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Abbreviated legal: PTN SE ¼, NW ¼, S4, T8N, R29E, W.M. (full legal on p. 23)
Tax parcel number: 1-0489-208-0000-021
Grantor: Ryszard J. Sliwinski and Boguslaw J. Sliwinski
Grantee: Public

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR SOUTH DAWES TOWNHOMES**

This Declaration of Covenants, Conditions, and Restrictions is made this 7th day of February, 2011, by Ryszard J. Sliwinski and Boguslaw J. Sliwinski, husband and wife, referred to as "Declarant."

WHEREAS, Declarant is the owner of certain land located in Benton County, Washington more particularly described in Exhibit "A" attached hereto as a part hereof, said land being referred to as the "Property"; and

WHEREAS, the Declarant wishes to establish and assure a uniform plan for the development of the Property and to enhance and protect the economic and aesthetic value and desirability of the Property and the health, safety and welfare of the residents of the Property;

NOW THEREFORE, the Declarant declares that the Property is hereby subjected to and shall be held, sold, occupied, and conveyed subject to this Declaration of Covenants, Conditions, and Restrictions.

The Declarant further declares that this Declaration and all amendments and supplements thereto shall run with the land and shall be binding upon the Declarant, the Association, each Owner, their heirs, successors, and assigns and all parties claiming under them or under this Declaration and shall inure to the benefit of and be enforceable by the Declarant, the Association, each Owner, and all succeeding each Owner.

South Dawes Townhomes Homeowners Association, referred to herein, has been established as a homeowners association incorporated as a non-profit corporation in the State of Washington for the Owners and Residents of the Property.

Article I: Definitions

The words used above or hereafter in this Declaration which begin with capital letters (other than words which would be normally capitalized) shall have the meanings assigned to them in Article I of this Declaration.

1.01 "Annual Assessments" shall mean and refer to the Annual General Assessment and any Services Assessment which may be levied by the Association in each of its fiscal years pursuant to Article IV of this Declaration.

1.02 "Annual General Assessment" shall mean and refer to the annual charge shared by all Members established pursuant to Article IV of this Declaration.

1.03 "Assessable Property" shall mean and refer to all of the Property except such part or parts thereof as may from time to time constitute Exempt Property.

1.04 "Association" shall mean and refer to South Dawes Townhomes Homeowners Association, a Washington non-profit corporation, its successors and assigns.

1.05 "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association and any board, group or entity of the successor or assign to the Association serving in a comparable capacity to the Board of Directors of the Association.

1.06 Reserved.

1.07 Reserved.

1.08 Reserved.

1.09 "Common Area" shall mean and refer to all real property and the improvements thereon from time to time owned or leased by the Association for the common use and enjoyment of the Members. Such property may (but need not) include any common areas, tot lots, recreational facilities, parks and other open space land, lakes and streams, storm water management and drainage facilities, private streets not dedicated to the City of Kennewick, County of Benton or State of Washington, exterior townhome walls and roofs including rain gutters and downspouts, pathway and bikeway systems, and fencing on Common Area. The Association is responsible for management and maintenance of all Common Area. The rear yard (from the back wall of the townhome to the property boundary) shall be maintained by the Association.

1.10 Reserved.

1.11 "Declarant" shall mean and refer to Ryszard J. Sliwinski and Boguslawa J. Sliwinski, their

successors and assigns, as long as they own at least one (1) Lot or during the Development Period, whichever is later. No successor or assignee of the Declarant shall have any rights or obligations of the Declarant hereunder unless such rights and obligations are specifically set forth in an instrument of succession or assignment designating a party as the Declarant hereunder or which pass by operation of law.

1.12 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions as it may be amended from time to time or supplemented in the manner provided herein.

1.13 "Development Period" shall mean and refer to the period commencing on the date of this Declaration first set forth above and terminating on the earlier of: (a) January 1, 2025; or (b) any earlier date specified by the Declarant in a written notice to the Association that the Declarant Control Period is to terminate on that date. If the Declarant is delayed in the improvement and development of the Property due to a sewer, water, or building permit moratorium, or other cause or event beyond the Declarant's control, then the aforesaid period shall be extended for the length of the delay or two years, whichever is less.

1.14 "Dwelling Unit" shall mean any portion of the Property, as improved, intended for any type of independent ownership for use and occupancy as a residence by one household and shall, unless otherwise specified, include within its meaning (in way of illustration, but not limitation) a townhome as may be used and defined as herein provided or as provided in subsequent Declarations covering all or part of the Property.

1.15 "Exempt Property" shall mean and refer to all land and structures and Common Areas owned by the Association for so long as the Association shall be the owner thereof.

1.16 "Federal Housing Administration" ("FHA") shall mean and refer to that governmental agency of the United States of America so entitled and any agency or regulatory authority of the United States of America which succeeds the Federal Housing Administration.

