

SUN WILLOWS DIVISION NO. 2 AND DIVISION NO. 3

This Declaration is made as of this 21st day of December, 1993, by Sun Willows Partners, a Washington general partnership, hereinafter referred to as "Declarant".

RECITALS

- A. Declarant is the owner of that certain property and improvements located within the City of Pasco, County of Franklin, State of Washington, commonly known as Sun Willows Division No. 2 and Sun Willows Division No. 3, collectively referred to as the "Property" and more particularly described in Exhibit A attached hereto.
- B. Declarant desires to create a planned residential village with diverse types of housing opportunities at Sun Willows to provide for the maintenance, preservation and architectural control of the privately-owned parcels and Common Area (as defined below) within the community and to promote the health, safety, happiness, and welfare of the residents of the community.
- C. For the benefit and protection of the Property, to enhance its value and attractiveness, Declarant provides herein for a comprehensive system of land-use and building controls within the Property.

SUBMISSION OF THE PROPERTY TO THIS DECLARATION: ADDITIONAL PROPERTY

Declarant, being the sole owner of the Property, hereby makes this Declaration for the purpose of submitting the Property and any Additional Property (as defined below) annexed hereto to this Declaration, and declares that the Property described above shall be held, sold, conveyed, encumbered, leased, rented, occupied and improved subject to the following covenants, conditions, restrictions, reservations, grants of easement rights, rights of way, liens, charges and equitable servitudes, which are for the purpose of protecting the value and desirability of the property and be binding on all parties having any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof. This Declaration shall run with the land and bind Declarant, its successors and assigns, all subsequent owners of the Property, together with their grantees, successor, heirs, executors, administrators, devisees or assigns. Any conveyance, transfer, sale, assignment, lease or sublease of a Lot in the Property, shall and hereby is deemed to incorporate by reference all provisions of this Declaration. The provisions of this Declaration shall be enforceable by Declarant, any Lot Owner, the Association and any first Mortgages of any Lot.

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. For the purposes of this Declaration and any amendments hereto, the following definitions shall apply.

“Additional Lands” shall mean the real property described in Exhibit B attached hereto (“Additional Lands”).

“Architectural Control Committee” shall mean the Board, as defined below, or a committee by that name designated by the Board.

“Articles” shall mean the articles of incorporation of the Association, as defined below.

“Association” shall mean the Sun Willows Homeowners Association, a Washington non profit corporation, as described more fully in Article 3, and its successors and assigns.

“Board” shall mean and refer to the Board of Directors of the Association, as provided for in Article 4.

“Bylaws” shall mean the bylaws of the Association as they may from time to time be amended.

“Common Area” shall mean that real property and improvements described in Exhibit C attached hereto, plus any additional real property and improvements which may be added to such definition from time to time in accordance with Article 3 or Article 17.

“Declarant” shall mean Sun Willows Partners, a Washington general partnership, and its successors and assigns if such successors or assigns should (i) acquire more than one Lot from the Declarant for the purpose of development, and (ii) be specifically assigned the rights and duties of Declarant by written instrument in recordable form.

“Declaration” shall mean this Declaration of Covenants, Conditions, Restrictions, and Reservations for Sun Willows, and any amendments thereto.

“Home” shall mean a structure located on a Single Family Lot which is designed and intended for use and occupancy as a residence by a single family or which is intended for use in connection with such residence. A Home may be detached or may be an attached Patio Home or a Townhome.

“Lot” shall mean and refer to any parcel of land shown upon any recorded subdivision map of the properties, with the exception of the Common Area and any land now or hereafter owned by the Association and any land dedicated to the public or to a

governmental entity. Ownership of a Lot shall include ownership of the Home and improvements now or hereafter constructed.

“Member” shall mean a person entitled to membership in the Association pursuant to Article 4 of the Articles.

“Mortgage” shall mean a recorded mortgage or deed of trust that creates a lien against a Lot and shall also mean a real estate contract for the sale of a Lot.

“Mortgagee” shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance of a Lot created by a Mortgage and also means the vendor, or the designee of vendor, of a real estate contract for the sale of a Lot. For the purpose of determining the percentage of first Mortgagees approving a proposed decision or course of action, a Mortgagee shall be deemed a separate Mortgagee for each Lot on which it holds a Mortgage which constitutes a first lien on said Lot. Mortgagees shall have the same voting rights as the owners of any Lot subject to such Mortgage.

“Owner” shall mean the owner of record, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, and except as may be otherwise expressly provided herein, shall, in the case of a Lot which has been sold pursuant to a real estate contract, include any person of record holding a vendee’s interest under such real estate contract, to the exclusion of the vendor thereunder. Any person or entity having such an interest merely as security for the performance of an obligation shall not be considered an owner.

“Patio Home” shall mean any Home constructed on the Property which shares a wall or is otherwise connected with only one other separate Home.

“Person” shall include natural persons, partnerships, corporations, associations and personal representatives.

“Plat Map” shall mean the plat map recorded in conjunction with this Declaration which depicts the layout of the Lots and Common Area on the Property. The Plat Map for the Property was recorded on August 26, 1993, in Volume “D” of Plats, on pages 136 and 137, Auditor’s File No. 501277 and 501278, records of Franklin County, State of Washington.

“Property” shall mean that real property and improvements hereinbefore described and such additions thereto as may be brought with the jurisdiction of the Association pursuant to Article 17.

“Structure” shall mean any building, fence, wall, polo, driveway, walkway, patio, swimming pool, or the like.

“Townhome” shall mean any Home constructed on the Property which shares a party wall with one other Home and is connected to more than two other Homes.

“Townhome Lot” shall mean any Lot upon which a Townhome is constructed.

“Townhome Owners Association” shall mean the subdivision which may be formed to manage the Townhomes with Additional Lands. If so formed, the Townhome Owners Association shall be subordinate to and will report to the Association.

“Transition Date” shall mean the earlier of the following: (i) the date on which Declarant has conveyed all Lots within the Property to an Owner other than Declarant; or (ii) the seventh anniversary of the date of recording of this Declaration.

ARTICLE 2

COMMON AREAS

Section 2.1 Description of Common Area. The Common Area is described at Exhibit C attached hereto, and includes such additional real property and improvements which may from time to time be conveyed to the Association for the benefit of the Members.

Section 2.2 Dedication of Common Area. Declarant shall convey the Common Area to the Association by Statutory Warranty Deed for the common use and enjoyment by the Owners for access, ingress, egress, recreation and related activities. The Common Area is not dedicated for use by the general public.

Section 2.3 Use of Common Area. Each Owner shall have the right to use the Common Area in common with all other Owners, subject to this Declaration, the Bylaws, any rules and regulations adopted by the Association, as the following:

- 2.3.1 The Association may totally bar or restrict use of portions of the Common Area where ordinary use could be dangerous, unreasonably increase Association costs, or be detrimental to the environment.
- 2.3.2 The Association shall have the right to suspend the voting rights and right to use of any recreational facilities on the Common Area (other than roadways and walkways) by any Owner for any period during which any assessment against such Owner’s Lot remains unpaid, and for a period not to exceed 60 days for any and each separate infraction of the Association’s published rules and regulations.
- 2.3.3 The Association shall have the right to dedicate or transfer all or any portion of the Common Area, including easements thereon, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless two-thirds of each class of Members

consent to such dedication or transfer, as evidenced by an instrument signed in recordable form by at least two-thirds of each class of Members.

Section 2.4 Native Growth Protection Areas and Other Areas. Certain portions of the Common Area may have special designations on the Plat, including, but not limited to Native Growth, Protection Areas or Easements, bio-filtration areas, and storm water retention or detention areas. Those areas are subject to any special use restrictions set forth on the Plat Map and any supplemental regulations established by the Association consistent with the Plat Map restrictions.

