

## **VILLAGE AT SUN WILLOWS DIVISION 7**

This Declaration is made as of this 15<sup>th</sup> day of April, 2003, by Endura Homes, Inc., a Washington Corporation, hereinafter referred to as "Declarant".

### **RECITALS**

- A. Declarant is the owner of that certain real property and improvements located within the City of Pasco, County of Franklin, State of Washington, commonly known as "Village of Sun Willows, Division #7", 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 Village of Sun Willows Division #7 to provide for the maintenance, preservation, and architectural control of the privately-owned parcels and Common Areas (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, Declaration provides herein for a comprehensive system of land-use and building control 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 servitude, 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, successors, 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 Mortgagee of any Lot.

## **ARTICLE I** **DEFINITIONS**

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

“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 Village of Sun Willows Division #7, 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.

“Buildout Date” shall mean the date upon which houses have been built on all of the Lots of Division 7.

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

“Common Areas” shall mean that real property and improvements described at Exhibit B attached hereto, plus any additional real property and improvements which may be added to such definition from time to time in accordance with Article 2 or 16.

“Declarant” shall mean Endura Homes, Inc., a Washington Corporation, 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 Village of Sun Willows Division #7 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.

“Lot” shall mean and refer to any parcel of land shown upon any recorded subdivision 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.

“Master Association” shall mean the association with jurisdiction over Division 1-7 of Village of Sun Willows.

“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 sale of a Lot.

“Mortgagee” shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrances on a Lot created by a Mortgage and shall also mean the vendor, or the designee of vendor, or a real estate contract for the sale of the Lot. For the purposes of determining the percentage of first Mortgagees approving a proposed decision or course of action, a Mortgagee shall be deemed a separate Mortgagees 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 in any Lot which is a part of the Property, and, except as may be otherwise expressly provided herein, shall, in the case of Lot which has been sold pursuant to a real estate contract, include any person of record holding a vender’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 party wall or is otherwise connected with 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 Areas on the Property. The Plat Map for the Property was recorded on April 8, 2003, Recording No. 162325, records of Franklin County, State of Washington.

“Property” shall mean the real property and improvements hereinbefore described and such additions thereto as may be brought within the jurisdiction of the Associations pursuant to Article 16.

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

“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 Areas. 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 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 the 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 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 Associations' 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 Plan, 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 2.5 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 damage 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 request 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 Village of Sun Willows Division #7 Homeowner's Association (the Association).

Section 3.2 Form of Association. The Association shall be a nonprofit 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 purposes not inconsistent with this Declaration. In the event of any conflict between this Declaration and the Article of Incorporation for such nonprofit corporation, 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 Member shall be entitled to one vote for each Lot owned, whether improved or not. When more than one Person holds an 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 Members 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 several 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 of 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 principals.

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

**ARTICLE 4**  
**MANAGEMENT OF THE ASSOCIATION**

Section 4.1 Administration of the Property. The Members covenant and agrees 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 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 attributable 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 services is developed in the future. With respect to irrigation water distribution and 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 of 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 property 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 Town homes, the cost thereof shall be specially charges to the Owner of such Lots. The Board may pay the Declarant a reasonable fee for any services it performs on behalf of the Association.

- 4.2.6 All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness in the name of the Association shall be signed by such officer or officers, agent or agents or 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 Alteration 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 on the property must be approved by the Board of Directors of the Association, or by the Agricultural Control Committee (“ACC”) composed of three or more representatives appointed by the Board; provided that until all of the lots and the property have been completed, buildings constructed on them, Declarant shall appoint the members of the ACC. References 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 or repairs or landscaping with detailed plans showing the proposed location of the same on the particular building site and other data 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 submittal as to the quality of workmanship and materials plans 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 set back restrictions, in accordance with agricultural guidelines to be adopted by the ACC.
- 5.1.3 All plans and specifications submitted for approval by the ACC must be submitted induplicate thirty 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 thirty 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 plan approval and shall be given in writing together with the approval. If the ACC has failed to disapprove such design and location within the thirty 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 set 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 in 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 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 proposed to be built, the same, the harmony thereof with the surroundings, 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 purposes of these covenants, and shall be subject to all the conditions, restrictions and requirements as set forth herein for all building and structures.
- 5.1.8 The ACC may require, at 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 fences or hedges may be built in the backyards of any lots.
- 5.1.10 Declarant (including any successor in interest to Declarant's) shall not be subject to the restrictions of this Section 5.1 as 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 the sale of Lots, Homes or Town Homes upon such portion of the Property (other than Lots sold by Declarant) as Declarant may choose, such facilities as in the sole opinion of 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 areas for all prospective tenants or purchaser 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 Owners, 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 vehicles on the Property unless any such vehicle is (I) completely enclosed and hidden from view within a garage or within such other enclosure as may be approved in advance by the ACC, or (II) parked on the area designated for such vehicles on the Plat Map. Violations shall subject such vehicles 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 Owner's 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, (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 buildings 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 shall 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 or toxic substances from the vehicle owned by the Owner.