1.17 "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. "Mortgage," as used herein, shall include deeds of trust. "First Mortgagee" as used herein, shall mean a holder of a mortgage with priority over other mortgages. As used in this Declaration, the term "Mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in this Declaration, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or

of any state or municipal government. As used in this Declaration, the term "holder" or "mortgagee" shall include the parties secured by any deed of trust or any beneficiary thereof.

1.18 "Land Development Activity" shall mean and refer to any building, construction, reconstruction, or repair of a Dwelling Unit, roadways, curbing, sidewalks, utility services, or any other Structure on a Lot or any other portion of the Property by the Declarant and/or by other persons regularly engaged in the building or construction business, if granted approval in writing by the Declarant.

1.19 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property which has been subjected to this Declaration and upon which a Dwelling Unit could be constructed in accordance with City of Kennewick zoning ordinances in accordance with the applicable laws of Washington in effect from time to time. "Lot" shall not mean and refer to Common Areas.

1.20 "Member" shall refer and mean the owners.

1.21 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Lots which is part of the Property but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.22 Reserved.

1.23 "Person" shall mean and refer to any individual, corporation, joint venture, partnership, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof, or any other separate legal entity.

1.24 "Property" shall mean and refer to those certain lands in Benton County, Washington, more particularly described in Exhibit "A" attached hereto.

1.25 "Resident" shall mean and refer to:

(a) Each individual occupying any Dwelling Unit pursuant to a lease agreement with the Owner thereof who, if requested by the Board of Directors, has delivered proof of such lease agreement to the Board of Directors;

(b) Members of the immediate family of such individual or of an owner who actually resides within the Property and in the same household with each such individual or Owner; and

(c) Any person who has a fixed place of habitation at a Dwelling Unit of any such individual or owner to which, whenever he is absent, he has the intention of returning.

1.26 "Services Assessment" shall mean and refer to the charge or charges imposed upon a section, neighborhood, housing type, or subdivided parcel of the Property for certain services rendered pursuant to Article IV of this Declaration.

1.27 "Special Assessment" shall mean and refer to any special charge established pursuant to Article IV of this Declaration.

1.28 "Structure" shall mean and refer to:

(a) Any thing or object (other than trees, shrubbery, landscaping, and hedges less than two feet high) the placement of which upon any Lot may affect the appearance of such Lot, including any building, garage, porch, shed, greenhouse, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, signboard, wishing well, bird bath, statues, or any other temporary or permanent improvement on such Lot (including, without limitation, portable basketball goals);

(b) Any excavation, fill, ditch, dam, or other thing or device which affects or alters the natural flow of surface waters from, upon, or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash, or drainage channel from, upon, or across any Lot, and any Lot; and

(c) Any change of more than six inches in the grade of any lot.

1.29 "Veterans Administration" ("VA") shall mean and refer to that governmental agency of the United States of America so entitled and any agency or authority of the United States of America which succeeds the Veterans Administration.

Article II: Property Rights of Common Areas

2.01 Rights of Enjoyment of Common Areas. Each Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to his Lot. Each Resident shall have a nontransferable right to use and enjoy the Common Areas, which right shall terminate when such person ceases to have the status of a Resident. Such easements and rights shall be subject to the provisions below.

(a) The right of the Board of Directors to adopt, promulgate, enforce, and from time to time amend, reasonable rules and regulations pertaining to the use of the Common Areas which shall enhance the preservation of such facilities and the safety and convenience of the users thereof. Such rules and regulations may include limitations on the number of guests of Owners and Residents who may use the Common Areas at any one time.

(b) The right of the Board of Directors to establish and charge reasonable admission and any

other fees for certain types of extraordinary uses of the Common Areas.

(c) The right of the Board of Directors to suspend the voting rights and the right of any Owner or Resident to use all or any portion of the Common Areas (with the exception of any streets or access ways) for a violation of this Declaration or for an infraction of the Board's rules and regulations for period(s) not to exceed 60 days or until such violation is cured, in accordance with applicable law.

(d) The right of the Board of Directors to suspend the voting rights and the right of any Owner or Resident to use the Common Areas (with the exception of any streets or access ways but including parking areas) for so long as any Annual General Assessment, Services Assessment, or Special Assessment for such Lot remains unpaid and overdue.

(e) The Association may at any time mortgage, dedicate, or transfer all or a part of the Common Areas to any public agency, authority, or other entity upon such terms and conditions as shall be agreed upon by such agency, authority, entity, or organization and the Board of Directors, including, without limitation, terms and conditions providing for the use of such Common Areas by the public in general and terms and conditions pertaining to the maintenance and repair of such Common Areas and the assessments of Owners and/or Residents for the costs of such maintenance and repair. No such dedication or transfer shall be effective, however, unless approved by 66 2/3% of the vote of the Members at a meeting at which a quorum is present and, during the Development Period, by the Declarant, except for the following which shall not require any Members' consent:

- (i) Granting easements which do not interfere with the intended Common Area use;
- (ii) Dedicating Common Area to a public authority;
- (iii) Conveying Common Area as part of boundary line adjustments with Lots; or
- (iv) Transferring Common Area pursuant to a merger or consolidation with a non-profit entity.