Section 2.55 Delegation of Use. Any Member may delegate, in accordance with such rules and regulations as the Association shall promulgate, his or her right of use and enjoyment of the Common Area to family members, guests, and tenants of such Member. Each Owner shall be responsible for informing such Owner's family members, guests, tenants, and service personnel of the contents of this Declaration as well as any rules and regulations that may be adopted by the Association as they may relate to appropriate community behavior. Each Owner shall be personally liable for any damages to any Common Areas or any other area maintained by the Association or to any other property of the Association, whether real or personal, caused by an Owner's family member, guest, tenant, agent, workman, contractor or other licensee or invitee. The Association may have a lien upon the Owner's Lot for the amount of damages.

Section 2.6 Maintenance. The Association shall have full responsibility for the maintenance, repair, and improvement of the Common Area and the common utility systems and facilities (including without limitation, storm drainage facilities) which are for the common use and benefit of the property and which a governmental entity having jurisdiction may now or hereafter require to be maintained by the Owners. All of the Common Area and all such common utility systems and facilities shall be reasonably maintained for their intended use, subject to applicable governmental restrictions.

Section 2.7 Property Entry Signs. Within the Common Area, the Declarant may at any time erect, and the Association shall thereafter maintain, permanent entry and identification signs and related landscaping, fencing and improvements as the Declarant shall deem necessary. Promotional signs used for advertising the initial sale of Lots or Homes shall be maintained by the Declarant.

ARTICLE 3

HOMEOWNERS ASSOCIATION

Section 3.1 Establishment. There is hereby created an association called the Sun Willows Homeowners Association (the "Association").

Section 3.2 Form of Association. The Association shall be a non profit corporation formed and operated under the laws of the State of Washington.

Section 3.3 Articles and Bylaws. Declarant will adopt Articles of Incorporation and will propose to the initial Board of Directors the adoption of Bylaws to supplement this Declaration and to provide for the administration of the Association and the Property and for other purpose not inconsistent with this Declaration. In the event of any conflict between this Declaration and the Article of Incorporation for such non profit corporation, the provisions of this Declaration shall prevail. Bylaws for the administration of the Association and the Property, and to further the intent of this Declaration, shall be adopted or amended by the Owners at regular or special meetings; provided that the initial Bylaws shall be adopted by the Board of Directors. In the event of any conflict between this Declaration and any Bylaws, the provisions of this Declaration shall prevail.

Section 3.4 Board of Directors. The Association shall be managed by a Board of Directors who are members of the Association. They shall be elected as set forth in the Articles of Incorporation and Bylaws of the Association.

Section 3.5 Membership and Voting Rights. The Association shall have two classes of voting membership:

- 3.5.1 Class A Members shall be all Owners, with the exception of the Declarant, and each Class A Members shall be entitled to one vote for each Lot owned, whether improved or not. When more than one Person holds and interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as the joint owners may decide among themselves, but in no event shall more than one vote be cast with respect to any Lot.
- 3.5.2 The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Lot owned by it. The Class B class of membership shall cease and be converted to Class A membership upon the occurrence of earlier of the following events: (i) the date on which the Declarant has conveyed all the Lots owned by it on the Property; or (ii) the seventh anniversary of the date on which this Declaration is recorded.

Section 3.6 Transfer of Membership. The Association membership of each Owner (including Declarant) shall be appurtenant to the Lot giving rise to such membership, and shall not be transferred in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the new Owner.

Section 3.7 Books and Records. The Board shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures of the Association, in a form that complies with generally accepted accounting principles.

Section 3.8 Inspection of Association Documents, Books and Records. The Association shall make available to Owners, Mortgagees, prospective purchasers and

their prospective mortgagees, and the agents or attorneys of any of them, current copies of this Declaration, the Articles, the Bylaws, and other rules, books, records, and financial statements of the Association, and the most recent annual audited financial statement, if one is prepared. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. The Association may require the requesting party to pay a reasonable charge to cover the cost of making the copies.

Section 3.9 Townhome Owners Association.

- 3.9.1 An Association called the "Townhome Owners Association", which is subordinate to and shall report to the Association, may be created in accordance with the provisions herein, comprised only of Owners of Townhome Lots, as may now or hereafter be constructed on the Property or on any Additional Lands which maybe annexed to the Property, pursuant to Article 17 below.
- 3.9.2 The Townhome Owners Association, if formed, shall be a non profit corporation formed and operated under the laws of the State of Washington.
- 3.9.3 The Townhomes Owners Association will adopt Articles of Incorporation and Bylaws to provide for the administration of the Townhome Owners Association and the Townhome Lots and for other purposes not inconsistent with this Declaration. In the event of any conflict between this Declaration and the Articles of Incorporation for such non profit corporation, the provisions of this Declaration shall prevail. Bylaws for the administration of the Townhome Owners Association and the Townhome Lots, and to further to intent of this Declaration, shall be adopted or amended by the Owners of Townhome Lots at regular or special meetings. In the event of any conflict between this Declaration and any by laws, the provisions of this Declaration shall prevail.
- 3.9.4 The Townhome Owners Association shall be managed by a Board of Directors who are members of the Townhome Owners Association. The shall be elected as set forth in the Articles of Incorporation and Bylaws of the Townhome Owners Association.
- 3.9.5 The Townhome Owners Association shall have two classes of voting membership:
 - 3.9.5.1 Class A Members shall be all Owners of Townhome Lots, with the exception of the Declarant, and each Class A Member shall be entitled to one vote for each Townhome Lot owned. When more than one Person holds an interest in any Townhome Lot, all such Persons shall be members. The vote for such Townhome Lot shall be exercised as

the joint owners may decide among themselves, but in no event shall more than one vote be cast with respect to any Townhome Lot.

- 3.9.5.2 The Class B Member shall be the Declarant who shall be entitled to three votes for each Townhome Lot owned by it. The Class B class of membership shall cease and be converted to Class A Membership upon the occurrence of earlier of the following events: (i) the date on which the Declarant has conveyed all the Townhome Lots owned by it on the Property; or (ii) the seventh anniversary of the date on which this Declaration is recorded.
- 3.9.6 The Townhome Owners Association Membership of each Owner of a Townhome Lot (including Declarant) shall be appurtenant to the Townhome Lot giving rise to such membership, and shall not be transferred in any way except upon the transfer of title to the Townhome Lot and then only to the transferee of title to the Townhome Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Townhome Lot shall operate automatically to transfer the membership in the Townhome Owners Association to the new Owners.
- 3.9.7 The Board of Directors of the Townhome Owners Association shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures of the Townhome Owners Association, in a form that complies with generally accepted accounting principles.
- 3.9.8 The Townhome Owners Association shall make available to the Townhome Owners, Mortgagees, prospective purchasers and their prospective mortgagees, and the agents or attorneys of any of them, current copies of this Declaration, the Articles, the Bylaws, and other rules, books, records, and financial statements of the Townhome Owners Association, and the most recent annual audited financial statement, if one is prepared. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. The Townhome Owners Association may require the requesting party to pay a reasonable charge to cover the cost of making the copies.

ARTICLE 4

MANAGEMENT OF THE ASSOCIATION

Section 4.1 Administration of the Property. The Members covenant and agree that the administration of the Property shall be in accordance with the provisions of this Declaration and the Bylaws of the Association which are made a part hereof. Administrative power and authority shall vest in the Board.

Section 4.2 Authority and Duties of the Board. On behalf of and acting for the Association, the Board, for the benefit of the Property and the Members, shall have all

powers and authority permitted to the Board under this Declaration, including but not limited to the following:

- 4.2.1 Levy, collect and enforce the collection of assessments, as more particularly set forth in Article 8 hereof, to defray expenses allowable to carrying out the duties and functions of the Association hereunder.
- 4.2.2 Require any officer or employee of the Association handling or responsible for Association funds to furnish adequate fidelity bonds, the premiums on such bonds to be paid by the Association.
- 4.2.3 Operate, maintain, and repair the irrigation water distribution system which serves the Common Area. Water service to the Property shall be provided by the City of Pasco, unless another source for water service is developed in the future. With respect to irrigation water distribution on individual Lots, the Board shall only be responsible for energizing the system in the spring of each year and blowing out or otherwise draining the system in the fall of each year. Each lot Owner shall be responsible for any maintenance or costs to repair the irrigation water distribution system on such Owner's Lot. Any maintenance required on such system shall be completed in a timely manner.
- 4.2.4 Enter into agreements with one or more qualified persons which provide for the maintenance and repair of the Common Area, the collection of assessments, the sending of all required notices to Members, the operation of Association meetings, and other regular activities of the Association. However, the Board may not delegate to said persons the duties which it is required by law to perform.
- 4.2.5 Contract and pay for any materials, supplies, labor or services which the Board should determine are necessary or proper for carrying out its powers and duties under this Declaration, including legal, accounting, management, security patrol or other services. However, if for any reason any materials, supplies, labor or services are provided for particular Lots or their Owners, including maintenance of the Townhomes, the cost thereof shall be specially charged to the Owner of such Lots. The Board may pay the Declarant a reasonable fee for any service it performs on behalf of the Association.
- 4.2.6 Through the Townhome Owners Association, if formed, maintain the building exterior, yards, party walls, and obtain casualty insurance on the Townhomes in accordance with the provision of Article 7 below.
- 4.2.7 All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness in the name of the Association shall be

signed by such officer or officers, agent or agents of the Association and in such manner as is from time to time determined by the Board.

