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08/03/2005 09:56A  
Franklin Co, WA**After Recording Return to:**

Lorri Taylor, CCIM  
MT III LLC  
815 West 7<sup>th</sup> Avenue  
Suite 200  
Spokane, WA 99204

CONFORMED COPY

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DECLARATION OF

## COVENANTS, CONDITIONS, AND RESTRICTIONS

for

## THE VILLAGES at CHAPEL HILL

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration"), is made on the date hereinafter set forth, by MT III LLC, a Washington Limited Liability Company (referred to herein as "Declarant"):

A. Declarant is the owner of that certain real property located at:

- o 6005 Chapel Hill Boulevard, Building(s) A-J; and
- o 6305 Chapel Hill Boulevard, Building(s) A-S; and
- o 6405 Chapel Hill Boulevard, Building(s) A-S;

in the City of Pasco, State of Washington, which is legally described in EXHIBIT A attached hereto and incorporated herein by reference (the "Property"):

The Property is also described and recorded in Volume D, Page 298, Auditor's File Number 1667243, records of Franklin County, Washington.

- B. Declarant has improved or is in the process of improving the Property as a residential PUD, which development shall be known as "The VILLAGES at CHAPEL HILL". The project will and does consist of forty-nine (49) lots, forty-two (42), improved with four plexes and six (6) improved with five plexes, (each hereinafter collectively and individually a "Lot") and on (1) improved with a club house, pool, various recreation facilities, parking areas, and various common areas.
- C. The development shall be hereinafter referred to as the "Project." The Owner of each Building shall receive title to his/her/its Building and the parcel that it sits on, plus an undivided interest as tenants-in-common in the Common Area, as follows:

6005 Chapel Hill Boulevard

|            |        |
|------------|--------|
| Building A | 2.020% |
| Building B | 2.020% |
| Building C | 2.525% |
| Building D | 2.020% |
| Building E | 2.020% |
| Building F | 2.525% |
| Building G | 2.020% |
| Building H | 2.020% |
| Building I | 2.020% |
| Building J | 2.020% |

6305 Chapel Hill Boulevard

|            |        |
|------------|--------|
| Building A | 2.020% |
| Building B | 2.020% |
| Building C | 2.020% |
| Building D | 2.020% |
| Building E | 2.020% |
| Building F | 2.020% |
| Building G | 2.020% |
| Building H | 2.020% |
| Building I | 2.020% |
| Building J | 2.020% |
| Building K | 2.020% |
| Building L | 2.020% |
| Building M | 2.020% |
| Building N | 2.020% |

6305 Chapel Hill Blvd. (Continued)

|                 |        |
|-----------------|--------|
| Building O      | 2.020% |
| Building P      | 2.020% |
| Building R      | 2.020% |
| Building S      | 2.525% |
| Tract X         | 0.000% |
| (w/Common Area) |        |

6405 Chapel Hill Boulevard

|            |        |
|------------|--------|
| Building A | 2.525% |
| Building B | 2.020% |
| Building C | 2.020% |
| Building D | 2.020% |
| Building E | 2.020% |
| Building F | 2.020% |
| Building G | 2.525% |
| Building H | 2.525% |
| Building I | 2.020% |
| Building J | 2.020% |
| Building K | 2.020% |
| Building L | 2.020% |
| Building M | 2.020% |
| Building N | 2.020% |
| Building O | 2.020% |
| Building P | 2.020% |
| Building R | 2.020% |
| Building S | 2.020% |

Each Lot shall also have appurtenant to it certain additional rights including rights of membership in The Villages at Chapel Hill Property Owners' Association, ("POA") a non-profit corporation formed pursuant to the purposes set forth in the Articles of Incorporation for said Association.

- D. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of operation for the benefit of the Property, of the said Lots and the Owners thereof.
- E. Declarant hereby declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, managed, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and Declarant's successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property or the Project.
- F. These Covenants, Conditions, and Restrictions (CCR's), and any amendments thereto, shall run with the real property and any of the improvements thereon, to which such CCR's apply, and shall be binding upon any purchasers, their successors, designees, agents, and/or heirs, any tenants, guests, visitor's, mortgagor's, and/or any other person or entity who enters upon, resides, and/or visits the subject property.

## ARTICLE 1 DEFINITIONS

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

1.1 ARC. "Architectural Review Committee" shall mean and refer to the Architectural Review Committee created pursuant to Article 4 of the Declaration.