Article III: Association Membership, Voting Rights, Board of Directors

3.01 Organization of the Association. The Association has been organized as a non-profit corporation under the laws of Washington to:

- (a) Provide for the acquisition, construction, management, maintenance, and care of the Common Areas;

(b) Obtain, manage and maintain services for the Property, or sections thereof including, as necessary, and deemed by the Board of Directors, refuse collection, grass mowing of Common Area or Lot yard areas (if requested), street cleaning, parking area maintenance and management, and snow plowing; and

(c) Take other acts or action which would promote the health, safety or welfare of the Owners and Residents.

The Association is charged with such further duties and invested with such powers as are prescribed by law and set forth in the Articles of Incorporation of the Association and herein as all of the same may be amended from time to time. The Articles of Incorporation and Bylaws of the Association shall not be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. No part of the net earnings of the Association shall inure (other than by acquiring, constructing, or providing management, maintenance, and care of Common Areas, and other than by a rebate of any excess Annual Assessment, Special Assessment or other dues, fees, or assessments) to the benefit of any Member or individual.

3.02 Membership in the Association. The Association shall have the following classes of membership:

(a) **Owner.** All Owners. A Person shall automatically become a Member upon his becoming an Owner.

3.03 Voting Rights of Members. 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.

(a) Each Member shall be entitled to one (1) vote on each matter submitted to the members for each Lot owned by such Member which is not Exempt Property. If more than one Dwelling Unit is located on any Lot (which is not Exempt Property), the Member owning such Lot shall be entitled to one (1) vote for each Lot. Any Member who is in violation of this Declaration, as determined by the Board of Directors in accordance with the provisions hereof and regulations established hereunder, shall not be entitled to vote during any period in which such violation continues. If a Lot shall be owned by more than one Owner, such Owners shall be deemed to constitute a single Member as to such Lot and shall collectively be entitled to a single vote for such Lot as to each matter properly submitted to the Members.

(b) The Declarant shall be entitled initially to three (3) votes for each Lot owned. This right of three (3) votes per lot shall terminate upon the happening of the earlier of the following upon the occurrence of which Declarant shall have one (1) vote for each Lot owned:

(i) When the total outstanding non-Declarant votes equal or exceed the total Declarant

votes;

(ii) January 1, 2025; or

(iii) Such earlier time as Declarant in its sole discretion, determines.

3.04 Board of Directors. The business and affairs of the Association shall be managed by a Board of Directors elected by the Members without regard to class of membership. As long as the Declarant has three (3) vote status as provided in Section 3.03(d), it shall have the right to appoint three (3) Directors. Directors shall be elected by the Members in accordance with Article IV of the Bylaws of the Association. The number of Directors shall be determined in accordance with the provisions of the Bylaws of the Association, however, the number of Directors shall always be an odd number. The initial board shall consist of two (2) directors until the termination of the Development Period.

3.05 Adoption of Further Rules and Regulations. The Board of Directors may make such rules and regulations consistent with the terms of this Declaration and the Association's Articles of Incorporation and Bylaws as it deems advisable with respect to any meeting of Members, proof of membership in the Association, evidence of right to vote, appointment and duties of inspectors of votes, registration of Members for voting purposes, voting by proxy, and other matters concerning the Association's operations. If the Board of Directors shall so determine and if permitted under applicable law, voting on elections and other matters may be conducted by mail, ballot, or other reliable electronic means.

3.06 Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Areas or its facilities, or from any wire, pipe, drain, conduit, or the like. The Association shall not be liable to any Members for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Areas or its facilities. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or its facilities, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

Article IV: Covenant for Assessments

4.01 Creation of the Lien and Personal Obligation of Assessments. The Declarant 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 such

Annual General Assessments, Services Assessments, and Special Assessments as are established and are to be paid and collected as hereinafter provided. The Annual General Assessments, Services Assessments, and Special Assessments, together with interest thereon, late fees, and costs of collection thereof as hereinafter provided, shall 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 thereon, late charges, and cost of collection thereof, 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 pass to successors in title and both parties (seller and purchaser) shall be jointly liable therefore. No Owner may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Common Areas or abandonment of his Lot or any Dwelling Unit thereon.

