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92-29352

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE PLAT OF POLO CLUB

FILED BY

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SOBBIE BAGNER
BENTON COUNTY, AUDITOR

This DECLARATION, made this 11th day of August, 19 92 by
MATHESON DEVELOPMENT CORPORATION, a Washington Corporation, a
Washington Corporation, hereinafter called "Developer".

WITNESSETH:

OFFICIAL RECORDS

WHEREAS, Developer is the owner of the real property described in Article 11 of this declaration and desires to create thereon a residential community with permanent landscaped entry areas, fencing along Bombing Range Road, trees along Bombing Range Road, and other residential amenities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities of said community and for the maintenance of said landscape areas, open spaces, and other common facilities; and, to this end, desires to subject the real property described in Article 11 together with such additions as may hereafter be made thereto (as provided in Article 11) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof, and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereafter created; and

WHEREAS, Developer has incorporated under the laws of the State of Washington, as a non-profit corporation, the Polo Club Homeowners Association, for the purpose of exercising the functions aforesaid:

NOW, THEREFORE, the Developer declares that the real property described in Article 11, and such additions thereto as may hereafter be made pursuant to Article 11 hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenant and restrictions") hereinafter set forth.

ARTICLE 1
DEFINITIONS

SECTION 1: The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

BENTON-FRANKLIN TITLE CO.

- (a) "Association" shall mean and refer to the Polo Club Homeowners Association.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article 11 hereof.
- (c) "Common Maintenance Areas" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties that are maintained by the Association for the common use and enjoyment of the owners of The Properties. "Common Maintenance Areas" shall include: entry landscaping, the fence along The Bombing Range Road, all landscaping outside of private lots.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties.
- (e) "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article 111, Section 1, hereof.

ARTICLE 11

Property Subject to This Declaration:
Additions Thereto

Section 1: Existing Property. The real property which is , and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Benton County, Washington and is more particularly described as follows:

all of which real property shall hereinafter be referred to as "Existing Property."

Section 2: Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

- (a) Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of Law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of Law, be added to the properties, rights and obligations of the Association as

a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE 111
Residential Area Covenants

Section 1. Land Use and Building Type. All building sites on The Properties, excluding designated recreational areas, shall be known and described as residential building sites. No structures shall be erected, altered, placed or permitted to remain on any building site other than one detached single family dwelling not to exceed two stories in height, a tri-level design is considered to be a (2) two-story design, providing the tri-design does not exceed one level from the main floor, a private garage for not more than three (3) cars, and other outbuildings incidental to residential use of the premises.

Section 2. Building Location. No building shall be located on any lot nearer to the front lot line or nearer to the side street than 25 feet. No building shall be located nearer than 15 feet to an interior lot line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. When regulations of the governing jurisdiction require larger set backs they shall control.

Section 3. Easements: Public utility easements as dedicated in the Record of Survey shall be for the purpose of construction and maintenance of irrigation, water and sewer lines, power and telephone lines and such other public utility services as may be provided and there shall be no encroachments upon any easements in any manner.

Section 4. Nuisances. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become and annoyance or nuisance to the neighborhood.

Section 5. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or any other outbuilding shall be used on any lot at any time as a residence for a period longer than fourteen (14) days.

Section 6. Construction Period. Any dwelling or structure erected or placed on any lot in this subdivision shall be completed as to external appearance, including finish painting, within (6) months from date of start of construction except for reason beyond control in which case a longer period may be permitted if authorized by the Architectural Control Committee.

Section 7. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period. Political yard signs of not more than five square feet are allowed during campaign periods.

Section 8. Animals. No animal, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that horses, dogs, cats, birds, or other household pets may be kept if they are not kept, bred, or maintained for any commercial purpose, and they shall not be kept in numbers or under conditions reasonably objectionable in a closely built-up residential community, subject to the authority of the Architectural Control Committee. Owner shall observe and obey laws applicable to the City of West Richland, County of Benton, pertaining to care, control and husbandry of animals and pets. It is the intent to allow animal activities such as 4-H and FFA projects (except swine) provided that the right to such activities shall be restricted to one, one-year project per child.