1.2 Articles. The Articles of Incorporation of the Association as stated and/or as amended from time to time.

1.3 Assessment. That portion of the "cost" of maintaining, improving, repairing, operating, insuring and managing the Project which is to be paid by the Lot Owners as determined by the Association under this Declaration. Assessments may be designated as Regular Assessments, Extraordinary Assessments, or Special Assessments, as those terms are more specifically defined in Article 6 of this Declaration.

1.4 Association. The Villages at Chapel Hill Property Owners' Association, (hereinafter referred to as a "POA") a Washington non-profit corporation, formed by Declarant, the Members of which shall be the Owners of Lots in the Project as provided herein.

1.5 Board or Board of Directors. The governing body of the POA.

1.6 Bylaws. The Bylaws of the POA and/or as may be amended from time to time.

1.7 Common Area. The entire Project, excluding only the individual Lots as defined herein. The Common Area includes, without limitation: land; outside parking and driveway areas; all apparatus and installations existing for common use; and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use (and also the Limited Common Area, even though the use thereof is limited to the Owners of the Lots to which it is appurtenant). The rights and restrictions pertaining to the use of the Common Area are further described in Article 3 of this Declaration.

1.8 Common Expenses. The actual and estimated expenses of maintenance, improvement, repair, operation, insurance and management of the Common Area and the areas immediately adjacent to the Lots but outside of the Lots, of utility services which are not metered to separate Lots, and of administration of the POA, and any reasonable reserve for such purposes as determined by the Board, and all sums designated as Common Expenses by or pursuant to the Project Documents.

1.9 Declarant. MT III LLC, a Washington Limited Liability Company referred to in this Declaration as the "Declarant". As used in this Declaration, the term "Declarant" shall also include any successor entity controlled by the Declarant to which such rights are assigned, but shall not include independent third parties purchasing completed Lots. It is contemplated that Declarant will assign all right, title and interest that Declarant has under this Declaration and otherwise to the POA.

1.10 Declaration. This Declaration of Covenants, Conditions and Restrictions, as it may be amended from time to time.

1.11 Director. A Member of the Board of Directors of the Association.

1.12 Design Guidelines shall mean the architectural, design, development, landscaping, and other guidelines, standards, controls, and procedures, including but not limited to, application and plan review procedures, adopted pursuant to Article 4 and applicable to the Property.

1.13 Lot shall mean and refer to any particular and separately designated parcel of land resulting from the subdivision of the property according to the Planned Unit Development or Subdivision Plat, and sold or held by sale to members of the general public. The term Lot shall not, however, include property owned by the Association or Common Area. Prior to recordation of a Subdivision Plat, a parcel of land on which improvements are under construction shall be deemed to contain the number of Lot(s) designated for residential use on the applicable preliminary plat or the site plan approved by Declarant, whichever is more current.

1.14 Member. A person entitled to membership in the Association as provided herein.

1.15 Mortgage. Includes a recorded mortgage, deed of trust, real estate contract, and/or other instrument creating a security interest in any Lot.

1.16 Mortgages. Includes a mortgage, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage (including Declarant or Declarant's assignee with respect to any purchase-money security interest retained by Declarant on sale of any Lot).

1.17 Mortgagor. Includes a mortgagor, the trustor of a deed of trust, real estate contract vendee or other individual granting a security interest in any Lot.

1.18 Owner or Owners. The record holder or holders of title to a Lot in the Project. This shall include any person having a fee simple title to any Lot, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Lot is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner."

1.19 Person. Any individual or any corporation, joint venture, limited partnership, partnership, firm, association, trust, or other similar entity or organization.

1.20 Project. The Villages at Chapel Hill-Phase 1, and any annexations to said project as shown on the approved PUD for the Villages at Chapel Hill, and shall include but not be limited to the entirety of the real property and all improvements thereto (generally synonymous with "Property").

1.21 Project Documents. This Declaration, and the Articles, Bylaws and rules and regulations of the Association, as each shall be restated or amended from time to time.

1.22 Property. The land described in this Declaration, together with all improvements or structures thereon, and every easement or right appurtenant thereto, and all personal property intended for use in connection therewith or for the use, benefit or enjoyment of the Owners.

1.23 Unit. Means that portion of a building on a Lot, which portion is constructed as a separate residential dwelling.

**ARTICLE 2**  
**ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS**

2.1 Organization of Association. The Association is or shall be incorporated under the name of The Villages at Chapel Hill Property Owners' Association, as a non-profit corporation under the Washington Non-Profit Corporation Act.