4.02 Purpose of Assessments. Assessments levied by the Association shall be used exclusively to carry out the business and responsibilities of the Association including, but not limited to:

(a) The acquisition, construction, management, maintenance, and care, repair, or replacement of the Common Areas and services;

(b) Obtaining, managing, and maintaining services for the Property, or sections thereof including, as necessary, refuse collection;

(c) Promoting the recreation, health, safety, and welfare of the Members;

(d) Providing for grass cutting and lawn maintenance of all Common Areas, maintenance of all recreational areas and facilities, and maintenance of all private streets located on the Property;

(e) Providing for irrigation water to the Lots; and

(f) Whether considered Common Area or not, providing for maintenance, repair or replacement of the private access driveway (32-foot private street) and "fire lane easement" shown on the plat map, exterior townhome surface and roof, including rain gutters and downspouts and front yard area (including front sprinkler system) which shall be the responsibility of the Association. The "fire lane easement" shall remain clear at all times.

4.03 Establishment of Annual General Assessment and Services Assessment.

(a) The Association shall levy in each of its fiscal years an Annual General Assessment and a Services Assessment if applicable, (hereinafter collectively referred to as the "Annual Assessments") against each Lot which is owned or occupied by a person and which is not Exempt Property. The amounts of such Annual Assessments shall be established by the Board of Directors, subject to the limitations imposed by Section 4.04, at least thirty (30) days in advance of each Annual Assessment Period. The first Annual Assessments on each Lot imposed pursuant to

this section 4.03(a) shall be adjusted according to the number of months remaining in the Annual Assessment Period from the date of conveyance.

(b) The Declarant agrees to satisfy any operating budget deficit or shortage that the Association may incur or experience from the date of organization of the Association until the date the three (3) vote per Lot voting right terminates. Any cumulative budget surplus shall be credited against any deficit. The obligation of the Declarant to satisfy such deficit shall create a lien on the Lots or portion of the Property owned by the Declarant.

(c) The amount of the Annual General Assessment shall be determined by the Board of Directors according to its estimate of the cost of providing services or rights of use which are common to all of the Lots subject to the provisions of Section 4.04.

(d) A Services Assessment may be levied by the Board of Directors against certain sections or neighborhoods of the Property or against any particular housing type (i.e., detached type Dwelling Units), for special services which the Association provides such areas. The amount of the Services Assessment shall be determined by the Board of Directors according to the estimated cost of providing services or rights of use to the Lots in such section, which services or rights are not enjoyed by all of the Members of the Association. The amount of a Services Assessment shall be the same to each Lot in any section but need not be uniform with the Services Assessment imposed upon Lots in other sections.

All assessments shall be prorated among the lots as follows:

1. Lots 1 and 2 shall share equally the assessments pertaining maintenance, repair and replacement of exterior townhome surface and roof including rain gutters and downspouts on the townhomes, and front yard area (including front sprinkler system).
2. Lots 3 through 9 shall share equally the assessments pertaining maintenance, repair and replacement of exterior townhome surface and roof including rain gutters and downspouts on the townhomes, and front yard area (including front sprinkler system).
3. All other expenses of the Association shall be split equally among the Lots.

4.04 Special Assessments. In addition to the Annual General Assessment and Services Assessment authorized above, the Board of Directors may levy in any fiscal year of the Association, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of the Common Areas including fixtures and personal property related thereto, or for any other purpose for which the Association is responsible. Special Assessments shall be imposed against Lots which are not Exempt Property in the same proportions as Annual General Assessments as provided in Sections 4.03(a), (b), and (c).

4.05 Date of Commencement of Assessments. The Annual General Assessment and Services Assessment, if any, provided for in this Article IV shall commence for each Lot subjected to this Declaration on the first day of the month following the date of conveyance of the Lot to a Member. The first Annual Assessment and Service Assessment (if any) shall be adjusted according to the number of months remaining in the calendar year.

4.06 Repair and Replacement Reserve. Upon becoming an Owner, each Owner shall contribute \$200.00 to the Repair and Replacement Reserve.

4.07 Initial Working Fund. Upon becoming an Owner, each Owner shall contribute \$100.00 to the Initial Working Fund.

4.08 Notice and Due Dates. Written notice specifying (a) the amount of each Annual General Assessment, Services Assessment and Special Assessment, and (b) the number and amounts of the installments by which each such Assessment is to be paid, shall be given to the Owners of each Lot subject thereto. Each installment of an Annual General Assessment, Services Assessment or Special Assessment shall be due on the first day of each assessment period as defined by the Board of Directors.

4.09 Effect on Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid within ten (10) days after the due date shall be delinquent and the Association may exercise any or all of the following remedies:

(a) Upon notice to the Owner declare the entire balance of any Annual General Assessment or Special Assessment due and payable in full;

(b) Charge interest and a late fee (as determined by the Board) for assessments which are not received by the tenth (10th) day of the assessment period;

(c) Bring an action at law or in equity against the Owners of the Lot to collect the same; and

(d) Foreclose the lien against the Lot. Such lien may be enforced by the Association in the same manner and to the same extent and subject to the same procedures as in the case of a foreclosure of a real property mortgage under the laws of Washington.

The Owner personally obligated to pay the delinquent Assessment shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred by the Association in connection with the collection of such Assessment.