Section 4.3 Adoption of Rules and Regulations. When and to the extent it deems advisable, the Board may adopt reasonable rules and regulations governing the maintenance and use of the Common Area and the Property and other matters of mutual concern to the Members, which rules and regulations are not inconsistent with this Declaration and the Bylaws and which treat all Members fairly and on a non-discriminatory basis.

Section 4.4 Additional Powers of the Association. In addition to the duties and powers of the Association, as specified herein, and elsewhere in this Declaration, but subject to the provisions of this Declaration, the Association, acting through its Board, shall have the power to do all other things which may be deemed reasonably necessary to carry out its duties and the purpose of this Declaration.

ARTICLE 5

ARCHITECTURAL CONTROL

Section 5.1 Construction and Exterior Alterations or Repairs.

5.1.1 All building and Structures (including, without limitation, concrete or masonry walls, rockeries, fences, hedges, swimming pools, if any, or other Structures) to be constructed, erected, placed or altered within the Property, all exterior alterations and repairs (including, but not limited to, re-roofing or repainting) of any buildings or Structures on the Property and visible from any street or other Lot, and any construction or alteration of landscaping of the Property must be approved by the Board of Directors of the Association, or by the Architectural Control Committee ("ACC") composed of three or more representatives appointed by the Board; provided, that until all of the Lots in the Property have completed building constructed on them, Declarant shall appoint the members of the ACC. Reference in this Article 5 to the ACC shall be deemed to include the ACC, the Board, or the Declarant, as circumstances may dictate. Complete plans and specifications of all such proposed buildings, structures, exterior alterations and repairs, or landscaping together with detailed plans showing the proposed location of the same on the particular building site and other data requested by the ACC shall be submitted to the ACC before construction, alteration or repair is begun. Construction, alteration or repair shall not be started until written approval thereof is given by the ACC.

5.1.2 The ACC will review submittals as to the quality of workmanship and materials planned and for conformity and harmony of the exterior design with proposed or existing structures on neighborhood residential Lots or

buildings, sites and as to location of the building with respect to topography, finish grade elevation and building setback restrictions, in accordance with architectural guidelines to be adopted by the ACC.

- 5.1.3 All plans and specification submitted for approval by the ACC must be submitted induplicate at least 30 days prior to the proposed construction or exterior alteration or repair starting date. In the event the ACC fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, the ACC will be deemed to have given its approval.
- 5.1.4 The maximum height of any building shall be established by the ACC as part of a plan approval and shall be given in writing together with the approval. If the ACC has failed to disapprove such design and location within one 30 day limit, and such design and location is thereby deemed approved, the maximum height of any building shall be no greater than nine meters.
- 5.1.5 The ACC may require that said plans or specifications shall be prepared by an architect or a competent house designer approved by the ACC. One complete set of said plans and specifications shall n each case be delivered to and permanently left with the ACC. All buildings or structures shall be erected or constructed, and all exterior alterations or repairs made, by a contractor, house builder or other person or entity approved by the ACC. The ACC shall have the right to refuse to approve any design, plan or color for such improvements, construction or exterior alteration or repair visible from a street or other Lot which is not suitable or desirable, in the ACC's opinion, and such refusal may be based entirely on aesthetic or other factors.
- 5.1.6 In evaluating any design, the ACC may consider the suitability of the proposed building or other structure, and the material of which it is to be built, and the exterior color scheme, the site upon which such buildings or structures are proposed to be built, the same, the harmony thereof with the surrounding, and the effect or impairment that said structure will have on the view or outlook of surrounding building sites, and any and all other factors which, in the ACC's opinion, shall affect the desirability or suitability of such proposed, structure, improvements, or exterior alteration or repair.
- 5.1.7 The ACC shall have the right to disapprove the design or installation of a swimming pool or any other recreational structure or equipment deemed undesirable, in the ACC's reasonable opinion, based on aesthetic factors or otherwise. The ACC may consider the visual impact of the proposed structure and the noise impact of the related activities upon all nearby Lots or Common Areas. Any enclosure or cover used in connection with such

a recreational structure or equipment, whether temporary, collapsible, or seasonal, shall be treated as a permanent structure for the purpose of these covenants, and shall be subject to all the conditions, restrictions, and requirements as set forth herein for all buildings and structures.

- 5.1.8 The ACC may require, as such Lot Owner's expense, the trimming or topping (or, if deemed necessary by the ACC, removal) of any tree, hedge or shrub on a Lot which the ACC determines is reasonably blocking or interfering with the view or access to sunlight of another Lot.
- 5.1.9 No walls, continuous fence or hedges may be built in the backyards of any Lots.
- 5.1.10 Declarant (including any successor in interest to Declarant's status as Declarant) shall not be subject to the restrictions of this Section 5.1 and to any Lot owned by Declarant.
- 5.1.11 By majority vote, the ACC may adopt or amend architectural guidelines consistent with this Declaration for making its determinations hereunder.

Section 5.2 Declarant Facilities. Notwithstanding any provision in this Declaration to the contrary, Declarant and its agents, employees and contractors shall be permitted to maintain during the period of sale of Lots, Homes, or Townhomes upon such portion of the Property (other than Lots sold by Declarant) as Declarant may choose, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction, sale or rental of Lots and Homes, including but not limited to a business office, storage area, signs, model units, sales office, construction office and parking area for all prospective tenants or purchasers of Declarant.

ARTICLE 6

USE AND MAINTENANCE OBLIGATIONS OF OWNERS

Section 6.1 Exterior Maintenance. Except for such maintenance and repairs which are to be performed by the Association pursuant to the provisions of the Declaration, each Owner, at said Owner's cost and expense, shall promptly and continuously maintain, repair and restore said Owner's Lot, and the Home and other improvements located thereon, in a good, clean, attractive, safe and sanitary condition and in full compliance with all applicable laws, the provisions of this Declaration, and any rules and regulations of the Association.

Section 6.2 Restrictions on Storage. No Owner shall store or allow any occupant or tenant to store any trailers, boats, motor homes, recreational vehicles, motorcycles, or trucks over two tons (except those used by Declarant) or any disabled or inoperable motor vehicle on the Property unless any such vehicle is (i) completely enclosed and hidden from view within a garage or within such other enclosures as maybe

approved in advance by the ACC, or (ii) parked on the area designated for such vehicles on the Plat Map. Violations shall subject such vehicle to public impound, at the expense and risk of the owner thereof.

Section 6.3 Roadway/Common Drives. No on-street parking shall be allowed on any of the streets within the Property, except in permanent parking areas designated by the Association. Common drives, walks (if any) and paths (if any) shall be used exclusively for normal access, ingress and egress, and no obstructions shall be placed thereon or therein except by express written consent of the Board. Guests of Owners will be allowed to park vehicles within boundary lines of such Owners' Lot for up to 72 hours.

