following meanings:

2.1 "Building Structure" shall mean any building constructed on a Lot, including without limitation, a Home or an Improvement, whether attached to or detached from another Building Structure.

2.2 "City" shall mean the City of Newberg, Oregon.

2.3 "Code" shall mean the Development Code of the City of Newberg, Oregon.

2.4 "Common Area(s)" shall mean and refer to any areas of land shown on the recorded plat of the Real Property, commonly designated as "Easements" or "Tracts", including any improvements thereon, which are intended to be devoted to the common use and enjoyment of the Owners, Occupants, future Owners and future Occupants, unless provided otherwise in this Declaration. The Easements so designated as Common Areas include the roadways "Taylor Drive" and "Drea’s Way" dedicated to the public, the 7.5-foot wide storm drain and pedestrian easement over Lots 3, 7, 27 and 28 for the benefit of Lots 1 through 44.

2.5 "Declarant" shall mean Del Boca Vista LLC, its successors and assigns, and any Person succeeding to the responsibility of Declarant pursuant to a designation by Del Boca Vista LLC or by any successor Declarant of such Person as a successor Declarant in a supplemental declaration recorded in the Yamhill County Records. Declarant shall not refer to any other subsequent purchaser of a Lot or Home.

2.6 "Declaration" or "Declarations" shall mean this Declaration of Covenants, Conditions, and Restrictions for Terra Estates, as it may be further amended from time to time.

2.7 "Developer" shall mean any Person engaged in the development of any Lot for the purpose of selling or leasing the Improvements ultimately constructed on such Lot.

2.8 "General Plan of Development" shall mean the Declarant’s general plan of development for the Real Property as approved by appropriate governmental agencies, as may be amended from time to time, including the Real Property and all phases thereof.

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

2.10 "Improvement" shall mean any improvement now or hereafter placed or constructed in, under, or upon the Real Property, including without limitation any building, swimming pool,
spa, road, driveway, parking area, fence, screening wall or barrier, retaining wall, stairs, deck, landscaping, and sign. An Improvement shall not be a Home.

2.11 “Lot” or “Parcel” means any of the forty-four (44) parcels of land designated on the Plat as a lot for residential use or any parcel of land designated as a lot for residential use on any replat of the Real Project.

2.12 “Lot Easement Area” shall mean and refer to those portions of any Lot subject to any easement benefiting the Owners, Occupants, future Owners and future Occupants. The term “Lot Easement Area” shall not refer to any portions of any Lot encumbered by an easement to any other party, including without limitation, any governmental agency.

2.13 “Mortgagee” shall mean the holder of a mortgage on any portion of the Real Property and shall also have the meaning set forth in ORS 86.010 et. seq., and shall include beneficiaries of deeds of trusts and vendors under land sale contracts.

2.14 “Occupant” shall mean and refer to occupant of a Home, who shall be the Owner, lessee or any other person authorized by the Owner to occupy the premises.

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

2.16 “Other Common Areas” means those other parcels, if any, included within the Property which are, from time to time, designated by Declarant as common areas of Terra Estates, such as entry monuments and structures and median strips. Such areas may be conveyed to the Owners, dedicated to the public, or owned by Persons other than Declarant and subject to easements in favor of the Owners.

2.17 “Parcel” or “Lot” means any of the forty-four (44) parcels of land designated on the Plat as a lot for residential use or any parcel of land designated as a lot for residential use on any replat of the Real Project.

2.18 “Person” means any individual, Owners, Occupants, future Owners and future Occupants, corporation, partnership, or other legal entity.

2.19 “Plat” means the final plat of the Real Property as recorded in the Yamhill County Records and any amendments thereto.

2.20 “Real Property” means the real property in City of Newberg, Yamhill County, Oregon legally described on the Plat as TERRA ESTATES.
2.21 "Declaration" or "Declarator" shall mean this Declaration of Covenants, Conditions, and Restrictions for Terra Estates, as it may be further amended from time to time.