4.10 Certificate of Payment. The Association shall, upon written request by owner, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Annual General Assessments, Services Assessments and Special Assessments, if

any, on a specified Lot have been paid. The Association shall furnish said Certificate within ten (10) days of receipt of the written request. A properly executed certificate of the Association as to the status of Assessments on a Lot shall be binding upon the Association as of the date of its issuance.

4.11 Subordination of the Lien to Mortgages. The lien of the Annual General Assessments, Services Assessments and Special Assessments provided for herein shall be subordinate only to the lien of any First Mortgage or First Deed of Trust. The sale or transfer of any Lot shall not affect the lien of such Assessments. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof for the benefit of any First Mortgagee shall extinguish the lien of such Assessments as to payments which became due before such sale or transfer. No sale or transfer shall relieve such Lot from liability as to any assessments thereafter becoming due or from the lien thereof. Notwithstanding the foregoing no sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof for the benefit of any First Mortgagee shall be deemed to extinguish any mortgage or lien which the Association has itself placed upon any property owned by the Association.

Article V: Architectural Review and Architectural Committee

5.01 Composition and Appointment. An Architectural Review and Covenants Committee (the "Architectural Committee") may be appointed by the Board of Directors. Such Committee shall initially consist of two (2) members, but may thereafter be increased or decreased in size by the Board of Directors, from time to time. Members of the Architectural Committee shall serve for a term of one (1) year, or until their successors are elected and qualified. Any vacancy in the membership of the Architectural Committee shall be filled by the Board of Directors to serve for the remaining portion of the term of the originally appointed member. If any vacancy shall occur, the remaining members of the Architectural Committee may continue to act until the vacancy has been filled. Except for members who have been designated by the Declarant, any member may be removed with or without cause by the Board of Directors. In the event that the Board of Directors shall fail to designate an Architectural Review and Covenants Committee, the Board of Directors shall serve as the Architectural Committee.

Notwithstanding the foregoing, the initial Architectural Committee shall be composed of Ryszard J. Sliwinski and Boguslawa J. Sliwinski, and they shall serve during the Development Period.

5.02 Powers and Duties.

(a) The Architectural Committee shall serve as an architectural review board and shall regulate the external design, appearance, and location of the Lots and Structures thereon so as to en-

force the architectural provisions of this Declaration, enforce the requirements of the recorded subdivision plats, deeds of subdivision, and to preserve and enhance values and to maintain a harmonious relationship among Structures and the Property.

(b) The Architectural Committee shall serve in such other capacities as may be determined, from time to time, by the Board of Directors in enforcing the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association. Any decision or determination of the Architectural Committee may be appealed by a Member affected thereby to the Board of Directors.

5.03 Submission of Plans to Architectural Committee for Approval. Except for such Structures as may be constructed by the Declarant, no Structure of any kind whatsoever shall be commenced, erected, placed, moved onto, or permitted on any Lot, nor shall any existing Structure upon any Lot be removed or altered in any way which materially changes the exterior appearance thereof (excluding change of exterior color) until plans and specifications therefore shall have been submitted to and approved in writing by the Architectural Committee. Such plans and specifications shall be in such form and shall contain such information as the Architectural Committee may reasonably require, but shall in all cases include:

(a) A site plan showing the location of all proposed and existing Structures on the Lot and all existing Structures on adjoining Lots;

(b) Exterior elevations for the proposed Structures;

(c) Specifications of materials, color scheme and other details affecting the exterior appearance of the proposed buildings; and

(d) Description of the plans or provisions for landscaping or grading.

The provisions of this Section 5.03 shall not apply to Land Development Activity as defined in Section 1.18.

5.04 Approvals/Disapprovals. Any approval or disapproval of a requested action by the Architectural Committee shall be in writing. In denying any application, the Architectural Committee shall specify the reasons for such denial. The Architectural Committee may approve an application subject to such conditions and qualifications as the Board deems appropriate to enforce the architectural provisions of this Declaration.

5.05 Failure of the Architectural Committee to Act. If the Architectural Committee shall fail to act upon any request submitted to it within thirty (30) days after a complete submission thereof in a form acceptable to the Architectural Committee, such request shall be submitted to the Board of Directors for approval. If the Board of Directors shall fail to act within thirty (30) days

after submission to the Board of Directors, then such request shall be deemed to have been approved as submitted, and no further action shall be required. Submission of incomplete plans shall not be considered valid submissions triggering the deadlines stated above and shall not be recognized by the Architectural Committee or the Board of Directors.