2.2 Duties and Powers. In addition to the duties and powers enumerated in the Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the authority to do all of the following actions, including, but not limited to:

- 2.2.1 Assess for and expend Association funds to maintain, repair, replace and manage all (1) Common Area, and (2) other property that may be acquired by the Association.
- 2.2.2 Enforce the provisions of this Declaration by appropriate means, including without limitation, the expenditures of funds of the Association, the employment of legal counsel, and the commencement of actions.
- 2.2.3 Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.
- 2.2.4 Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Property.
- 2.2.5 Adopt, amend, or revoke reasonable rules not inconsistent with this Declaration, or the Bylaws relating to the use of particular areas within the Property and the conduct of Owners and their tenants and guests with respect to the Property and other Owners. Such rules shall be binding on all Lot Owners, their guests, and invitees upon adoption.
- 2.2.6 Establish one or more checking or savings accounts in the name of the Association with any bank, savings association or credit union doing business in the State of Washington and designate signatories thereon.
- 2.2.7 Generally to do any and all things that a non-profit corporation organized under the laws of the State of Washington may lawfully do and which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws.

2.3 Membership. The Owner of a Lot shall, upon closing on a Lot and/or building(s) on a Lot or Lots, automatically, and upon becoming the Owner of that Lot and/or building(s) on a Lot or Lots, be a Member of the Association, and shall remain a member thereof until such time as his or her ownership ceases for any reason, including but not limited to, the sale of a Lot(s) and/or building(s) by the Member to another owner at which time the Seller's membership in the Association shall automatically cease. Membership shall be in accordance the Articles and the Bylaws of the Association.

2.4 Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot shall fail or refuse to transfer the membership registered in his or her name to the purchaser of the Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

2.5 Classes of Membership and Vote Allocation. The Association shall have two (2) classes of voting membership. To cast a vote on any item requiring a vote by the member(s), any member desiring to cast a vote, in person or by proxy, must be current in said member's assessments, and can not be in violation of any of the CCR's at the time such vote is to be cast. The classes of voting membership are established according to the following provisions:

- 2.5.1 Class A Membership. Class A Membership shall be that held by each Owner of a Lot other than Declarant, and each Class A Member shall be entitled to one (1) vote for each Lot owned. If a Lot is owned by more than one (1) person, each such person shall be a Member of the Association, but there shall be not more than one (1) vote for each Lot.
- 2.5.2 Class B Membership. Class B Membership shall be that held by Declarant (or its successors-in-interest) who shall be entitled to six (6) votes for each Lot owned by Declarant; provided, that Class B Membership shall be converted to Class A Membership and shall forever cease to exist on the occurrence of whichever of the following is first in time;

2.5.2.1 When all but one Lot of the Lots in the Project are sold by Declarant; or

2.5.2.2 On the tenth (10th) anniversary of the recordation of this Declaration.

2.6 Commencement of Voting Rights. Voting rights attributable to any Lot shall not vest until that Lot shall also be subject to assessment obligations to the Association, pursuant to Article 6 below.

2.7 Membership Meetings and Meeting Notice(s). An annual meeting shall be held by the Association, with notice sent via US Mail by the Association to the last known address of members of record at the time such meeting is noticed. Notices for any Membership meeting shall be sent by the Association at least twenty (20) days prior to the date and time such meeting is to be held. Said meetings can be held and/or attended via telephone conference or such other electronic medium, as well as may be held in a physical location with members present. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

- 2.7.1 At any such noticed meeting, Members and/or their proxies are deemed present and may attend said meeting in person or via electronic medium, subject to the provisions of 2.5 herein.
- 2.7.2 At any meeting in which a vote is to be taken or resolution adopted, Members may vote, or may provide a written proxy to vote. Such proxy shall be in writing, and shall be submitted in original form to the Board prior to the start of the meeting.
- 2.7.3 Notice of any Meeting shall include a list (agenda) of items to be addressed in any such meeting.
- 2.7.4 A roll call of members present and/or of proxies present shall be made at the start of the meeting.
- 2.7.5 A quorum of ALL members is not required to hold or conduct Association business at any such meeting, rather, the presence of Members and/or their proxies totaling fifty-five (55%) percent of the total eligible votes of the Association shall constitute the necessary quorum.
- 2.7.6 Minutes shall be kept at any such meeting, and shall be reviewed and accepted if accurate at the subsequent meeting.

2.8 Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

2.9 Assumption of Risk. The Association may, but shall not be obligated to, sponsor certain activities or provide facilities designed to promote the health, safety, and welfare of Owners and occupants. Notwithstanding anything contained herein, neither the Association, the members of the Board, the officers of the Association, the management company of the Association, nor the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or occupant of any Lot or any tenant, guest or invitee of any Owner or occupant or for any property of any such Persons. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Property, including all Common Property and all recreational facilities, if any.