Section 6.6 Restriction of Further Subdivisions. No Lot or portion of a Lot in the Property shall be divided and sold or resolve, 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 of all of his garbage, trash, junk and yard waste.

Section 6.8 Animal Restrictions. No insect, 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 houses, 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 confinement 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 Owners 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 arrangement 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 said 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 required to pay any amounts due the Association hereunder, plus interests 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 renter's 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 Lease. The Board shall not exercise this power where a receiver has been appointed with respect to the Home or its owners, 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 Owners to lease or otherwise rent his Home herein, there are no restrictions on the right of any Owners 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 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 requirements.

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 reasons beyond the control of the builder, in which case a longer period may be permitted by the ACC. The landscaping on 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 of 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 they 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** **ASSESSMENTS**

Section 7.1 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 thereof, 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 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 attorney's 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 7.2 Liability of 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 and 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 Lots.

Section 7.3 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 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 7.4 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 7.5 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 of 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 7.6 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 7.7 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 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 7.8 Account. 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 7.9 Lien. In the event any assessment or installment thereof remain 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 office 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 securing the same. Said liens may be foreclosed as a mortgage.

Section 7.10 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 becomes delinquent or any lien is imposed pursuant to the terms hereof.

Section 7.11 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 as the Association may consider appropriate, provided, however, that any such assessment must have the prior favorable vote of 67% of the Members votes entitled to be cast. The amount of each owner's special assessment for any year shall be calculated like the General Assessment, except that the total special assessment shall be substituted for the operating budget amount.

Section 7.12 Records & Financial Statements. The Board shall prepare or cause to be prepared for any fiscal year in which the Association levies or collects any assessment, 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 weekday hours.

Section 7.13 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 of 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 assessments 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 7.14 Foreclosure 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 7.15 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 assessments which have become due and payable following the date of such recordation with respect to the Lot 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 amounts 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 by any authorized representative of the Board. For the purpose of this paragraph, the terms "costs" shall include costs and expenses actually incurred or expended by the Association in connection with the costs of preparation 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 7.16 Delinquent Assessments Deposit; Working Capital.

7.16.1 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 nor in excess of three months estimated monthly assessment and charges, which may be collected as are other assessments and charges. 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.

7.16.2 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 be considered as advanced payments of regular assessments. In the event the Board should draw upon said deposit as a result of a Lot owners delinquency and payment of any 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 the rights and remedies for enforcing such assessment, and deposit restoration as provided by this Declaration and by law.

7.16.3 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 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 therefore.

## **ARTICLE 8** **COMPLIANCE AND ENFORCEMENT**

### **Section 8.1 Enforcement**

8.1.1 Each member, Board member and the Association shall comply strictly with the provisions of this Declaration and with the Bylaws and the 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.

8.1.2 In an 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 8.2 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 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 8.3 Arbitration. Any dispute between the Owners, between and Owner and the Board or the Association or between and Owner, the Board or the Association and the Declarant, shall be determined by arbitration in the Tri-Cities area (comprising Chinook [Kennewick], Pasco and Racleand [Richland]) under the American Arbitration Association (AAA) Commercial Arbitration Rules with expedited procedures effective 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 must be arbitrated pursuant to this Declaration must be determined by the arbitrator. At the request of either party made not later than forty-five days after the arbitration date, 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 may authorize such discovery as may be necessary to insure a fair hearing, which shall be held within ninety days of the demand, and included within two days. These time limits are not jurisdictional. The arbitrative 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 cover claims by the Association for collection of assessments, such claims shall be governed by Article 7.

Section 8.4 Remedies Cumulative. Except for claim which must be arbitrated pursuant to Section 8.2 above, the remedies provided hereof are cumulative and the Board may pursue them concurrently, as well as other remedies which may be available under law although not expressed herein.