Section 6.4 Residential Use. All Lots and improvements located thereon shall be used, improved and devoted exclusively for residential purposes only, including: (i) sleeping, eating, food preparation for on-site consumption by occupants and guests, entertaining by occupants of personal guests, and similar activities commonly conducted within a residential dwelling, (without regard to whether the Owner or occupant uses the Home as a primary or secondary personal residence, on an ownership, rental, lease, or invitee basis) or such other reasonable ancillary purposes commonly associated with residential dwellings and otherwise in compliance with this Declaration and applicable laws in residential dwellings; (ii) for the common social, recreational or other reasonable uses normally incident to such purposes; and (iii) for purposes of operating the Association and managing the Property. No Structures or buildings of any kind shall be erected, altered, placed or permitted to remain on any Lot unless such Structures or building comply with applicable City of Pasco Building Codes.

Section 6.5 No Nuisances. No noxious or offensive conditions shall be permitted upon any Lot or improvement thereon, nor shall anything be done thereon which is or may become an annoyance or nuisance to other residents on the Property. Each Owner will be solely responsible for the cost of cleaning and repairs due to leakage or spillage of oil or other petroleum and toxic substances from vehicles and other property owned by the Owner.

Section 6.6 Restriction of Further Subdivision. No Lot or portion of a Lot in the Property shall be divided and sold or resold, or ownership changed or transferred whereby the ownership of any portion of the Property shall be less than the area required for the use district in which the Property is located; provided, the foregoing shall not prohibit deeds of correction, deeds to resolve boundary disputes and similar corrective instruments.

Section 6.7 Garbage and Trash Removal. No Lot shall be used as a dumping ground for rubbish, trash, garbage, litter, junk and other debris. All garbage, trash and yard waste shall be placed in appropriate sanitary containers for regular disposal or recycling. Each Lot Owner shall be responsible for the prompt and regular disposal for all of his garbage, trash, junk and yard waste.

Section 6.8 Animal Restrictions. No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept in or on any Home or Lot or on any Common Area, except that dogs and cats or other usual household pets not exceeding in aggregate two in number per Home may be kept, provided that any such pets must be inside type pets which are normally confined to the interiors of the dwelling units. No dog house, kennels, dog runs or the like may be kept or maintained on any Lot or the outside of any Home and all pets when outside a Home shall be maintained on an adequate leash or other means of physically controlling said animal, by a person capable of controlling the pet at all times or by a suitable invisible electronic environment system not dangerous to humans. Pets shall not be allowed to leave remains on any other Lot or on any portion of the Common Area or Golf Course. Any Owner whose animal violates these provisions or who causes any unreasonable noise or damage to persons or property shall be liable to all such harmed Owners and their families, guests, and invitees. All animals must normally be kept inside the house.

Section 6.9 Signs. No signs shall be displayed to public view on any Lot except (i) one professionally created sign of not more than one square foot displaying the resident's last name; (ii) one sign of not more than five square feet advertising the Lot for sale or rent, or (iii) signs used by Declarant or other home builders to advertise Lots for sale during the construction and sales period.

Section 6.10 Renting and Leasing.

- 6.10.1 With respect to the leasing, renting, or creation of any kind of tenancy of a Home, the Owner (except for a lender in possession of a Lot and improvements thereon following a default in a first Mortgage, a foreclosure proceeding or any deed of trust sale or other arrangements in lieu of a foreclosure) shall be prohibited from leasing or renting less than the entire Home for a term of less than 30 days, and all leasing or rental agreements shall be in writing and be subject to the Declaration, Articles and Bylaws, with a default of the tenant in complying with the Declaration, Articles or Bylaws constituting a default under the such lease or rental agreement.
- 6.10.2 If a Home is rented by its Owner, the Board may collect, and the tenant or lessee shall pay over to the Board, so much of the rent for such Home as is required to pay any amounts due the Association hereunder, plus interest and costs, if such amounts are in default over 30 days. The renter or lessee shall not have the right to contest payment over to the Board, and such payment will discharge the lessee's or renters duty of payment to the Owner for rent to the extent such rent is paid to the Association, but will not discharge the liability of the Owner (and the Home under this Declaration for assessments and charges) or operate as an approval of the lessee. The Board shall not exercise this power where a receiver has been appointed with respect to the Home or its Owner, or in derogation of any rights which a Mortgagee of such Home may have with respect to such

rents. Other than as stated herein, there are no restrictions on the right of any Owner to lease or otherwise rent his Home.

Section 6.11 Zoning Regulations. Zoning regulations, building regulations, environmental regulations and other similar governmental regulations applicable to the Property subject to this Declaration shall be observed. In the event of any conflict between any provision of such governmental regulations and restrictions of this Declaration, the more restrictive provisions shall apply.

Section 6.12 Business Use. No business of any kind shall be conducted on any Lot with the exception of (i) the business of the Declarant in developing and selling Homes or Lots, and (ii) home occupations approved by the Board which do not create excess traffic, parking problems, noise, or otherwise violate this Declaration. Owners shall also comply with all of the requirements of the appropriate local government. No business materials, supplies or equipment shall be stored on any Lot within the view of another Lot, except for items relating to an improvement which is under construction in conformance with this Declaration.

Section 6.13 Temporary Residence. No outbuilding, basement, tent, shack, garage, trailer, shed or temporary building of any kind shall be used as a residence either temporarily or permanently, except for trailers used by Declarant, builders, or contractors during the construction period.

Section 6.14 Satellite Dishes. Except as provided by the Association, no antenna, satellite dish or similar equipment shall be affixed to any exterior wall or roof or otherwise placed on any Lot.

Section 6.15 Building Setback Requirements. All Structures, buildings and other Lot improvements shall comply with all applicable governmental requirements, including, without limitation, minimum setback requirement.

Section 6.16 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 6.17 Sewage Disposal. No permanent private water well or septic tank system shall be permitted on any Lot. The cleaning of private catch basins, if any, on individual lots shall be carried out at least once prior to September 15 of each calendar year.

Section 6.18 Lot Size. No residential Structure shall be erected or placed on any Lot which has a lot area of less than that required by the government entity having appropriate jurisdiction over the Property.

Section 6.19 Completion of Projects. Any improvements constructed on any Lot on the Property shall be completed as to external appearance, including finish painting, within six months from the commencement of construction except for reason beyond the control of the builder, in which case a longer period may be permitted by the ACC. The landscaping of each Lot shall be completed within 90 days after the Home is first occupied. This period may be extended by the Board of Directors due to inclement weather.

Section 6.20 Mailboxes. Each of the mailboxes and mailbox structures shall be placed in locations approved by the United States Postal Service. Owners may not damage or otherwise interfere with a mailbox structure.

Section 6.21 Exterior Add-ons. No awnings, air conditioning units, or other projections shall be placed on or hang from the exterior surfaces of any Home unless they have been approved by the ACC.

Section 6.22 Outdoor Fires. Outdoor barbecues, fireplaces, or fire pits may be used for cooking on the Lots when permitted by law. Reasonable and adequate precautions against fires must be taken. Excessive smoke or soot accumulation from fires shall not be allowed. No other outdoor fires shall be permitted on the Property, except for fires by Declarant or contractors for burning construction wastes where all necessary government permits have been obtained. No incineration shall be allowed on any of the Lots.

Section 6.23 Screened Service Areas. Unsightly items must be kept in the house or garage or within a fenced or screened area where they will not be seen from any roads. Unsightly items shall include, but shall not be limited to, garbage and trash, clothes lines, bicycles, recreational gear, outdoor maintenance equipment, firewood and ladders. The design and materials used shall be consistent with the general appearance of the house, and the must receive prior approval from the ACC.

Section 6.24 Yard Maintenance. Lot Owners shall maintain their personal gardens and any other landscaping constructed by them. All trees, hedges, shrubs, and flowers shall be kept in an attractive, neat, trimmed and pruned condition. Owners shall not allow their personal landscaped areas to become overgrown or unkempt so as to create a visual nuisance. Leaves, clippings, dead plants and other yard waste shall be placed in a compost pile or appropriate containers for disposal.