5.06 Rules, Regulations, and Policy Statements. The Architectural Committee may recommend, from time to time, subject to the approval and adoption of the Board of Directors, reasonable rules and regulations pertaining to its authorized duties and activities under this Declaration and may from time to time issue statements of policy with respect to architectural standards and such other matters as it is authorized to act on. The Architectural Committee shall adopt rules of procedure, subject to the prior approval and adoption of the Board of Directors, which rules of procedure shall include provisions substantially to the following effect:

(a) The Architectural Committee shall hold regular meetings as necessary. Meetings of the committee may be called by the Chairman and by a majority of the members of said committee;

(b) A majority of the members of the Architectural Committee present at any meeting shall constitute a quorum;

(c) The Architectural Committee shall maintain minutes of its meetings and a record of the votes taken thereat;

(d) All meetings of the Architectural Committee shall be open to the Members of the Association and any vote of the Architectural Committee shall be taken at an open meeting. Nothing contained herein, however, shall prevent the Architectural Committee from meeting in closed session or executive session in accordance with State and Federal laws or regulations;

(e) A copy of all minutes, rules, regulations, and policy statements of the Architectural Committee shall be filed with the records of the Association and shall be maintained by the Association as a permanent public record. The Association shall make copies thereof available to any interested Member at a reasonable cost or shall make such minutes, rules, regulations, and policy statements available to any Member for copying.

5.07 Expenses of the Architectural Committee. The Architectural Committee shall not charge fees for the processing of any requests, plans, and specifications including consultation with a professional. The Association shall pay all ordinary and necessary expenses of the Architectural Committee; provided, however no member of the Architectural Committee shall be paid any salary or receive any other form of compensation, at the expense of the Association except upon authorization by the Board and upon approval by: (a) 66 2/3% of the votes cast by the non-Declarant Members who are voting in person or by proxy at a meeting duly called for such purpose at which a quorum of 15 percent is present; and (b) the Declarant voting in person or by

proxy at such meeting.

5.08 Right of Entry. Upon at least ten (10) days' written notice in advance, the Association and the Architectural Committee through their authorized officers, employees, and agents shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling, or alteration of any Structure thereon is in compliance with the provisions of this Article and Article VI without the Association or the Architectural Committee or such officer, employee, or agent being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

5.09 Land Development. Notwithstanding any other provisions of this Declaration, any Land Development Activity (as defined in Section 1.18) shall not require the approval of or be subject to review by the Architectural Committee. This provision shall not be construed in any manner as a limitation upon the right of the Declarant to review and approve any plan or modification thereof of any Participating Builder.

Article VI: General Restrictions on the Use of Lots and Improvements to be Made Thereon

6.01 Zoning Regulations. The Property shall not be used for any purpose other than as permitted in the City of Kennewick zoning ordinances or the laws, rules, or regulations of any governmental authority in force and effect on the date of recording of this Declaration as the same may be hereafter from time to time amended. No building shall be erected, altered, placed, or permitted to remain on any such Lot other than one used as a single family dwelling. This restriction shall not apply to any use for which a special exception under local government zoning ordinances or other governing regulations, as the same may be hereafter from time to time amended, is finally granted provided such use is approved in writing by the Architectural Committee. The right, however, to further limit or restrict the use of a particular Lot is reserved under the provisions hereof.

6.02 Screens and Fences. Except for any fence installed by the Declarant or the Association, no fence or screen shall be installed on a Lot except in accordance with the guidelines established by the Architectural Committee and with the prior written approval of the Architectural Committee. Any fencing which may be installed by the Declarant in the Common Area shall be maintained by the Association.

6.03 Signs and Lighting. The location, color, nature, size, design, and construction of all signs or outdoor lights shall be approved in writing by the Architectural Committee before the installation thereof.

6.04 Vehicles and Parking. No commercial truck, commercial bus, taxicabs, or other commer-

cial vehicle of any kind, boats, trailers, campers, recreational vehicles, or motor homes shall be parked in any visible location on the Property without the prior written approval of the Architectural Committee. Commercial vehicles shall be deemed to include cars and vans in styles normally used for private purposes but painted with or carrying commercial advertising, logos, or business names exceeding five (5) square feet per side or containing visible commercial materials, cargo, tools, or equipment on the exterior of the vehicle or that extend beyond the length or width of the vehicle. No oversized/commercial vehicle (a vehicle wider than and/or longer than a standard parking space, 19 feet maximum, any vehicle that has more than two (2) axles, or those vehicles greater than 6,000 pounds) may park on the premises. No disabled vehicle or vehicle on which current registration plates or other required permits such as inspection stickers are not displayed shall be parked on any Lot or on Common Area. The repair or extraordinary maintenance of vehicles shall not be carried out in a manner that is visible from any Lot or on the Common Areas. The Association may enforce the provisions of this Section by towing any non-complying vehicle at the vehicle owner's sole risk and expense. This provision shall not preclude commercial vehicles located on the property temporarily (less than 48 hours) to provide services to the Association or a resident.

6.05 Animals. The maintenance, keeping, boarding, or raising of animals, livestock, or poultry regardless of number, shall be in accordance with applicable Federal and State laws and regulations and applicable local ordinances.