Neither the Association, the members of the Board, the officers of the Association, the Association's management company, nor the Declarant shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Property. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury illness or other loss or damage arising from the presence or malfunction of utility lines or utility sub-stations and further acknowledges that neither the Association, the members of the Board, the officers of the Association, the Association's management company nor the Declarant have made any representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties (expressed or implied) relative to the condition or impact of utility lines or utility sub-stations.

No provision of this Declaration shall be interpreted as creating a duty of the Association, the members of the Board, the officers of the Association, the management company of the Association, or the Declarant to protect or further the health, safety, or welfare of any Person(s), even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Property (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, the Board, the Association's management company, and the Declarant, their directors, officers, committee and board members, employees, agents, contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

2.10 Security. The Association may maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be; provided, however, unless otherwise specifically indicated in this Declaration, the Association shall not be obligated to maintain or support such activities.

Neither the Association, its officers, the Board, the Association's management company, nor the Declarant, shall in any way be considered insurers or guarantors of security within the Property. Neither the Association, its officers, the Board, the Association's management company nor the Declarant, shall be held liable for any loss or damage for failure to provide adequate security or for the ineffectiveness of any security measures undertaken.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge that neither the Association, its officers, the Board, the Association's management company, the Declarant, nor the Architectural Review Committee represent or warrant that any patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security system designated by or installed according to guidelines established by the

Declarant or the Architectural Review Committee may not be compromised or circumvented; nor that any patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems will prevent loss by burglary, theft, hold-up, or otherwise; nor that patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems will in all cases provide the detection or protection for which the system is designed or intended.

All Owners and occupants of any Lot and all tenants, guests, and invitees of any Owner assume all risks for loss or damage to Persons, to Lots, and to the contents of Lots and further acknowledge that the Association, its officers, the Board and committees, the Association's management company, or the Declarant, have made no representations or warranties, nor has any Owner, occupant, or any tenant, guest, or invitee of any Owner relied upon any representations or warranties, expressed or implied, relative to any patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties.

2.11 Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The Association as a Common Expense may fund the costs of services and facilities provided by the Association. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any will be provided by the Association.

### ARTICLE 3 RIGHTS IN COMMON AREA

3.1 Common Area. Each Lot Owner shall have a nonexclusive right to use the Common Area in accordance with the purposes for which it is intended without hindering the exercise of or encroaching upon the lawful rights of any other Lot Owners, subject to rules and regulations enacted by authority of the Board as provided herein.

3.2 Regulation of Common Area Use. The rights and easements of use and enjoyment of the Common Area created by this Declaration shall be subject to such rules and regulations as may be adopted by the Board of Directors from time to time. Without limiting the generality of the Board's authority to enact reasonable rules and regulations, such rights shall be subject to the following:

- 3.2.1 The right of the Board to consent to or otherwise cause the construction of additional improvements on the Common Area and to consent to or otherwise cause the alteration or removal or any existing improvements on the Common Area for the benefit of the Members of the Association;
- 3.2.2 The right of the Board to consent to or join in the grant or conveyance of easements, licenses or rights of way in, on or over the Common Area for utilities or other purposes not inconsistent with the intended use of the Property as a residential project;
- 3.2.3 The rights and reservations of Declarant as set forth in this Declaration; and
- 3.2.4 The right of the Board to reasonably restrict access to parking stalls, maintenance areas and other areas of the Property.



3.3 Change of Use of Common Area. The Board may change the use of any portion of the Common Area and construct, reconstruct, or change the buildings and other improvements thereon in any manner necessary to accommodate the new use of the Common Area. Any new use shall be for the benefit of the Owners and not inconsistent with the Franklin County approved Final PUD. Any change in use of the Common Area shall be subject to approval by the Declarant as long as it owns any property described in Exhibit "A" but shall not be subject to approval by any other Owner.

3.4 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across any property, including any Lot, from adjacent Lots will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to prune or thin trees or other landscaping. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

3.5 Delegation of Use. Any Member entitled to the right and easement of use and enjoyment of the Common Area may delegate such right to his/her tenants or subtenants who are occupying his/her Lot, subject to reasonable regulation by the Board. An Owner who has made such a delegation of rights shall not be entitled to the use or enjoyment of any part of the Common Area for so long as such delegation remains in effect.