## **ARTICLE 9**

### **LIMITATION OF LIABILITY**

Section 9.1 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 may be 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, by such person in such person's official capacity, provided, however, that his 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 15 hereof.

Section 9.2 Indemnification. Each Board member or Association committee member or Association officer, and their respective heirs and successors shall be indemnified against the Association for all expenses and liabilities including attorneys' fees reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or which he may be involved, by 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 the law in the performance of is duties and except in such cases where such person has participated in a transaction from which such person will personally receive a benefit in money, property or other 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 9.2 shall, however, be deemed to obligate the Association to indemnify any member who is or has been a Board member of officer of the Association with respect to any duties or obligations assumed or liabilities incurred by him under and by the virtue of the Declaration as a member or Owner of a Lot.

## **ARTICLE 10**

### **MORTGAGEE PROTECTION**

Section 10.1 Priority of Mortgages. Notwithstanding all other provisions hereof, and 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 by first lien mortgages or deeds of trust which were made in good faith and for value upon the lot. Any mortgage of a lot, or other purchaser of a lot, who obtains possession of a lot, as a result of a 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 purpose of this Article, the terms "mortgage" and "mortgagee" shall not mean a real estate contract (or the vender thereunder) or a mortgagee or a Deed of Trust (or a mortgagee or beneficiary thereunder) securing a deferred purchase price balance owned with respect to a sale by an individual Lot Owner other than Declarant.

Section 10.2 Effects of Declaration Amendments. No amendment of this Declaration shall be effective to modify, change, limit or alter the rights expressly

conferred upon mortgagees in this instrument with respect to and unsatisfied mortgage duly recorded unless the amendment shall be consented to in writing by the holder of such mortgage. Any provision of the Article conferring rights upon mortgagees which is inconsistent with any other provisions of this Declaration shall control over such other inconsistent provisions.

Section 10.3 Rights of Lien Holders. A breach of any of the provisions, conditions, restrictions, covenants, easement or reservations herein contained shall be 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 owners title was acquired by foreclosure, trustee's sale or otherwise.

Section 10.4 Copies of Notices. If the first mortgage of any lot has so requested the Association in writing, the Association shall give written notice to such mortgagee that the owner/mortgagor for a Lot that has more than sixty days failed to meet any obligation under this Declaration. Any first mortgagee shall, upon written request, also be entitled to receive written notice of any meetings of the Association and be permitted to designate a representative to attend such meetings.

Section 10.5 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 11** **EASEMENT AND SPECIAL TRACTS**

Section 11.1 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 the rules and regulations adopted by the Association.

Section 11.3 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 change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels 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 improvements for which a public authority or utility company is responsible.

Section 11.4 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 non-exclusive perpetual easement for access, ingress, egress and utilities over and along the private roadway within the property as shown on the Plat Map.

Section 11.5 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 Area 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 12**

### **ABANDONMENT OF SUBDIVISION STATUS**

Section 12.1 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 13.

Section 12.2 Abandonment of Subdivision Status. The Association shall not, without the prior written of the governmental entity, having jurisdiction over the Property, and without prior written approval of 100% of all first Mortgagees and Owner (other than the sponsor, develop or building) 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 13**

### **AMENDMENT OF DECLARATION OF PLAT MAP**

Section 13.1 Declaration Amendment. Amendments to this Declaration shall be made by an instrument in writing called "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 the 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 attested to by the Secretary, which shall describe the manner of the adoption. Notwithstanding any of the foregoing,

the prior written approval of 51% of all mortgagees who have requested from the Association modification 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; 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 to sell or transfer his Lot; a decision by the Association to establish self management when professional management has been required previously by the mortgagees; or any provision which are for the express benefit of mortgagees or eligible insures or guarantors of first mortgages. It is specifically covenanted and understood that any amendment to this Declaration property 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 13.2 Plat Map. Except as otherwise provided herein, the Plat Map may be amended by revised revisions or revised portions thereof referred to and described as to affect in an amendment to the Declaration adopted as provided for in Section 131. Copies of any such proposed amendments to the Plat Map shall be made available by 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 offices in conjunction with the Declaration amendment.