SECTION 3. OWNERSHIP AND EASEMENTS

3.1 Non-Severability. The intent of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. No Lot shall be conveyed by the Owner separately from the interest in the Common Area, subject to the provisions of Section 3.3. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Common Area. Each Owner, whether by deed, gift, devise or operation of law, for his/her own benefit and for the benefit of all other Owners, specifically waives and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Area and does further agree that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The ownership interest in the Common Area and Lots described in this Article are subject to the easements granted and reserved in this Declaration or the Plat for drainage, needed maintenance support and maintenance of the exterior appearance of the Building Structures. Each of the easements reserved or granted herein shall be deemed to be established upon the recordation of this Declaration and the Plat, and shall forever be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots and shall be superior to all other encumbrances applied against or in favor of any portion of Terra Estates.

3.2 Common Areas. Terra Estates has or shall have certain improvements which are for the benefit of all Lots. All of the common improvements are collectively called the "Common Areas."

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

3.4 Ownership of Common Areas. Title to the Common Areas, if any, shall be conveyed to the Owners by Declarant, subject to all limitations and conditions of approval imposed on such space by the City. The Owners, with the approval of sixty percent (60%) of the Owners, may sell, convey or mortgage the Common Area.

3.5 Easements. Individual deeds to Lots may, but shall not be required to, set forth the easement specified in this Declaration of Covenants, Conditions and Restrictions.

3.5.1 Easements on Plat. The Common Area and Lots are subject to the easements and rights-of-way shown, or noted, on the plat of Terra Estates. These may include easements for public pedestrian and/or bicycle access, sanitary sewer easements, storm drainage, access and public utility easements. The ingress/egress, utility and drainage easements are set forth on the Plat of Terra Estates.
3.5.2 Easements for Common Area. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot.

3.5.3 Easements Reserved by Declarant. So long as Declarant, or Declarant’s specified assigns, owns any Lot, Declarant, or Declarant’s specified assigns, reserves an easement over, under and across the Common Area in order to carry out sales activity necessary for convenient for the sale of Lots. In addition, Declarant hereby reserves to itself, and for its successors and assigns, a perpetual easement and right-of-way for access over, upon and across the Common Areas for construction, utilities, communications lines, drainage, and ingress and egress for the benefit of the Lots or other property owned by Declarant. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably or incident to the construction of the improvements on the Real Property or other real property owned by Declarant in such a way as to not unreasonably interfere with the occupancy, use, enjoyment or access to an Owner’s Lot by that Owner or his/her family, tenants, guests or invitees.

3.5.4 Additional Easement. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of landscaping, utilities and drainage facilities necessary for the development of Terra Estates. No structure, planting or other material shall be placed or permitted to remain within any easement area 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 thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or one or more of the Owner’s is responsible. In addition, an easement is specifically reserved to the Owners of the Lot, and the Owners, as their interests may exist, for access to, and right of repair or service to utility and/or drainage lines and facilities which exist on each Lot for common use of Owners in said structure.

3.5.5 Owner’s Easements. There are hereby reserved to the Owners and their duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Owners set forth in this Declaration for the maintenance of the landscaping, drainage, roadway and utilities as described in this Declaration.

3.5.6 Easement to Governmental Entities. There is hereby reserved and granted a non-exclusive easement over the Common Area to all governmental and quasi-governmental entities, agencies, utilities, and their agents for the purposes of performing their duties within Terra Estates. However, where applicable, the Owners may be subject to compensation for the taking or use of such easement rights.
3.5.7 **Drainage Lines.** Each Owner shall maintain the drainage lines for gutters and downspouts on the Owner's Lot from the Homes to the point of intersection with the publicly owned storm drain facility. The Owners hereby reserves a maintenance easement for said drainage lines pursuant to Sections 3.5.8 and 3.5.9 as set forth in this Declaration.

3.5.8 **Maintenance Easement.** An easement is hereby reserved in favor of the Owners and their successors and assigns, contractors, agents and employees over, across, and under each Lot, the exterior portions of the dwelling units on each Lot, the Common Areas, the landscaped areas, the planter strips and any other areas of the Real Property necessary or appropriate for the purposes of accomplishing the maintenance, repair, and replacement of Improvements and Common Areas.