3.6 Damage by Member. Each Member shall be liable to the Association for any damage to the Common Area not fully reimbursed to the Association by insurance, if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any improvement by the Member, or by any guest, tenant, employee or invitee of the Member. However, the Association acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the Member may be liable as described above. The cost of correcting the damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against the Lot and may be enforced as provided hereby for the enforce of other Assessments.

3.7 Conveyance of Common Area. The Declarant shall construct all improvements on the Common Area and convey to the Association the aforesaid Common Area and easements, together with the improvements constructed thereon, upon completion of the improvements. The Declarant may convey to the Association other improved or unimproved real estate located within the Property, personal property and leasehold and other property interests. Such property shall be accepted by the Association and, thereafter, shall be deemed Common Area.

#### ARTICLE 4 ARCHITECTURAL CONTROL

4.1 Approval of Plans by Architectural Review Committee. No landscaping shall be placed on any Lot in the Property, no building, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein or thereto including but not limited to repainting of the exterior be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to quality of workmanship and materials, and harmony of external landscape and external design, color and location in relation to surrounding structures and topography by an Architectural Review Committee composed of the Declarant and other members to be determined by the Declarant.

- 4.1.1 There shall be not less than three (3) members of the Committee.
- 4.1.2 Declarant will appoint all of the original members of the Committee until the Declarant has sold all but one lot in the Project.
- 4.1.3 After Declarant has sold all but one Lot in the Project, Owners shall have the power to appoint all of the members of the Committee.
- 4.1.4 The members of the Committee shall receive no compensation for services rendered, other than reimbursement for authorized expenses incurred by them in the performance of their duties hereunder. Neither the Committee nor any member of the Committee shall be liable in damages or otherwise for decisions made in good faith pursuant to the authority granted in this Article.

4.2 Design Guidelines. The Declarant shall have the authority to adopt Design Guidelines, and to augment, amend, or otherwise modify such Guidelines from time to time; provided that they shall at all times be consistent with the remaining Project Documents and Lot restrictions imposed by law. After Declarant has sold all but one Lot in the Project, the Board shall have said authority.

4.3 Specification of Reasons of Disapproval. The Architectural Review Committee shall have the right and discretion to disapprove any plans and specifications submitted hereunder because of, but not limited to any of the following:

- 4.3.1 The failure of such plans or specifications to comply with any of the Project restrictions, including but not limited to the Design Guidelines.
- 4.3.2 Failure to include information in such plans and specifications as may have been reasonably requested.
- 4.3.3 Objection to the exterior design, appearance, color or materials of any proposed structure.
- 4.3.4 Incompatibility of any proposed structure or use with existing structures or uses upon other Lots in the vicinity.
- 4.3.5 Objection to the location of any proposed structure upon any Lot or with reference to other Lots in the vicinity.
- 4.3.6 Objection to the grading plan for any Lot.
- 4.3.7 Objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed structure.
- 4.3.8 Any other matter which, in the judgment of the Architectural Review Committee would render the proposed structure, structures or uses inharmonious with the general plan of improvement of the Project or with structures or uses located upon other Lots in the vicinity.
- 4.3.9 Objection to the obstruction of views created by the proposed structure(s).

In any case where the Architectural Review Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based.

4.4 Submission of Plans. All plans and specifications required to be submitted to the Committee shall be submitted to the address of the Committee in duplicate, and with the payment of any applicable fee established by the Association. The written submission shall contain the name and address of the Owner submitting the plans and specifications, identify the Lot involved, and the following information about the proposed structure:

- 4.4.1 The elevation of the structure with reference to the existing and finished Lot grade;
- 4.4.2 The general design;

- 4.4.3 The interior layout;
- 4.4.4 The exterior finish materials and color, including roof materials;
- 4.4.5 The landscape plan shall be developed by a licensed landscape professional; a person, partnership or corporation who installs landscaping as a regular part of its business activity. In addition to all other provisions regarding landscaping on the individual Lots as is stated in this Declaration, the following provisions shall apply:

4.4.5.1 Either at the time each home is to be constructed, or the landscaping is installed if it will occur after each building is constructed, the builder and/or owner shall submit a landscaping plan to the Architectural Review Committee stating the details of the landscaping contemplated;

4.4.5.2 Each Lot's landscaping plan shall contain a minimum of the following: (1) a drawing to scale showing location of landscaping to be completed for the front and side yards; and (2) a description of all materials to be used; and (3) a general depiction of the location of trees or groups of trees which are to remain;