Section 13.3 Amendments to Conform to Construction. Declarant, upon Declarant's sole signature, and as an attorney in fact for all Lot Owners, with a revocable 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 13.5 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 and requirements. Said reserved right to amend the Declaration shall exist so long as Declarant retains ownership of any Lot. If the Declarant, at its option, determines that it is necessary to amend its Declaration, the Declarant, on behalf of all Lot Owners, is hereby authorized to execute and 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 such amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and their respective heirs, personal representatives, successors and assigns, to the same extent as they had

personally executed said amendment and 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 14** **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 the 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 15** **NOTICE OF GOLF BALL HAZARDS**

Each Owners 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, successors in interest, and golf course users, harmless from all damage golf balls may cause in all cases, except as to the 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 damages that may arise from unintentional intrusion of golf balls onto the Owner's Lot.

#### **ARTICLE 16** **ANNEXATIONS**

Section 16.1 Annexation of Additional Lands. In accordance with the Declaration of Covenants, Conditions, Restrictions and Reservations for Sun Willows, dated December 21, 1993, Recording No. 504948, records of Franklin County, Declarant or its successors are entitled to develop the property described in Exhibit B therein as "Additional Lands" described above is eligible for such annexation. 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 16.2 Annexation or Merger of the Village at Sun Willows Division #6 with The Village at Sun Willows Division #1-5. Declarant hereby declares that the Covenants, Conditions, Restrictions and Reservations for Village of Sun Willows Division #7 are hereby merged into the Covenants, Conditions, Restrictions and

Reservations for Village of Sun Willows Division 1-6; provided the Master Association shall have no jurisdiction over the lots in Subdivision #7, including assessment authority, until such time as the Lot is occupied as a residence, provided, in the event Declarant sells a Lot and construction does not commence within two months, then the Lot shall be subject to the jurisdiction of the Master Association. The Common Area of Division #7 is hereby merged with the Common Area of Divisions # 1-6, under the jurisdiction of the Master Association, except as set forth below.

Notwithstanding anything to the contrary in this Declaration, after the Effective Date, and until the sooner of (1) the date upon which houses have been built on all of the lots in Division 7 (the "Buildout Date") or (2) the date Declarant notifies the Master Association in writing that it is waiving this provision, the lots in Division #7 shall continue to be subject to Article 5 in the Division 7 Covenants. Until the Buildout Date, the Declarant shall appoint the Architectural Control Committee, as set forth above, to exercise the powers and authority of the "Committee".

Section 16.3 Notwithstanding anything else in this Declaration, due to the inherently dangerous conditions present within a construction area, pursuant to Section 2.3.1 of this Declaration, access to the Property that is the subject of this Declaration, including Common Areas, shall be restricted to Lot Owners, Declarant, Declarant's contractors, subcontractors, agents and other specified invitees, until such time as Declarant notifies the Master Association. Until such time, the Master Association shall have no obligation to maintain any Common Areas within Division #7, which maintenance shall be performed by Declarant at Declarant's expense.

## **ARTICLE 17** **MISCELLANEOUS**

### Section 17.1 Notices.

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

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

17.1.1.2 If to Declarant, whether in its capacity as a Member, or in any other capacity, the following address (unless

Declarant shall have advised the Board in writing of some other address):

ENDURA HOMES, INC.  
P.O. Box 3606  
Pasco, WA 99301

17.1.1.3 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 given by the Board to each Owner, within a reasonable time after the Board has received actual notice of such Owners purchase of a Lot.

Section 17.2 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 restrictions 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 required.

Section 17.3 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 17.4 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 Owner, set forth in or opposed by this Declaration shall be joint and several.

Section 17.5 Mortgagees Acceptance.

17.5.1 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 Mortgagees Mortgage.

17.5.2 Declarant shall not consummate the conveyance of title of any Lot until the Mortgage 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 constitute 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 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 17.6 Severability. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or a portion thereof shall not affect the validity or enforceability of any other provision thereof.

Section 17.7 Construction. The provisions 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 17.8 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 17.9 Effective Date. The Declaration shall take effect upon recording.

## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

Lots 1-46 of The Village of Sun Willows Division 7 according to the plat thereof, recorded in volume D of plats, page 229, recording number 162325, records of the County of Franklin, Washington.

## EXHIBIT B

### LEGAL DESCRIPTION OF COMMON AREA

All of the real property and improvements, including, but not limited to, private roads, sidewalks, walkways, parking areas, catch basins, and street lighting, on the following described property:

Tracts A and B of the Village of Sun Willows Division 7 according to the plat thereof, recorded in volume D of plats page 229, recording number 162325, records of the County of Franklin, Washington.

Dated: April 15<sup>th</sup>, 2003

Recorded: April 16, 2003

Recording No.: 1622774