3.5.9 **Utility Easements.** The Owners shall have the right to grant nonexclusive easements and rights of way over the Common Areas for the purpose of installing, maintaining, repairing, and replacing public utility lines, services, and facilities reasonably necessary to serve any of the Real Property.

3.5.10 **Maintenance Obligations/Owner Restrictions.** Except as specifically noted in this Declaration, the Owner, at his/her expense, shall maintain, repair and replace the improvements and utility installations in any Lot Easement Area and shall hold the other Owners, Occupants, future Owners and future Occupants harmless from any such costs. The Owners shall be responsible for maintenance, repair and replacement of the 7.5-foot wide storm drain and pedestrian easement over Lots 3, 7, 27 and 28 for the benefit of Lots 1 through 44.

**SECTION 4. PROPERTY USE AND RESTRICTIONS**

4.1 **Improvements Permitted.** No Improvement shall be erected or permitted to remain on any Lot except Improvements consisting of or containing one Home and Improvements normally accessory thereto and as permitted herein. No mobile home or pre-fabricated home shall be erected or permitted to remain on any Lot. Homes on all Lots shall have at least **One Thousand Five Hundred** (1,500) square feet of finished living space, but not including any attached garage area or open porches. No Home or Improvement shall exceed two (2) stories in height. The minimum square footage of the main floor of any multiple-story Home or Improvement shall not be less than **One Thousand** (1,000) square feet. Homes on all Lots shall have an attached private garage of sufficient size to store a minimum of two (2) vehicles.

4.1.1 An Owner is not required to commence construction of a Home or Improvement on any Lot, provided that the Owner continuously maintains the Lot in a clean, manicured, safe and presentable condition.

4.1.2 The completion of construction of any Home or Improvement including exterior decoration shall occur within three hundred and sixty-five (365) days from the date of
initial commencement of the construction of the Home or Improvement. During this period of
construction time, the following shall occur:

(a). All Lots shall be kept in a neat and orderly condition, free of brushes, vines,
weeds and other debris.

(b). All grass on the Lot shall be cut or mowed at sufficient regular intervals to
prevent the creation of a nuisance or fire hazard.

(c). All contractors and builders shall keep the job site orderly and in clean
condition and shall periodically, during the course of construction, remove all construction waste
materials. In the event of hardship due to inclement weather conditions, this provision may be
extended by the Declarant or the Declarant's designee for a reasonable period of time.

4.1.3 Setbacks. Minimum setbacks on all Lots in Terra Estates shall be
governed by the applicable City of Newberg zoning regulations and ordinances.

4.2 Occupancy and Diligent Construction. No Home or Improvement shall be
occupied in any manner while under the course of construction or until such Home or Improvement
complies with all governmental standards for occupancy or intended use. All construction activity
of any type or kind within Terra Estates and upon any Lot or any area or portion thereof shall be
prosecuted diligently and continuously from the time of commencement until full completion. All
exterior and visible portions of all Homes, Improvements, fences, walls or other structures placed
on any Lot, in any area in or part of Terra Estates shall be constructed of new and high-grade
materials and components. This provision shall not prohibit or restrict the erection, installation,
movement and use of temporary trailers or structures, provided such trailers or structures
exclusively incidental to the sale of Lots and construction and sale of Home upon any Lot or in any
area or portion of Terra Estates, provided such trailers or structures have been approved in writing
by the Declarant.

4.3 Residential Use. Except as provided in this Section 4.3, Lots shall be used
solely for single-family residential purposes. Without limiting the generality of the foregoing, no
trade, craft, business, profession, commercial, or similar activity of any kind shall be conducted on
any 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 such Lot. Nothing in this Section 4.3 shall
be deemed to prohibit or limit (i) activities relating to the sale or rental of Homes, (ii) the right of
Declarant or any Developer to construct Homes on any Lot or to store construction materials and
equipment on any such Lot in the normal course of construction, or (iii) the right of any Owner to
maintain a personal professional library, handle business or professional telephone calls, or confer
with business or professional associates, clients, or customers in such Owner's Home.