4.4.5.3 In reviewing the landscaping plans submitted, the Architectural Review Committee shall reasonably attempt to insure that the requested approval for landscaping and materials is consistent with the quality, quantity and attractiveness of landscaping and materials generally found in other similar upper-end type housing developments and complies with the requirements of the final Planned Unit Development Landscaping Plan;

4.4.5.4 The Architectural Review Committee is authorized but not required to establish certain minimum criteria for approval of landscaping plans if desired but it is a fundamental requirement that "Landscaping" as used hereinabove shall require more than just grass and a sprinkler system, and shall require usage of shrubbery, trees, bark, rock, and other similar materials commonly used in above average residential landscaping and that landscaping shall be performed by a qualified licensed landscaping contractor except as allowed by the Architectural Review Committee; and

- 4.4.6 Other information which may be required in order to determine whether the structure conforms to the standards articulated in this Declaration and the standards employed by the Committee in evaluating development proposals.
- 4.4.7 Appropriate provision for storm water drainage, in accordance with the Design Guidelines, shall be incorporated into each Lot and approved by the Committee. It is the sole responsibility of the owner to provide appropriate protection for his dwelling for storm water or other drainage.

4.5 Approval Procedures. Within twenty-one (21) days after the receipt of plans and specifications, the Committee shall approve or disapprove the proposed structure. The Committee may decline to approve plans and specifications which, in its opinion, do not conform to restrictions articulated in this Declaration or to its aesthetic standards. The Committee shall indicate its approval or disapproval on one of the copies of the plans and specifications provided by the applicant and shall return the plans and specifications to the address shown on the plans and specifications. In the event that no disapproval of such plans and specifications is given within twenty-one (21) days of submission, the plans and specifications shall be deemed to be disapproved by the Committee and construction pursuant to the plans and specifications may not be commenced until such time as the application is approved.

4.6 Unapproved Construction; Remedies. If any structure shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the Architectural Review Committee pursuant to the provisions of this Article 4, such alteration, erection, maintenance or use shall be deemed to have been undertaken in

violation of this Article 4 and without the approval required herein, and upon fifteen (15) days' written notice from the Architectural Review Committee, any such structure so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or re-altered, and any such use shall be terminated, so as to extinguish such violation.

4.7 Restriction as to Fences. Perimeter fences around swimming pools, as required by Franklin County or applicable government agency are allowed. All other fences are discouraged and only allowed if approved in advance by the Architectural Review Committee pursuant to sections 4.1 thru 4.4. Trees, hedging and natural vegetation may be used as a border line with the prior written approval of the Architectural Review Committee.

4.8 Requirements as to Seeding and Planting. Within ninety (90) days after building occupancy on any Lot, weather permitting, all Lot landscaping is to be completed. Weeds and other nuisance plants shall be removed and otherwise abated.

4.9 Entry for Inspection. Any agent, officer or member of the Board, Committee, or the Declarant may, at any reasonable predetermined hour, upon twenty-four (24) hours' notice during construction or exterior remodeling, enter and inspect the Lot(s) and structure(s) to determine if there has been compliance with the provisions of this Declaration. The above-recited individuals shall not be deemed guilty of trespass for such entry or inspection. There is created an easement over, upon, and across the residential Lots for the purpose of making and carrying out such inspections.

4.10 No Liability. Neither Declarant nor the Architectural Review Committee, nor their employees, agents, successors and assigns, shall be liable for damages to anyone with regard to any restrictions, standards or requirements contained in this Declaration or to any Owner or Occupant affected by this Declaration by reason of mistake or difference in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans and specifications submitted for approval pursuant to this Article 4.

4.11 Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or approvals required or permitted by or from either the Declarant, the Association, or the Architectural Committee under this Declaration, none of Declarant, the Association, or the Architectural Committee shall be liable to any Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such review, acceptance, inspection permission, consent or approval, whether given, granted, withheld or denied.

## ARTICLE 5 REPAIR AND MAINTENANCE

5.1 Repair and Maintenance Rights and Duties of Association. The Association shall paint, maintain, repair and replace the Common Area and facilities thereon or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Area and facilities thereon in good condition, reasonable wear and tear excepted. However, the Association shall not be responsible for or obligated to perform those items of maintenance, repair or improvement of the Lots, the maintenance of which is the responsibility of the Owners as provided in Paragraph 5.2 below. In the event an Owner fails to maintain his/her Lot as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner or Owners.

For the purpose of performing the maintenance, repair or replacement of the Common Area and facilities thereon as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to the Common Area or to other Lots or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Board (and its agents and employees) shall have an irrevocable easement over and onto all portions of the Common Area, and shall also have the irrevocable right, after reasonable notice to the Owner, and at reasonable hours, to enter any Lot.