Section 9. Special Development Standards for Stables. Standings under roofed stables must be made of material which provides for proper drainage so as not to create offensive odors, fly or insect breeding or other nuisances. Manure must be collected at least once a week and shall be disposed of in one or more of the following manners:

- 1) Placement of manure in a fly-proof container, with periodic removal of manure from the lot;
- 2) Adequate burying of the manure;
- 3) Removal of manure from the lot and adequate disposal outside of the property subject to these restrictive covenants.

Fences, pens, corrals or similar enclosures must be of sufficient height and strength to retain animals, and shall be approved by the Architectural Control Committee.

Section 10. Garbage. No lot shall be used or maintained as a dumping ground for rubbish or trash. Garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 11. Fences. No fence, wall, or hedge shall be permitted to extend nearer to any street than the minimum setback line, except that nothing shall prevent the erection of a necessary retaining wall, the top of which does not extend more than two (2) feet above the finished grade at the back of said retaining wall. Exceptions to this paragraph may be granted by the procedure specified in Article IV (Architectural Control Committee). All rear yard and pasture fence shall conform to the fence along Bombing Range Road to maintain continuity to the community, a post and three (3) rail fence with not less than three (3) rails with a minimum of a 4 x 4 post and 2 x 4 rail will be used. All privacy fences must run to the side lot line or the set back if on a corner. The depth may

be determined by the homeowner. The fence must be of three (3) rail or six (6) feet high cedar. The three (3) rail may have a two (2) inch wire mesh attached to the inside. The cedar fence must be of a design provided by the Architectural Control Committee. The owner of each lot shall be responsible for landscaping and maintaining all areas outside of fence to lot lines or street, whichever is applicable.

Section 12. Oil and Mining Operations. Oil drilling, oil development operations, refining, mining operations of any kind, or quarrying shall not be permitted upon or in any of the building sites in the tract described herein, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any of the building sites covered by these covenants.

Section 13. Vehicles. Trailers, trucks and other vehicles shall not be stored or parked on the premises nearer than the front property line or the minimum set back line. No motor homes, mobile homes, camper trailers or boats shall be stored or parked on any lot unless the vehicle is screened from view of neighboring lots as approved by Architectural Control Committee. All farm equipment shall be properly stored and screened from view of neighboring lots. No lot owner shall permit a vehicle owned by him or any member of his family or acquaintance which is in a state of disrepair to be abandoned or to remain parked on any street within the property in excess of forty-eight (48) hours.

Section 14. TV Antennas. No antenna which extends more than 10' feet above the structure or which is greater than six feet wide or long in diameter shall be permitted unless approved architecturally by provisions of Article IV.

Section 15. Business Use. As a primary place of business, no trade, craft, business or profession of a public nature, commercial or manufacturing enterprise of any kind shall be conducted or carried on upon any residential lot or within any building located within the property subject to these protective covenants on a residential lot.

ARTICLE IV
ARCHITECTURAL CONTROL COMMITTEE

No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board.

The initial Architectural Control Committee shall be composed of the following:

The Developer or his Assignee with three (3) or more Homeowners.

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The Architectural Control Committee shall have the primary responsibility of interpreting and enforcing the rules and regulations of building and improvements subject to the procedures hereinafter set forth. The Architectural Control Committee shall adopt such reasonable and uniform rules of architectural control as the Board of Directors may prescribe, including, but not necessarily limited to the following:

1. No outbuilding or structure of any kind may be built on a platted residential lot before construction of a permanent residence.

2. No construction of a dwelling may be started on a platted residential lot without first obtaining:

(a) Written approval from the Board of Directors of the Association or the Architectural Control Committee designated by it pursuant to Article IV of these covenants.

(b) Each single family residence on a platted residential lot shall contain a minimum floor area of 1400 square feet if a one story residence, and 1650 square feet if more than a one story residence, exclusive of open decks (covered or uncovered) garages, covered carports, sheds or outbuildings.

(c) Garages on platted residential lots may not be detached from the main dwelling structure. Replacement of roof shall be compatible with existing roof style and color, or as otherwise approved by Architectural Control Committee.

A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

The committee's approval or disapproval as required in these covenants shall be in writing. The Board of Directors of the Association or the Architectural Control Committee designated by it shall determine whether any given use of a platted residential lot unreasonably interferes with an abutting owners use of his property, and such determination shall be conclusive. In the event the committee, or its designated representative, fails to approve within forty-five (45) days after plans and specifications have been submitted, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. Approval by the Architectural Control Committee does not constitute authorization to proceed with any activities that may require conformance with City of West Richland procedures and regulations.