4.4 Design and Style of Homes and Improvements. Homes and Improvements and
all other structures, including any additions or alterations thereto, shall be constructed and
maintained utilizing only high-quality materials and workmanship and shall be of such character, style and designed so as to be in harmony with the other Home and Improvements located in Terra Estates. All Homes and Improvements and all other structures, including any additions or alterations thereto, shall comply in all respects with the terms and provisions of this Declaration and all applicable building codes, ordinances and regulations, including, but not limited to, the Uniform Building Code and the applicable building codes and ordinance of Yamhill County and the State of Oregon.

4.5 Landscaping. The front yard and any side yards that are visible from any street or right of way of the Lot upon which a Home or Improvement has been constructed shall be fully and completely landscaped with underground irrigation and the planting of cultivated grass laws and various shrubs no more than one hundred and eighty (180) days after substantial completion of the Home or Improvement. Maintenance and upkeep of all landscaping on a Lot is the Owner's sole responsibility. The Lot Owner must obtain any and all required permits and authorizations before the installation of such landscaping and/or irrigation systems.

4.5.1. Except as otherwise provided herein, said completed landscaping on Lots shall be installed by Owners no later than twelve (12) months after substantial completion of the Home or Improvement. All landscaping maintenance on Lots shall be maintained in good condition, including watering, weeding, pruning, fertilization, mowing and other forms of typical maintenance. Owners are strongly encouraged to use sod for the planting of any lawns that will constitute the front yards, back yards and side yards of any Lot. At all times after substantial completion of the construction of a Home on a Lot and before the installation of landscaping, all back and side yards must be maintained so as not to be offensive in appearance nor cause or present any sort of hazardous, dangerous or unsightly condition.

4.5.2 The Owners shall also be responsible for the landscaping and maintenance of the side street yards for any Lot that is also a corner Lot.

4.5.3 Watering, trimming and all maintenance associated with the street trees required by the City of Newberg which are planted along certain streets of Terra Estates are the responsibility of the Owners.

4.5.4 Declarant reserves the right to install and maintain landscape improvements on Lots for sales and marketing purposes, and hereby reserves a landscape easement on the front yards of said Lots and the street sideyards for this purpose. Declarant is not obligated to provide any landscaping in said areas noted in this Section.

4.6 Maintenance. Each Owner and Occupant shall be solely responsible for the maintenance of their Homes. Required maintenance and repair shall include without limitation (i) maintenance of all parking areas and private drives in a clean and safe condition, including cleaning and repairing as often as is necessary; (ii) cleaning, maintenance, and relamping of any external lighting fixtures; (iii) maintenance of exteriors of buildings in an attractive and neat condition at all
times; and (iv) maintenance of the landscaping in front of the Home, and outside of side and rear yard fences.

4.7 Limitations on Use

4.7.1 Offensive Activities. No noxious or offensive activity shall be permitted carried on in any Lot in Terra Estates, nor shall anything be done or placed or maintained upon any Lot which interferes with or jeopardizes enjoyment of, or becomes an annoyance or nuisance to any Owner, or detracts from the value of any Lot in Terra Estates as a high-class residential neighborhood.

4.7.2 Animals. No large animals, livestock, or poultry of any kind shall be raised, kept, or permitted on any Lot or in any part of the affected Property. Any permitted domestic-type, household animals (such as dogs, cats, etc.) which are kept on the affected Property must not create any type of nuisance or noxious activity (including noise). No animals shall be allowed to become a nuisance to any residence within Terra Estates. Any and all animals permitted under this Subsection shall not be kept, bred or raised from commercial purposes or be maintained in unreasonable numbers.

4.7.3 Parking. Each Lot shall provide adequate room for the parking of private vehicles, and all such private vehicles shall not be allowed to be parked in any portion of the Property so that such vehicle(s) becomes a sight nuisance from any portion of the streets which may act as access to the entire Property. No private vehicle parking shall be allowed on any street or right-of-way, except as may be necessary in connection with construction activities or as may be required to perform other obligations required under this Declaration. No Owners shall permit or allow any vehicle which is inoperable to remain parked or stored upon any Lot or upon any street for a period of time in excess of forty-eight (48) hours. No Owners shall permit or allow any vehicle which is inoperable to remain parked or stored upon a Common Area for any period of time. In addition, the parking or storage of boats, trailers, recreational vehicles, trucks, campers, motorcycles, and similar equipment or personal property shall not be allowed on any Lot, or any street adjacent thereto, except within an enclosed garage or screened area which prevents the vehicle or equipment therein from being seen from any other Lot, the Common Areas, or any street within the Real Property.