5.2 Repair and Maintenance Rights and Duties of Owners. Except for those portions of the Project which the Association is required or elects to maintain and repair, each Lot Owner shall, at his/her sole cost and expenses, maintain and repair his/her Lot and all improvements and structures thereon.

## ARTICLE 6 ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Project, 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 the following Assessments, which shall be established and collected as provided herein:

- 6.1.1 Regular Assessments;
- 6.1.2 Extraordinary Assessments; and
- 6.1.3 Special Assessments.

All assessments, together with interest, costs, penalties and actual attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each Assessment is made, the lien to become effective upon levy of the Assessment. Each such Assessment, together with interest, costs, penalties and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself or herself from liability for his/her contribution toward the Common Expense's by nonuse or waiver of the use or enjoyment of any of the Common Area or by the nonuse or abandonment of his/her Lot.

6.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of all the Owners of Lots in the entire Project and/or for the operation, maintenance, improvement, repair, and replacement of the Common Area for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repair and replacement of those portions of the Common Area, together with the Limited Common Area, which must be replaced on a periodic basis. The reserve fund (including funds placed in the working capital fund described in Paragraph 6.8) shall be maintained as a segregated fund, separate from the other funds of the Association.

6.3 Regular Assessments. Until the end of the Association's fiscal year immediately following the closing of the sale of the first Lot in the Project the annual maximum Regular Assessment per Lot shall be such amount as is set forth in the Project budget prepared by Declarant, payable in installments and at such times as determined by the Board. Each Lot's share for the first fiscal year shall be prorated based on the number of months remaining in that fiscal year. Thereafter, the Board shall determine and fix the amount of the maximum annual Regular Assessment against each Lot at least sixty (60) days in advance of the start of each fiscal year.

6.4 Extraordinary Assessments. In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated Regular Assessment.

6.5 Special Assessments. In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments against an individual Lot and its Owner to reimburse the Association for costs incurred in bringing that Owner and his/her Lot into compliance with the provisions of the Project Documents, including interest, penalties, actual attorneys' fees and costs.

6.6 Allocation of Assessments. Each Lot, including Lots owned by Declarant, shall bear such portion of each aggregate Regular and Extraordinary Assessment as corresponds to the undivided interest in the Common Area allocated to such Lot (Recital C, above); subject, however, to the right of the Declarant to defer the commencement of Assessments against Lots owned by the Declarant as provided in Paragraph 6.7 below.

6.7 Date of Commencement of Assessment; Due Dates. The Regular Assessments provided for herein shall commence as to all Lots in the Project on the first day of the month following closing of the sale of the first Lot in the Project. Due dates of Assessments shall be the first day of every calendar month, or otherwise as ordered by the Board. No notice of such Assessment shall be required other than an annual notice setting forth the amount and frequency of the Assessment for the following year.

Notwithstanding the foregoing, Declarant shall have the right to defer, for up to two (2) years from the date of recordation of this Declaration, the commencement of that portion of Declarant's Regular Assessment obligation which pertains to maintenance and repair of the Common Area. This deferral shall be available only for so long as the Declarant subsidizes all actual Common Area maintenance and repair to the extent such maintenance and repair is not covered by Assessments against Lots not owned by the Declarant. This deferral shall not apply to reserves for major Common Area repair and replacement.

6.8 Working Capital Fund. A working capital fund shall be established to meet unforeseen expenditures or to purchase any additional equipment or services reasonably required in the discretion of the Board, with the initial fund to be established by deposits at the closing of the sale of each Lot by the Declarant, in the amount of at least two (2) months' Regular Assessments for such Lot. Amounts paid into the fund shall be considered reserve funds under Paragraph 6.2 above, and shall not be considered as advance payments of the monthly Regular Assessments. The Declarant shall have no right to use the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while the Declarant retains voting control over the Association.

6.9 Transfer of Lot by Sale or Foreclosure. The sale or transfer of any Lot shall not affect any Assessment lien, or relieve the Lot from any liability therefore, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Lot pursuant to foreclosure or by deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer. Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid Assessments. Any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Lots including the Lot for which the lien was extinguished. In a voluntary conveyance of a Lot, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter for his/her share of the Common Expenses (and for his/her obligation for individual Special Assessments) up to the time of the grant or conveyance, without

prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid Assessments of the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for all such Assessment becoming due after the date of any such statement.