ARTICLE 7 **TOWNHOMES**

Section 7.1 Exterior Townhome Maintenance, Repair and Replacement. Is shall be the exclusive right and day of the Townhome Owners Association (if formed; otherwise the Association) to provide adequate exterior building maintenance on any and all Townhome Lots as follows: Stain or paint, repair, replace and care for roofs, gutters,

down spouts, doors and other exterior improvements and exterior walls; and perform annual exterior window cleaning. Said maintenance shall not include window glass replacement/repair and cleaning other than the annual exterior window cleaning. All Costs, including reasonable reserves for replacement, for such maintenance, repair and replacement shall be assessed only to the Townhome Owners.

Section 7.2 Party Walls. Foundation piers, floors, beams, and other structural members or elements common to two adjoining homes on adjacent Lots which are built as part of the original construction, are placed upon or straddle the dividing line between two adjacent Lots and actually support or protect two adjacent homes shall be regarded and treated as party walls. The cost of the repair and maintenance of a party wall (as above defined) shall be borne by the Townhome Owners or Patio Home Owners, as the case may be, sharing such party wall.

Section 7.3 Wrongful Acts. In the event that the need for any maintenance or repair work is caused through the willful or negligent act of a Townhome Owner or his or her family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become part of the assessments to which such Townhome Owner's Lot is subject.

Section 7.4 Right of Entry. The Association and, if formed, the Townhome Owners Association, may at all reasonable times enter upon any Townhome Lot for the purpose of performing its functions under this Article.

Section 7.5 Encroachments. Appurtenant to each Townhome Lot shall be an easement over all adjoining Townhome Lots and the Common Area for the purpose of accommodating any encroachment by buildings or structures on the Townhome Lot due to engineering errors, errors in original construction, or the settling or shifting of such buildings or structures. If any residence on any Townhome Lot is partially or totally destroyed and then repaired and rebuilt substantially in accordance with the original plans and specifications, there shall also be appurtenant to the Townhome Lot an easement to accommodate minor encroachments by the successor structure from similar causes.

Section 7.6 Lawns and Landscaping. The Townhome Homeowners Association (if formed, otherwise the Association) shall regularly mow, aerate, and fertilize the lawns and other Declarant-installed landscaping on all of the Townhome Lots in accordance with good gardening practices, and assess the Townhome Owners for associated expenses.

Section 7.7 Casualty Insurance. The Townhome Association shall obtain and maintain in effect fire and extended coverage insurance on the Townhomes at their full replacement cost. It is the responsibility of each owner to provide a policy for the protection and/or replacement of their Townhome and contents thereof.

ARTICLE 8 **ASSESSMENTS**

Section 8.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association any assessment duly levied by the Association as provided herein. Such assessments, together with the interest, costs, late charges and reasonable attorneys' fees, shall also be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, late charges and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor title unless the lien for such delinquent assessments had been properly recorded prior to title transfer or unless expressly assumed by that party. When ownership of a Lot changes, assessments which have been established for the current fiscal year shall be prorated between the Buyer and Seller based on a 365 day year.

Section 8.2 Liability for Assessments. Any assessments which may be levied from time to time pursuant to the authority of the Board shall be established in accordance with this Article 8, except for assessments levied against an Owner for the purpose of reimbursing the Association for costs incurred in bringing the Owner or his Home or Lot into compliance with the provisions of this Declaration. Declarant shall pay any assessment levied against any Lots owned by it. No Owner may exempt himself or herself from liability for his Assessments by abandoning his or her Lot.

Section 8.3 Association Budget. The Association shall prepare, or cause the preparation of, an operating budget for the Association at least annually, in accordance with generally accepted accounting principles. The operating budget shall set forth sums required by the Association, as estimated by the Association, to meet its annual costs and expenses together with a reasonable sum to establish reserves for future major repairs and replacements; provided that the Board shall determine when establishment of such reserves shall commence. The association shall have a separate operating budget for costs of maintenance, repair and replacement of the Townhomes and Townhome Lots described in Article 7. The Townhome Owners Association may revise the operating budgets after their preparation at any time and from time to time, as it deems necessary or advisable in order to take into account and defray additional costs and expenses of the Association. The Members of the Association who are obligated to pay assessments based on a particular budget may reject said budget at a Special Meeting of the Association by a vote of 67% of the total votes entitled to be cast by the affected Members.

Section 8.4 Levy of General Assessment. In order to meet the costs and expenses projected in its operating budget, the Board shall determine and levy on every Owner a general assessment. The Association's operating budget shall be divided by the

number of votes in the Association to determine the amount of one assessment unit. Each Owner's general assessment shall be calculated by multiplying the number of votes in the Association by one assessment unit. The Declarant's extra two votes per Lot shall be disregarded in both of these calculations.

Section 8.5 Amount of General Assessment. The Board shall make reasonable efforts to determine the amount of the general assessment payable by each Owner for an assessment period at least 30 days in advance of beginning of such period. Notice of the general assessment shall thereupon be sent to each Owner subject to assessment; provided, however, that failure to notify an Owner of the amount of an assessment shall not render such assessment void or invalid. Any failure by the Board, before the expiration of any assessment period, to fix the amount of the general assessment hereunder for the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any Owner from the obligation to pay the general assessment, or any installment thereof, for that or any subsequent assessment period.

Section 8.6 Assessment Period. The general assessment fixed for the preceding period shall continue until a new assessment is fixed. Upon any revision by the Association of the operating budget during the assessment period for which each budget was prepared, the Board shall, if necessary, revise the general assessment levied against the Owners and give notice of the same in the same manner as the initial levy of a general assessment for the assessment period.

Section 8.7 Townhome Maintenance Assessments. In order to pay the cost of the maintenance, repair, and replacement services described in Article 7, the Townhome Owners Association Board shall determine and levy upon every Owner of a Townhome Lot an assessment for each assessment period. The Townhome Owners Association Board shall make a reasonable effort to establish the amount of the Townhome maintenance assessment for each assessment period at least 30 days prior to its first day. Notice of the assessment shall thereupon be sent to each Townhome Owner subject to assessment; provided, however, that failure to notify an Owner of the amount of assessment shall not render such assessment void or invalid. Any failure by the Board, before the expiration of any assessment period, to fix the amount of the assessment hereunder for the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any Owner from the obligation to pay the assessment, or any installment thereof, for that or any subsequent assessment period. The Townhome Association Board shall have the authority, and it shall be its duty, to make such changes in the level of the Townhome maintenance assessments as may be necessary to make the revenue raised thereby in any calendar year equal to the total costs, including reasonable reserves for replacement, of the Townhome Owners Association required by this Declaration in that assessment period. The assent of the membership shall not be required for any such changes.

Section 8.8 Manner and Time of Payment. Assessments shall be payable in such reasonable manner as the Board shall designate. Any assessment or installment

thereof which remains unpaid for at least 15 days after the due date to thereof shall bear interest at the rate of 12% per annum, and the Board may also assess a late charge in an amount not exceeding 25% of any unpaid assessment which has been delinquent for more than 15 days.

Section 8.9 Accounts. Any assessments collected by the Association shall be deposited in one or more Federally insured institutional depository accounts established by the Board. The Board shall have exclusive control of such accounts and shall maintain accurate records thereof. No withdrawal shall be made from said accounts except to pay for charges and expenses authorized by this Declaration.

Section 8.10 Lien. In the event any assessment or installment thereof remains delinquent for more than 30 days, the Board may, upon 15 days' prior written notice to the Owner of such Lot of the existence of the default, accelerate and demand immediate payment of the entire assessment. The amount of any assessment assessed or charged to any Lot plus interest, costs, late charges and reasonable attorneys' fees, shall be a lien upon such Lot. A Notice of Assessment may be recorded in the officer where real estate conveyances are recorded for the county in which this property is located. Such notice of assessment may be filed at any time at least 15 days following delivery of the notice of default referred to above in this Section. The lien for payment of such assessment and charges shall have priority over all other liens and encumbrances, recorded or unrecorded, limited as provided in Section 10.1. Suit to recover a money judgment for unpaid assessments or charges shall be maintainable without foreclosure or waiver of the lien accruing the same. Said liens may be foreclosed as a mortgage.

Section 8.11 Waiver of Homestead. Each Owner hereby waives to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption law in effect at the time any assessment or installment thereof become delinquent or any lien is imposed pursuant to the terms hereof.