4.7.3.1 No personal property, including, but not limited to trailers, recreational vehicles, boats, camper units or tents shall be placed, stored, kept, parked or maintained on any Lot, or on any portion of Terra Estates for any period of time in excess of fourteen (14) days in any one calendar year, except that such personal property owned by an Owner may be kept or maintained in an such a manner that is completely enclosed from the public view.

4.7.4 Antennas and Satellite Dishes. No television antennas or radio aerials shall be permitted on any Lot, Home or any part or area of the Property. Small-size satellite receivers and dishes shall be permitted on a Lot, Home or any part of area of the Property only if
such small-size satellite receiver(s) or dish(es) are screened from the view of any street or are placed on the roof of any Home or Improvement. All utilities shall be installed underground, as no overhead wires or services drops for the distribution of electricity or any other telecommunication purposes, nor any poles, towers, or other supporting structures shall be erected, placed or maintained on any Lots. Clotheslines shall be screened so as not to be viewed from any street.

4.7.5 Rubbish and Trash. No Lot or any part of the Common Areas or any part of the Property shall be used as a dumping site or repository for trash, rubbish, refuse, garbage, or any other form of waste of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal or recycling and out of public view, and shall not cause or be a form of nuisance to any Owner. Yard rakings, dirt, and other material resulting from landscaping work shall not be dumped onto streets, the Common Areas or any Lot. Trimmings, cuttings and like debris may be composted by an Owner on the Owner’s Lot, provided that such trimmings, cutting and like debris are maintained in a singular location on the Lot not visible from any street and so as not to become an annoyance or nuisance to any other Owner in the Property. Each Owner is responsible for trash disposal on the Owner’s Lot, and shall only place individual trash containers in the public street (not alleyways) within 12 hours of the scheduled trash collection time and such Owners shall remove the individual trash containers from the public street and from public view within 12 hours after collection.

4.7.6 Temporary Structures. No structure of a temporary character, campers, recreational vehicles, trailer, tent, shack, garage, barn, or other outbuilding shall be permitted or used in Terra Estates at any time as a residence either temporarily or permanently. Declarant or its designee reserves the right to locate a temporary construction office within the Property while Homes are being constructed.

4.7.7 Improvements in the Common Areas. No Improvement of any type shall be erected or maintained by any Owner or Occupant so as to trespass or encroach upon the Common Areas, or that that obstructs or prohibits other Owners from using the Common Areas as provided in this Declaration, including, but not limited to, use of the Equestrian Easement.

4.7.8 Signs. No sign or other advertising device of any kind shall be created, displayed, erected or constructed upon or placed within or on any Lot to the public view, except one professionally-made sign measuring not more than eighteen (18) inches by twenty-four (24) inches advertising the Lot for sale. This restriction shall not prohibit the temporary placement of political signs, garage sale signs, for rent signs, or a sign for a City of Newberg permitted home-based business on any Lot by the Owner thereof, or placement of a professionally-made signs by Declarant that complies with applicable sign ordinances, provided any such signs shall not measuring not more than eighteen (18) inches by twenty-four (24) inches. This restriction shall also not apply to signs used by Declarant, builders, realtors or agents during construction and sales of Homes on Lots.
4.7.9 **Fences.** No fence, either sight or non-sight obscuring, in excess of three (3) feet in height may be located between the building line and the front yard sidewalk, and in the case of a corner Lot, the building line and sidewalk abutting the side yard. The maximum height of any fence located on the remainder of the Lot shall be six (6) feet and must be constructed of cedar wood and be a “good neighbor” construction type with similar material and style to other fences existing within Terra Estates at the time the construction is commenced by the Owner.