6.06 Garages. Reserved.

6.07 Air and Water Pollution. No use of any Lot will be permitted which emits pollutants into the atmosphere, or discharges liquid or solid wastes or other harmful matter into any waterway in excess of environmental standards applicable thereto to be established by the Architectural Committee, and approved by the Board of Directors, which standards shall at a minimum meet the requirements of federal and state law and any regulations thereunder applicable to the Property. No waste or any substance or materials of any kind shall be discharged into any private or public sewer serving the Property, or any part thereof, in violation of any regulations of any private or public body having jurisdiction. No person shall dump garbage, trash, or other refuse into any waterway on the Property.

6.8 Leases. No Owner of a Lot or Dwelling Unit shall lease to another any such Lot or part thereof or any such Dwelling Unit unless such lease shall be in writing for an initial term of not less than six (6) months and shall expressly provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation, Bylaws, and rules and regulations of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under such lease. Board shall be provided with copies of leases on request.

6.9 Landscaping. The land area not occupied by Structures, hard-surfacing, vehicular drive-ways, or pedestrian paths, shall be kept planted with grass, trees, or shrubs or other ground covering or landscaping in conformance with the standards set by the Architectural Committee and approved by the Board of Directors. Such standards will take into consideration the need for providing effective site development to:

- (a) Enhance the site and building;
- (b) Screen undesirable areas or views;
- (c) Establish acceptable relationships between buildings and adjacent properties; and
- (d) Control drainage and erosion.

No fruit or nut trees shall be planted or allowed to remain on any Lot without the approval of the Association and the Architectural Committee. If approved, modern horticultural practices shall be employed in maintenance of the trees, including spraying for disease and pests.

6.10 Maintenance of Premises and Improvements. Each Owner or Resident shall at all times keep his premises, buildings, improvements, and appurtenances in a safe, clean, neat, and sanitary condition. Appropriate maintenance shall include, but not be limited to, the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improvements all in a manner and with such frequency as is consistent with good property management, with the exception of those Lots on which the Association may provide maintenance of exterior painted or stuccoed surfaces and roofs and landscaping. All Owners of Lots on which storm water management or storm drainage easements exist must keep such area free of debris, landscaping, or fences so as not to impede drainage. The Owner or Resident shall comply with all laws, ordinances, and regulations pertaining to health, safety, and pollution, and shall provide for storage and removal of trash and rubbish from his premises in a manner to be approved by the Architectural Committee.

6.11 Enforcement of Maintenance. The Architectural Committee, or its agent, during normal business hours, shall have the right (after 10 days' notice, by regular or certified mail or posted on door with a witness, to the Owner or Resident of any Lot involved, setting forth the maintenance action to be taken, and if at the end of such time reasonable steps to accomplish such action have not been taken by the Owner or Resident) to do any and all maintenance work reasonably necessary in the written opinion of the Architectural Committee, to keep such Lot, whether unimproved, improved or vacant, in neat and good order, such cost and expense to be paid to the Association upon demand and collected in accordance with Article IV of this Declaration. The Architectural Committee, or its agent, shall further have the right (upon like notice and conditions) to trim or prune, at the expense of the Owner or Resident, any hedge, tree or any other

planting that, in the written opinion of the Architectural Committee, by reasons of its location on the Lot, or the height to or the manner in which it is permitted to grow, is detrimental to the adjoining Lots contrary to the rules and regulations of the Architectural Committee, or is unattractive in appearance. The lien provided under this Section shall not be valid against a bona fide purchaser (or *bona fide* mortgagee) of the Lot in question unless a suit to enforce such lien shall have been filed in the court of record and notice thereof shall have been filed in the appropriate records of Benton County, Washington before the recordation among the records of Benton County, Washington of the deed (or mortgage or deed of trust) conveying the Lot in question to such purchaser (or subjecting the same to such mortgage or deed of trust).

6.12 Maintenance During Construction. During construction it shall be the responsibility of each Owner to ensure that construction sites are kept free of unsightly accumulation of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner. No burning of any trash and no accumulation or storage of litter or trash of any kind shall be permitted on any Lot. Any burning of vegetation shall be in accordance with Federal, State and local laws or ordinances.

6.13 Land Development Activity. The foregoing provisions of Article VI shall not be applicable to Land Development Activity. Without limiting the generality of the foregoing exclusion, the Declarant shall have the right to carry on the following activities in connection with Land Development and construction and sale of Dwelling Units:

(a) To construct, install, operate, and/or maintain on the Property one or more construction or management control offices in Dwelling Units, field office trailers, or other temporary facilities; and

(b) To construct, install, operate and/or maintain one or more model homes (or Dwelling Units) and sales offices on the Property. Such models and offices may be owned or leased by the Declarant or by any Person designated by the Declarant. Land Development and sales activity shall in all events be subject to the local zoning ordinances, and all other applicable laws, rules, and regulations of governmental authorities.