Section 8.12 Special Assessments. In addition to the general assessments authorized by this Article, the Association may levy an assessment or assessments at any time against all Lot Owners, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, inordinate repair, or replacement or a described capital improvement located upon or forming a part of the Common Area, including necessary fixtures, and personal property related thereto, or for such other purposes at the Association may consider appropriate; provided, however, that any such assessment must have the prior favorable vote of 56% of the Member votes entitled to be cast. The amount of each Owner's special assessment for any year shall be calculated like the General Assessments, except that the total special assessment shall be substituted for the operating budget amount.

Section 8.13 Records & Financial Statements. The Board shall prepare or cause to be prepared for any fiscal year in which the Association levies or collects any assessments, a balance sheet and an operating (income/expense) statement for the Association which, shall include a schedule of assessments received and receivable

identified by the number of the Lot and the name of the Owner so assessed. The Board shall cause detailed and accurate records of the receipts and expenditures of the Association to be kept specifying and itemizing the maintenance, operating and any other expense incurred. Such records, copies of this Declaration, the Articles and the Bylaws, and any resolutions authorizing expenditures of Association funds shall be available for examination by any Owner at convenient workday hours.

Section 8.14 Certificate of Assessment. A certificate shall be executed and acknowledged by the treasurer or the president of the Board (or an authorized agent thereof, if neither the president nor treasurer is available) stating the indebtedness for assessment and charges or lack thereof secured by the assessments upon any Lot shall be conclusive upon the Association as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith. Such a certificate shall be furnished to any Owner or any encumbrance of a Lot within a reasonable time after request, in recordable form, at a reasonable fee. Unless otherwise prohibited by law, any encumbrance holding a lien on a Lot may pay any unpaid assessment or charges with respect to such Lot, and, upon such payment, shall have a lien on such Lot for the amounts paid of the same rank as the lien of his encumbrance.

Section 8.15 Foreclosure of Assessment of Assessment Lien; Attorneys' Fees and Costs. The Board (or authorized agent), on behalf of the Association, may initiate action to foreclose the lien of, or collect any assessment, In any action to foreclose the lien of, or otherwise collect, delinquent assessments or charges, any judgment rendered in favor of the Association shall include a reasonable sum for attorneys' fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action , in addition to taxable costs permitted by law. Said liens may be foreclosed as a mortgage.

Section 8.16 Curing of Default. The Board shall prepare and record a satisfaction and release of the lien for which a Notice of Assessment has been filed and recorded in accordance with this Article upon timely payment or other satisfaction of all delinquent assessments set forth in the Notice and all other assessment which have become due and payable following the date of such recordation with respect to the Lot to which such Notice of Assessment was recorded, together with all costs, late charges and interest which have accrued thereon. A fee of twenty-five dollars (\$25.00) or such other amount as may from time to time be set by the Board covering the cost of preparation and recordation shall be paid to the Association prior to such action. The satisfaction of the lien created by the Notice of Assessment shall be executed by the president or treasurer of the Association or by any authorized representative or the Board. For the purpose of this paragraph, the term "costs" shall include costs and expenses actually incurred or expended by the Association in connection with the cost of reparation and recordation of the Notice of Assessment and in efforts to collect the delinquent assessments secured by the lien and a reasonable sum for attorneys' fees.

Section 8.17 Delinquent Assessment Deposit, Working Capital.

- 8.17.1 A Lot Owner may be required by the Board or by the Manager, from time to time, to make and maintain a deposit not less than one month's nor in excess of three month's estimated monthly assessment and charges, which may be collected as are other Assessments and charge. Such deposit shall be held in a separate fund, be credited to the Lot owned by such Owner, and be for the purpose of establishing a reserve for delinquent Assessments.
- 8.17.2 Resort may be had thereto at any time when such Owner is ten days or more delinquent in paying his or her monthly or other Assessments and charges. Said deposits shall not be considered as advance payments of regular Assessments, said Owner shall continue to be responsible for the immediate and full payment of said delinquent Assessment (and all penalties and costs thereon) and thus the full restoration of said deposit, and the Board shall continue to have all of the rights and remedies for enforcing such Assessment payment and deposit restoration, as provided by this Declaration and by law.
- 8.17.3 Upon the sale of a Lot, the seller/Owner thereof shall not be entitled to a refund from the Association of any deposit or reserve account made or maintained with respect to such Lot or pursuant to this or any other section of this Declaration; rather, any such deposit or reserve account shall continue to be held by the Association for the credit of such Lot, and the Lot Seller shall be responsible for obtaining from the purchaser appropriate compensation thereafter.
- 8.17.4 The first purchaser of any Lot shall pay to the Association, in addition to other amounts due, an amount equal to two months of monthly Assessments as a contribution to the Association's working capital. Such working capital contributions shall not be used to defray Declarant's expenses in completing the construction or development of the Property, to pay Declarant's contributions to Association reserves or to make up any deficits in the budget of the Association. Upon election of the first Board by Lot owners other than Declarant, Declarant shall pay to the Association a working capital contribution an amount equal to two months of monthly Assessments for each of the Lots then owned by Declarant. When a Lot owned by Declarant is sold, Declarant may apply funds collected at closing from the Purchaser to reimburse itself for funds paid to the Association for such contribution with respect to that Lot.

ARTICLE 9
COMPLIANCE AND ENFORCEMENT

Section 9.1 Enforcement.

- 9.1.1 Each Member, Board member and the Association shall comply strictly with the provisions of this Declaration and with the Bylaws and administrative rules and regulations adopted by the Association (as the same may be lawfully amended from time to time). Failure to comply shall result in a claim for damages or injunctive relief, or both, by the Board (acting through its officers on behalf of the Association and the Owners) or by the aggrieved Owner on his own, against the party (including an Owner or the Association) failing to comply.
- 9.1.2 In any action or arbitration to enforce the provisions of Section 9.1 or any other provision of this declaration, the Articles or the Bylaws, the prevailing party in such action or arbitration shall be entitled to an award for reasonable attorneys' fees and all costs and expenses reasonably incurred in preparation for prosecution of said action or arbitration, in addition to taxable costs permitted by law.

Section 9.2 No Waiver of Strict Performance. The failure of the Board or Declarant, as applicable, in any one or more instances to insist upon or enforce the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or of any Bylaws or administrative rules or regulations, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. No waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

Section 9.3 Arbitration. Any dispute between the Owners, between an Owner and the Board or the Association or between an Owner, the Board or the Association and Declarant shall be determined by arbitration in the Tri-Cities area (comprising Kennewick, Pasco and Richland) under the American Arbitration Association (AAA) Commercial Arbitration Rules with Expedited Procedures in effect on the date hereof, as modified by this Declaration. There shall be one arbitrator selected by the parties within seven days of the arbitration demand or if not, then selected pursuant to the AAA Rules. The arbitrator shall be an attorney with at least five years subdivision or real estate law experience. Any issue about whether a claim may be subjugated pursuant to this Declaration shall be determined by the arbitrator. At the request of either party made not later than 45 days after the arbitration demand, the parties agree to submit the dispute to non-binding mediation which shall not delay the arbitration hearing date. There shall be no substantive motions or discovery, except the arbitrator shall authorize such discovery as may be necessary to ensure a fair hearing, which shall be held within 90 days of the demand and concluded within two days. These time limits are not jurisdictional. The arbitrator shall apply substantive law and may award injunctive relief or any other remedy available from a judge including attorney fees and costs to the prevailing party,

but the arbitrator shall not have the power to award punitive damages. This arbitration provision shall not cover claims by the Association for collection of assessments; such claims shall be governed by Article 8.

Section 9.4 Remedies Cumulative. Except for claim which must be arbitrated pursuant to Section 9.2 above, the remedies provided herein are cumulative, and the Board may pursue them concurrently, as well as any other remedies which may be available under law although not expressed herein.