4.7.10 **Driveways to be Paved.** All driveways on Lots shall be paved with asphalt or concrete from the street or access right-of-way to the Home or Improvement, and paving must be completed by no later than substantial completion of the Home or Improvement on the Lot. Dirt or gravel driveways shall only be temporarily permitted during construction of the Home or Improvement and must be paved by no later than substantial completion of the Home or Improvement on the Lot.

4.7.11 **Business and Trade.** No trade, craft, business, profession, commercial activity, or similar type activity of any kind or nature shall be permitted or conducted on any Lot, not shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, craft, business, profession, commercial activity, or similar type activity be kept or stored on any Lot (unless allowed and permitted by the City of Newberg), excepting therefrom the right of any homebuilder, contractor, and the Declarant and the Homes and Improvements on the Lots, and to store construction equipment and materials on said Lots in the normal course of construction of said infrastructure, Homes and/or model homes for the purposes of sales in Terra Estates. Furthermore, during the course of construction of a Home or Improvement, the Owner and/or the Owner’s Contractor shall be authorized to store construction materials and equipment on the said Lot in the normal course of construction, subject to the provisions of Section 4.1.

**SECTION 5. COMMON AREAS**

5.1 **Common Areas.** The Common Areas shall be conveyed to the Owners by Declarant, subject to all limitations and conditions of approval imposed on such space by the City. Every Owner and Occupant, and all invitees and guests of all Owners and Occupants, shall have a nonexclusive right and easement to use and enjoy the Common Areas, which right and easement shall be appurtenant to and shall run with the Real Property and all Lots therein. Such right and easement shall be subject to the Owners’ right to promulgate rules and regulations governing the use of the Common Areas. The Owners shall maintain and repair the Common Areas.

5.2 **Future Improvements.** Subject to Section 5.1 hereof, the Owners shall have the right to make further Improvements in or of the Common Areas and to expand or replace any Improvements in the Common Areas.

5.3 **Rights of Owners in Common Areas.** The Owners shall have the right to sell, convey or subject to a security interest or lien all or any portion of the Common Areas if: (a) eighty (80%) percent or more of the Owners agree to the action, with each Owner having one vote for each
Lot owned; and (b) the approval of the City is obtained in connection with any action relating to the Tract. For purposes of this Section 5.3, if there is more than one Owner of any Lot, such Owners shall together be considered a single Owner with respect to such Lot. Any such action shall be effective upon recording of an instrument in the Yamhill County real property records, acknowledged by the appropriate officer and setting forth the action taken by the Owners. The proceeds of any such sale, conveyance or borrowing shall be deemed an asset of the Owners.

SECTION 6. GENERAL PROVISIONS

6.1 Duration. These covenants, conditions, and restrictions shall run with and bind, benefit, and burden in perpetuity the Real Property, all Owners and Occupants, and the lessees, invitees, and guests of all Owners and Occupants.

6.2 Severability. In the event any provision of this Declaration is determined to be invalid or unenforceable, that determination shall not affect the validity or enforceability of any other provision or of the same provision to a different situation.

6.3 Amendment. This Declaration may be amended at any time and from time to time by Declarant to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans' Affairs, the Farmer's Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon or any 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. Thereafter, this Declaration, subject to this Section 6.3, may be amended only upon the affirmative vote of eighty-five percent (85%) or more of the Owners, with each Owner having one vote for each Lot owned. For purposes of this Section 6.3, if there is more than one Owner of any Lot, such Owners shall together be considered a single Owner with respect to such Lot. In no event shall an amendment under this section create, limit or diminish the Special Declarant Rights specified in Section 6.12 hereof without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment. When the Owners adopt an amendment to this Declaration, the Owners shall record the amendment in the real property records of Yamhill County. Any such amendment shall be effective only upon recordation. Amendments to this Declaration shall be executed, recorded and certified on behalf of the Owners by any duly acknowledged representative of the Owners designated for that purpose.

6.4 Enforcement. Each Owner shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens, and charges now or hereinafter imposed pursuant to any provision of this Declaration by any appropriate proceeding at law or in equity. Any remedies specifically provided herein are nonexclusive and cumulative and are in addition to all other remedies available to the Owners at law or in equity. In the event that suit or action is instituted to enforce any provision of this Declaration, the prevailing party shall be entitled to
recover from the losing party the prevailing party's reasonable attorneys' fees and costs incurred in connection with such suit or action, including those incurred in connection with any appeal or review proceeding.