Notwithstanding any of the above provisions to the contrary, it is intended that the initial Architectural Control Committee shall remain in office until the happening of the earlier of the following events:

(a) when 80 % of the constructed homes are sold, closed and occupied

(b) on the 1st day of July, 1994.

* Note: This provision in no way is intended to allow the Architectural Control Committee, then The Polo Club Homeowners Association, at anytime, to alter the requirements of Article 111, Section 2 and Article 1V, Paragraph 2 - a, b, and c.

Upon the happening of either of the above referenced events, the authority of the Architectural Control Committee shall automatically transfer to The Polo Club Homeowners Association a non-profit corporation, for the designation of such new committee members as provided hereinabove by the Board of Directors of said corporation.

ARTICLE V

Membership and Voting Rights

Section 1. Every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be executed as they determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of the following events:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

Section 3. The Association shall have the right to suspend the voting rights of an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

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ARTICLE VI

Use and Maintenance of Landscaped Easements

Section 1: Responsibility for Common Maintenance Areas. There exist certain landscaped areas within the plat of The Polo Club that are herein described as Common Maintenance Areas and are designated for landscaping and community identification purposes. The Association shall be responsible for the maintenance of the Common Maintenance Areas.

Section 2. Member's Easements of Enjoyment. Subject to the provisions of Section 3 below, every member shall have a right and easement of enjoyment in and to the Common Maintenance Areas and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 3. Extent of Members' Easement on Common Maintenance Areas. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Developer and of the Association, in accordance with its Article and Bylaws, to borrow money for the purpose of improving the Common Maintenance Areas.

b) the right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations:

(c) the right of the Association to donate all operating and capital surpluses in excess of anticipated maintenance, replacement and capital improvement requirements to qualified public and private charitable uses.

ARTICLE V11

Covenant for Maintenance Assessments

Section 1: Creation of the Lien and Personal Obligation of Assessments. The Developer for each Lot owned by it within The Properties hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other covenant, be deemed to covenant and agree to pay the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and in particular for the improvement and the maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Maintenance Areas and of the homes situated upon The Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments. The initial annual assessment shall be \$90.00 per year per Lot. From and after January 1, 1993, the annual assessment may be increased by vote of the Members, as hereinafter provided, for the next succeeding three (3) years and at the end of each such period of three (3) years for each succeeding period of three (3) years.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 above, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article 11, Section 2 (a) hereof.

Section 6. Quorum For Any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:
At the first meeting called, as provided in Section 4 and Section 5 hereof, the presence at the meeting of Members or of proxies entitled to cast fifty (50) percent of all

the votes of each class of membership shall constitute a quorum. If the required quorum is not forth coming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7: Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on January 1, 1993.

The assessments for any year, after the first year, shall become due and payable on the first day of January of said year.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Director. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept on the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing assigned by an office of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. The cost of preparing such a statement may be charged to the Owner requesting it.

Section 9: Effect of Non-Payment of Assessment: The Personal Obligation of the Owner: The Lien: Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 thereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of he then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten (10) percent per anum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in

such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the cost of the action.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for her in shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceedings in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11: Exempt Property. The following property subject to this Declaration shall be exempted from the assessment charge and lien created herein:

- (a) all properties to the extent of any easement or other interest therein dedicated and accepted by a local public authority and devoted to public use;
- (b) all properties exempted from taxation by the Laws of the State of Washington, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE V111 General Provisions

Section 1: Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, unless and instrument signed by the then Owners of two-third (2/3) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2: Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3: Enforcement. Enforcement of these covenants and restrictions shall be any proceeding at Law or inequity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or 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.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court Order shall in no way affect any other provisions which shall remain in full force and effect.

MATHESON DEVELOPMENT CORPORATION

BY 

Jack Matheson, President

EXHIBIT "A"

OFFICIAL RECORDS

LEGAL DESCRIPTION FOR
RESTRICTIVE COVENANTS FOR POLO CLUB:

Short Plat Numbers: 1792, 1793, 1820, 1821, 1825, 1826,
1827, 1828, 1829, 1830, 1831 and 1832; Records of Benton
County Auditor, Benton County, Washington.

EXHIBIT "A"