ARTICLE 10

LIMITATION OF LIABILITY

Section 10.1 No Personal Liability. So long as a Board member, Association committee member, Association officer, or authorized agent(s) has acted in good faith, without willful or intentional misconduct, upon the basis of such information as maybe possessed by such person, no person shall be personally liable to any Member, or other party including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, negligence (except gross negligence), any discretionary decision or failure to make a discretionary decision or failure to make a discretionary decision, by such person in such person's official capacity; provided, however, that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance or bond obtained by the Board pursuant to Article 4 or Article 15 hereof.

Section 10.2 Indemnification. Each Board member or Association committee member, or Association Officer, and their respective heirs and successors, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceedings to which he may be party, or in which he may become involved, be reason of being or having held such position at the time such expenses or liabilities are incurred, except in such cases wherein such person is adjudged guilty of intentional misconduct, or gross negligence or a knowing violation of law in the performance of his duties, and except in such cases where such person has participated in a transaction from which said person will personally receive a benefit in money, property, or services to which said person is not legally entitled; provided, however, that in the event of a settlement, indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association. Nothing contained in this Section 10.2 shall, however, be deemed to obligate the Association to indemnify any Member who is or has been a Board member or officer of the Association with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Declaration as a Member or Owner of a Lot.

ARTICLE 11

MORTGAGE PROTECTION

Section 11.1 Priority of Mortgages. Notwithstanding all other provisions hereof, the liens created under this Declaration upon any Lot for assessments shall be subject to tax liens on the Lot in favor of any assessing and/or special district and be subject to the rights of the secured party in the case of any indebtedness secured by first lien mortgages or deeds of trust which were made in good faith and for value upon the Lot. A mortgage of a Lot, or other purchaser of a Lot, who obtains possession of a Lot as a result of foreclosure or deed in lieu thereof will be liable for any assessment accruing after such possession. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Lot Owners including such possessor, his successors and assigns. For the purposes of this Article, the terms "mortgage" and "mortgagee" shall not mean a real estate contract (or the vendor thereunder), or a mortgage or deed of trust (or mortgagee or beneficiary thereunder) accruing a deferred purchase price balance owed with respect to a sale by an individual Lot owner other than Declarant.

Section 11.2 Effect of Declaration Amendments. No amendment of this Declaration shall be effective to modify, change or limit or alter the rights expressly conferred upon mortgagees in this instrument with respect to any unsatisfied mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such mortgage. Any provision of this Article conferring rights upon mortgagee which is inconsistent with any other provision of this Declaration shall control over such other inconsistent provisions.

Section 11.3 Rights of Lien Holders. A breach of any of the provisions, conditions, restrictions, covenants, easements or reservations herein contained shall not affect or impair the lien or charge of any bona fide mortgage made in good faith for value on any Lots; provided, however, that any subsequent owner of the Lot shall be bound by these provisions whether such owner's title was acquired by foreclosure or trustee's sale or otherwise.

Section 11.4 Copies of Notices. If the first mortgage of any Lot has so requested of the Association in writing, the Association shall give written notice to such first Mortgagee that an Owner/mortgagor of a lot has for more than 60 days failed to meet any obligation under this Declaration. Any first mortgagee shall, upon written request, also be entitled to receive written notice of all meetings of the Association and be permitted to designate a representative to attend such meetings.

Section 11.5 Furnishing of Documents. The Association shall make available to prospective purchasers, mortgagees, insurers, and guarantors, at their request, current copies of the Declaration, Bylaws, and other rules governing the Property, and the most recent balance sheet and income/expense statement for the Association, if any has been prepared.

ARTICLE 12
EASEMENTS AND SPECIAL TRACTS

Section 12.1 Association Functions. There is hereby reserved to Declarant and the Association or their duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Declaration, or in the Bylaws, and rules and regulations adopted by the Association.

Section 12.2 Utility Easements. On each Lot, easements are reserved as provided by the Plat Map and applicable laws, ordinances and other governmental rules and regulations for utility installation and maintenance, including, but not limited to, underground electric power, telephone, water, sewer, drainage, gas and accessory equipment, together with the right to enter upon the Lots at all times for said purposes. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage, interfere with the installation and 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 channel in the easements. The easement area of each Lot, and all improvements thereon, shall be maintained continuously by the Owner of each Lot, except for those improvement for which a public authority or utility company is responsible.

Section 12.3 Reciprocal Private Road Easements. Each Owner shall have a non-exclusive perpetual easement for access, ingress, egress and utilities over and along any roadway shown on the Plat Map and legally described on said Plat Map. The Owners of land within the Property, their tenants, guests and invites shall have a non-exclusive perpetual easement for access, ingress, egress and utilities over and along the private roadway within the Property and shown on the Plat Map.

Section 12.4 Entry by Security Patrol. If the Board contracts for security patrol service, said service, and its employees, shall have the right to enter onto any of the Lots and the Common Areas in order to carry out their duties under such security patrol agreement; provided, however, that said patrol service can enter a Lot only if it is either (i) doing so with reasonable cause, or (ii) acting with the consent of the Owner or tenant of such Lot.

ARTICLE 13
ABANDONMENT OF SUBDIVISION STATUS

Section 13.1 Duration of Covenants. The covenants contained herein shall run with and bind the land and be perpetual, unless modified by an Instrument executed in accordance with Article 14.

Section 13.2 Abandonment of Subdivision Status. The Association shall not, without the prior written approval of the governmental entity having jurisdiction over the Property and without prior written approval of 100% of all first Mortgagees and Owners

(other than the sponsor, developer or builder) of record, seek by act or omission to abandon or terminate the subdivision status of the Property as approved by the governmental entity having appropriate jurisdiction over the Property.

ARTICLE 14
AMENDMENT OF DECLARATION OR PLAT MAP

Section 14.1 Declaration Amendment. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Until the Transition Date, this Declaration may be deemed by an instrument approved and executed by Declarant and approved by the Lot Owners, including Declarant, having 67% of the total votes in the Association. Thereafter, amendments must be approved by Lot Owners, including Declarant, having over 67% of the votes in accordance with Section 3.3. The Lot Owners' approval may be obtained by a special vote of the Lot Owners of the Property at a meeting of the Association, or by the acknowledged signatures of the requisite percentage of Lot Owners. If the amendment is adopted at a meeting of the Association, it shall bear the acknowledged signatures of the president of the Association and shall be allocated to by the secretary, who shall describe the manner of adoption. Notwithstanding any of the forgoing, the prior written approval of 51% of all Mortgagees who have requested from the Association notification of amendments, and the written approval of the Declarant so long as Class B votes exist, shall be required for any material amendment to the Declaration or the Association's Bylaws of any of the following: voting rights, assessments, assessment liens, and subordination of such liens, reserves for maintenance, repair and replacement of Common Areas, insurance or fidelity bonds, responsibility for maintenance and repair; the boundaries of any Lot; convertibility of Lots into Common Areas or of Common Areas into Lots; leasing of Lots other than set forth herein; imposition of any restrictions on the right of an Owner required previously by the Mortgagees; or any provisions which are for the express benefit of Mortgagees or eligible insurers or guarantors of First Mortgages. It is specifically covenanted and understood that any amendment to this Declaration properly adopted will be completely effective to amend any or all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration unless otherwise specifically provided in the section being amended or the amendment itself.

Section 14.2 Plat Map. Except as otherwise provided herein, the Plat Map may be amended by revised versions or revised portions thereof referred to and described as to affect in an amendment to the Declaration adopted as provided for in Section 14.1. Copies of any such proposed amendment to the Plat Map shall be made available the examination of every Owner. Such an amendment to the Plat Map shall be effective, once properly adopted, upon having received any governmental approval required by law and recordation in the appropriate city or county officers in conjunction with the Declaration amendment.

Section 14.3 Amendments to Conform to Construction. Declarant, upon Declarant's sole signature, and as an attorney-in-fact for all Lot Owners with irrevocable power coupled with an interest, may at any time, until all Lots have been sold by Declarant, file an amendment to the Declaration and to the Plat Map to conform data depicted therein to improvements as actually constructed and to establish, vacate and relocate easements.

Section 14.4 Amendments Relating to Townhome. Declarant, upon Declarant's sole signature, and as an attorney-in-fact for all Lot Owners with irrevocable power coupled with an interest, may at any time, until all Lots have been sold by Declarant, file an amendment to the Declaration and to the Plat Map for any purpose relating to the Townhome Lots.