6.14 Flags. The Board of Directors is authorized and reserves the right to regulate the type of flags which may be displayed on the property, including the right to prohibit the display of flags on the Property or the right to require the removal of flags that the Board of Directors deems inappropriate in its sole discretion. The Board of Directors is also authorized to regulate, restrict or prohibit the erection and placement of flag poles on the Property and reserves the right to do so in its sole discretion.

Article VII: Annexations – Reserved.

Article VIII: Easements

8.01 Irrigation Easement. Easements are hereby granted by Declarant to the Association as shown on the face of the Plat.

8.02 Blanket Easement. An easement is hereby retained in favor of the Association over the Lots and any Common Area for the installation of landscaping or construction of signage, a common cable television system, a common sprinkler, or any other item installed for the common enjoyment and/or benefit of the Owners (including, without limitation, electricity, gas, and telephone equipment). An easement is further granted for the purpose of the repair and maintenance of any of the foregoing items so constructed. Any entry upon any Lot or any area owned or to be owned by the Association to effectuate the foregoing purposes shall not be deemed trespass. Each Owner covenants not to damage or destroy any portion of an item so constructed and shall hold the Association harmless from the cost of repairing or replacing any portion damaged or destroyed by such owner, his family, his guests or invitees.

8.03 Association Easement. The Board of Directors of the Association shall have the right to grant easements, rights-of-way, licenses, and similar interests over any part of the Common Area for any lawful purpose which the Board determines, in its sole discretion, to be in the best interests of the Association. Further, the rights reserved unto the Declarant as set forth in Section 8.01 shall pass to the Board of Directors of the Association upon the expiration of the Development Period. The Association, the managing agent, and any other Persons authorized by the Board of Directors, are hereby granted the right of access over and through any portion of the Property (excluding any dwelling), in the exercise and discharge of their respective powers and responsibilities, including, without limitation, to make inspections, correct any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area, correct drainage, perform installations or upkeep of utilities, landscaping or other improvements located on the Property for which the Association is responsible for Upkeep, or correct any condition which violates the Association Documents. Each Owner shall be liable to the Association for the cost of all upkeep performed by the Association and rendered necessary by any act, neglect, carelessness, or failure to comply with the Association Documents for which such Owner is responsible.

Article IX: Party Fences – Reserved.

Article X: Insurance and Casualty Losses

10.01 Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. The Board shall also obtain a public liability policy covering the Common

Areas, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and if reasonably available, directors' and officers' liability insurance, and fidelity bond coverage. Cost of insurance coverage obtained for the Common Areas shall be included in the Annual General Assessment, as defined in Article IV, Section 4.01. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefited parties.

Article XI: Condemnation

11.01 Notice. Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on its behalf or on the written direction of all Owners subject to the taking, if any,) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows: pro rata to each Member on the basis of acreage owned within the Property.

11.02 Replacement Improvements. If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the non-Declarant Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association.

Article XII: Amendment

12.01 General Amendments. Subject to the other limitations set forth in this Declaration, this Declaration may be amended by an instrument approved by not less than seventy-five percent (75%) of the vote of the Owners at a duly convened meeting. The amendment instrument shall be recorded among the Land Records for the jurisdiction in which this Declaration is recorded. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording; provided, however, that no amendment shall be effective unless it is executed by at least one Class A member, should there be any Class A members.

12.02 Declarant Amendments. Notwithstanding anything to the contrary herein contained, the Declarant reserves the right to amend this Declaration during the Development Period without the consent of any Owners, or any other persons claiming an interest in the Property or the Association if such amendment is necessary to: (a) bring this Declaration into compliance with any rule, regulation, or requirement of the Federal Housing Administration, The Federal National

Mortgage Association, The Federal Home Loan Mortgage Corporation, or local governments; (b) make corrective changes; and/or (c) reflect the relocation of boundary lines between the Common Area and any Lots or among any Lots, provided however that an approved division of the affected property is properly recorded.

Article XIII: General Provisions

13.01 Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years unless amended or terminated as provided in this Article.

13.02 Enforcement. The Association, or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The provisions of this Section shall be in addition to and not in limitation of any rights or remedies provided in other Sections of this Declaration.

13.03 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions hereof, which provisions shall remain in full force and effect.

13.04 Construction. The Board of Directors shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding on all persons and entities benefited or bound by the provisions of this Declaration.

13.05 Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

13.06 Headings. The headings of the Articles and Sections of this Declaration are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

13.07 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular the plural, and vice versa.

13.08 Termination. Termination of the Association shall be according to the provisions of the Articles of Incorporation.

EXHIBIT A

to

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR SOUTH DAWES TOWNHOMES**

The North 186.50' of Lot 11, Cascade Housing Plat, according to the plat thereof, recorded in Volume 4 of Plats, Pages 47, records of Benton County, Washington, EXCEPT the West 115 feet thereof.

Tax parcel number: 1-0489-208-0000-021