6.5 Mortgage Protection. Except upon the written approval of Mortgagees holding Mortgages of Lots which have at least eighty-five percent (85%) of the votes of Lots which are subject to Mortgages, no amendments may be made to this Declaration which add to or amend any material provision of the Declaration which establish, provide for, govern or regulate any of the following:

6.5.1 Termination of this Declaration or any amendment thereto shall require the consent of not less than eighty-five percent (85%) of the Mortgagees holding an interest in Lots. Any such termination of this Declaration shall be carried out by the Owners pursuant to the provisions of this Declaration, and only after a vote of the Owners as required by this Declaration.

6.5.2 The provisions of Section 6.5 are intended to only be a limitation on the rights of Owners to amend the Declaration, and any such amendments to the Declaration shall be made only upon full compliance with the provisions of such relating to the procedure and percentage of votes required for such amendment.

6.5.3 Any Mortgagee who receives a written request to approve an amendment to the Declaration or any other action to be taken, shall be deemed to have given such approval unless such Mortgagee's written request to such action is delivered to the requesting Owners within thirty (30) days after the written request.

6.6 Non-Waiver. Any failure of any Owner to enforce a covenant, condition, or restriction contained in this Declaration shall not be deemed to constitute a waiver of any Owner's right to enforce that or any other covenant, condition, or restriction contained in this Declaration.

6.7 Declarant Not Liable. Neither Declarant nor Declarant's successors or assigns shall be liable to any Owner or Occupant or to any other Person for its enforcement or failure to enforce any provision of this Declaration. Each Owner and Occupant, by acquiring such Owner's or such Occupant's interest in the Property, agrees not to bring any action or suit against Declarant or any successor or assign of Declarant to recover any such damages or to seek any other relief (including without limitation equitable relief) by reason of any such enforcement or failure to enforce any provision of this Declaration. Each Owner and Occupant shall and does, by taking title to or occupying any portion of the Property, agree to defend, indemnify, and hold harmless Declarant and Declarant's successors and assigns from any claim, loss, damage, cost, or expense (including without limitation reasonable attorneys' fees) arising out of the use, operation, ownership, occupancy, or condition or state of repair of that portion of the Property owned by such Owner or occupied by such Occupant.
6.8 Constructive Notice and Acceptance. By the recording of this Declaration, each Owner and Occupant shall be deemed to have consented and agreed to every term, covenant, condition, and restriction contained herein.

6.9 Joint and Several Liability. If an Owner consists of more than one Person, each such Person shall be jointly and severally liable for any assessment or charge and for the performance of any other obligation imposed pursuant to this Declaration.

6.10 Captions. The captions and headings of sections herein are for convenience only and are not intended in any way to define, limit, or describe the scope or intent of any section of this Declaration.

6.11 Notices. All notices under this Declaration shall be in writing. Any such notice shall be deemed effective on the earlier of the date of delivery or, if mailed, three (3) business days following the date of mailing, if addressed to the addressee at the address, if any, designated in the Owners' records.

6.12 Special Rights Retained by Declarant. Declarant has retained "Special Declarant Rights", as that term is defined in Oregon Revised Statutes 94.550(22), and these rights are set forth in Sections 3.5.3, 3.5.4, 4.3, 4.5.4, 4.7.6, 4.7.8, 4.7.11, 6.3 and 6.7.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has executed this Declaration on this 4th day of July, 2015.

[Signature]
DEL BOCA VISTA LLC,
AN OREGON LIMITED LIABILITY COMPANY

By: [Signature]

Its: Member

STATE OF OREGON )
) ss.
County of Yamhill )

The foregoing instrument was acknowledged before me this ___ day of July, 2015, by Marc Willcuts, as member of Del Boca Vista LLC, an Oregon limited liability company, who acknowledge the execution of the foregoing to be his voluntary act and deed.

[Stamp]
Amanda Danielle Pratt
Notary Public for Oregon
My Commission Expires 8/26/2019

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