Section 14.5 Amendments Relating to FNMA/FHLMC/VA/GNMA/FHA Requirements. The Declarant hereby reserves the right to amend the Declaration from time to time as may be necessary to comply with Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Veterans Administration, and the Federal Housing Administration regulations or requirements. Said reserved right to amend the Declaration shall exist so long as the Declarant retains ownership of any Lot. If the Declarant, at its option, determines that it is necessary to so amend the Declaration, the Declarant, on behalf of all Lot Owners, is hereby authorized to execute and to have recorded said required amendment or amendments. All Lot Owners hereby grant to the Declarant a full and complete power of attorney to take any and all actions necessary to effectuate and record said amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and then and their respective heirs, personal representative, successors and assigns to the same extent as if they had personally executed said amendment or amendments. All Lot Owners hereby acknowledge and agree that the power of attorney herein granted shall be deemed coupled with an interest and shall be irrevocable.

ARTICLE 15 **INSURANCE**

The Board shall have authority in the exercise of its discretion to obtain and maintain from time to time as a common expense, bonds of fidelity coverage for Association Board members (including Declarant), officers, employees or agents and such other insurance the Board may deem advisable or as may be required by the Federal National Mortgage Association, Federal Home Loan Mortgage Association, Veterans Administration or similar agencies or lending institutions.

ARTICLE 16
NOTICE OF GOLF BALL HAZARDS.

Each Owner of a Lot adjacent to or in the vicinity of the Pasco Municipal Golf Course are hereby put on NOTICE that golf balls may on occasion enter that Owner's Lot simply due to the proximity of the golf course. Such Owners, for themselves, their occupants, family, tenants, invitees and licensees, hereby hold Declarant, the City of Pasco and the Association, and their officers, directors, partners, employees, agents, lessees, successors in interest, and golf course users harmless from all damage golf balls may cause in all cases, except as to a golf course user if there is proof that the golf ball was intentionally directed off the golf course by the user. Each Owner is strongly advised to take sufficient safeguards to minimize any damage that may arise from unintentional intrusion of golf balls onto the Owner's Lot.

ARTICLE 17
ANNEXATIONS

Section 17.1 Annexation of Additional Lands. Although not obligated to do so, Declarant (or any successor to all or a portion of Declarant's rights hereunder) may develop certain properties adjacent to the Property in a series of phases, each of which may be annexed to the Property. Declarant or its successor shall therefore have the right to develop and annex to the Property any of the real property described in Exhibit B attached hereto ("Additional Lands"). Any such annexed Additional Lands shall be added to the definition of the term "Property" as defined and described herein. At any time within 10 years of the date of recording of this Declaration, Declarant may cause all or any portion of such Additional Lands to be annexed to the Property without the assent of the members of the Association. Said Additional Lands may be used for any uses approved for the Property, including but not limited to attached or detached housing, recreational vehicle storage, roads, open space, parking area, and or any other uses approved by the governing jurisdiction.

Section 17.2 Annexation of The Village at Sun Willows, Division 1. If owners of all the lots in the Village at Sun Willows, Division 1, per the Amended Plat of the village of Sun Willows as recorded in Volume D of Plats, page 132, records of Franklin County, Washington ("Division 1"), which lots area subject to a Declaration of Protective Covenants for the Village at Sun Willows dated June 8, 1990, recorded under Auditor's File No. 473509, records of Franklin County, Washington (the "Division 1 Covenants") desire to have Division 1 annexed into the Property, the owners of such lots may do so by executing and recording a form of consent accepted by the Declarant to: (i) adopt this Declaration in its entirety which shall supersede and replace, in its entirety, except as provided below, the Division 1 Covenants; (ii) cause the Village at Sun Willows Homeowners Association to convey the real property defined as "Common Property" in the Division 1 Covenants to the Association as additional Common Area under this Declaration, and (iii) dissolve the Village at Sun Willows Homeowners Association and become members of the Association. Upon acceptance and recording of consents from

all owners of lots in respect to Division 1. The date upon which all of the owners of lots in Division 1 shall have executed and recorded in the official records of Franklin County, Washington, consent forms acceptable to the Declarant implementing (i) through (iii) above shall be the “Effective Date”. Notwithstanding anything to the contrary in this Section 17.2, after the Effective Date, and until the date upon which houses have been built on all of the lots in Division 1 (the “Buildout Date”), the lots in Division 1 shall continue to be subject to Construction Restrictions in Section F (“Construction Restrictions”) of the Division 1 Covenants. Until the Buildout Date, the City of Pasco or its successor, as Declarant of Division 1 shall appoint a five-member architectural control committee (at least two of whom shall be Owners of Lots in Division 1) to exercise the powers and authority of the “Committee” described in said Section F of the Division 1 Covenants. The Owners of Lots in Division 1 shall not be subject to the Architectural Controls in Article 5 of this Declaration until the Buildout Date, at which time the architectural control committee for Division 1 shall be dissolved and the lots in Division 1 shall thereafter be subject the Architectural Controls in Article 5 of this Declaration.

ARTICLE 18

MISCELLANEOUS

Section 18.1 Notices

18.1.1 Any written notice or other documents as required by this Declaration, may be delivered personally or by certified mail. If by mail, such notice, unless expressly provided for herein to the contrary with regard to the type of notice being given, shall be deemed to have been delivered and received 48 hours after a copy thereof has been deposited in the United States mail, postage prepaid, addressed as follows:

18.1.1.1 If to a Member, other than Declarant: to the mailing address of such Member maintained by the Association, pursuant to the Bylaws.

18.1.1.2 If to Declarant, whether in its capacity as a Member, or any other capacity, the following address (unless Declarant shall have advised the Board in writing of some other address):

Sun Willows Partners
Post Office Box 4451
Pasco, Washington 99301

18.1.1.3 Prior to the organizational meeting, notices to the Association shall be addressed as set forth above. Thereafter, notices to the Association shall be addressed to an address to be posted by the Association at all times in a conspicuous place, or to the official mailing address furnished by written notice from the Association. In addition, from and after the organizational meeting, notice of the address of the

Association shall be give by the Board to each Owner, within a reasonable time after the Board has received actual notice of such Owner's purchase of a Lot.

Section 18.2 Conveyance Notice Required. The right of an Owner to sell, transfer, or otherwise convey his Lot shall not be subject to any right of approval, disapproval, first refusal, or similar restriction by the Association or the Board, or anyone acting on their behalf. If a Lot is being sold, the Board shall have the right to notify the purchaser, the title insurance company, and the closing agent of the amount of unpaid assessments and charges outstanding against the Lot, whether or not such information is requested.

Section 18.3 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of Declarant, and the heirs, personal representatives, grantees, lessees, sub lessees and assignees of the Member.

Section 18.4 Joint and Several Liability. In the case of joint ownership of a Lot, the liability of each of the Owners thereof in connection with the liabilities and obligations of Owners, set forth in or imposed by this Declaration, shall be joint and several.

Section 18.5 Mortgagee's Acceptance.

18.5.1 this Declaration shall not initially be binding upon any Mortgagee of record at the time of recording of said Declaration but rather shall be subject and subordinate to said Mortgagee's Mortgage.

18.5.2 Declarant shall not consummate the conveyance of title of any Lot until the Mortgagee of said Lot shall have accepted the provisions of this Declaration and made appropriate arrangements for partial release of Lots from the lien of said Mortgage. The issuance and recording of the first such partial release by said Mortgagee shall continue its acceptance of the provisions of this Declaration and the status of the Lots remaining subject to its Mortgage as well as its acknowledgement that such appropriate arrangements for partial release of the Lots has been made, provided that, except as to Lots so release, said Mortgage shall remain in full force and effect as to the entire property.

Section 18.6 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

Section 18.7 Construction. The provision of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation and maintenance of the Property.

Section 18.8 Captions. Captions given to the various Articles and sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof.

Section 18.9 Effective Date. The Declaration shall take effect upon recording.

Dated: December 21, 1993

Recorded: December 22, 1993

Recording No.: 504948