6.10 Enforcement of Assessment Obligation; Priorities; Discipline. If any part of any Assessment is not paid and received by the Association or its designated agent within ten (10) days after the due date, an automatic late charge equal to five percent (5%) of the Assessment (but not less than \$10.00) shall be added to and collected with the Assessment. Additionally, if any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, the total unpaid Assessment (including the late charge) shall thereafter bear interest at the rate of eighteen percent (18%) per annum until paid. Further, the Association shall have the power to sever all utility services to the delinquent Lot if the Assessment is not paid within thirty (30) days of the due date, and to continue the severance until the Assessment (and related charges) shall have been paid. Each unpaid Assessment, whether Regular, Extraordinary or Special, shall constitute a lien on each respective Lot prior and superior to all other liens recorded subsequent to the recordation of the Notice of Assessment lien, except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (2) labor or materialmen's liens arising under Washington law (timely and duly filed) if the legal effective date is prior to the recording of the Notice of Assessment lien under Washington law. Such lien, when delinquent, may be enforced by sale by the Association (acting through the Board), its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Washington law applicable to the exercise of powers of sale in deeds of trust (with the Board having the right and authority to appoint an independent trustee, such right hereby declared to include a power of sale and the Property or Lot hereby declared to not be used principally for agricultural purposes), or by judicial foreclosure as a mortgage, or in any other manner permitted by law. During any such foreclosure proceeding, the Owner shall be required to pay a reasonable rental for the Lot, and the foreclosing party shall be entitled to the appointment of a receiver to collect such rent. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at the foreclosure sale, and to acquire and hold, lease, encumber and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent, interest, costs, penalties, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may temporarily suspend the Association membership rights of a Lot Owner who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

6.11 Payment of Taxes Assessed Against Common Area or Personal Property of Association. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Lots in an amount equal to said taxes.

## ARTICLE 7 EASEMENTS AND UTILITIES

7.1 Common Area Easements. Declarant expressly reserves for the benefit of the Owners and the Association reciprocal, nonexclusive easements for access, ingress and egress to and from, and for the use and enjoyment of, the Common Area and all facilities thereon, consistent with its intended use.

Declarant also expressly reserves for the benefit of the Board of Directors and all agents, officers and employees of the Association, nonexclusive easements over the Common Area (including any limited Common Area) and all Lots as necessary to maintain and repair the Common Area, and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Area shall be appurtenant to, binding upon and shall pass with the title to every Lot conveyed.

7.2 Encroachment and Utility Easements. Each Lot within the Property is hereby declared to have an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction or reconstruction, repair, shifting, settlement or other movement of any portion of the improvements. There shall be valid easements for the maintenance of said encroachments as long as they shall exist (and as long as the physical boundaries of the Lots after the construction, reconstruction, repairs, etc., are in substantial accord with the description of those boundaries that appears in the Survey/Map), and the rights and obligations of Owners shall not be altered in any way by said encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

Declarant also expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same) for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, telephone, television and other utility lines and services, as may be deemed appropriate to service the Property.

7.3 Utility Services. Water, garbage, and sewer service to the Project, and water, gas, fiber, electricity, garbage and sewer to the Common Area is all part of the Common Expenses, and may be paid by the Association in the discretion of the Board. Otherwise, all utilities and services furnished to or used by such Owner, including without limitation, gas, electricity, telephone service, and television receiving shall be the sole responsibility of the Owner.

Utilities required in connection with the maintenance and operation of the Common Area, such as power for Common Area lighting, shall be the responsibility of the Association, and shall be deemed a Common Expense.

7.4 Third Party Easements. The Declarant has authority to grant third parties easement rights over and across any of the Common Area to allow ingress and egress to parcels of property that are adjacent to the Project. This right extends to the granting of utility easements over the Project which may be necessary for the development of such adjacent property.

## ARTICLE 8 USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Lot therein is subject to the following:

8.1 Use of Individual Lots. No Lot or Unit shall be occupied and used except for single-family residential purposes by the Owner and his/her family, or by a single-family tenant, which also includes up to three unmarried or unrelated persons.

8.2 Pets. No animals shall be raised or maintained within any Unit. This includes, but is not limited to animals of the canine family more commonly known as pit bulls and/or rottweilers. No animals are allowed at any time upon the Property, unless such animal is a 'companion animal' as defined



by the Americans With Disabilities Act, (ADA). Any person who claims that an animal is a companion animal shall provide documentation from a licensed health care provider evidencing the need and identity of the companion animal.

8.3 A Lot or Unit may not be used for commercial or other nonresidential purposes. Units may only be used for residential purposes.

8.4 Temporary Structures. No trailer, tent, shack, garage, barn or other outbuilding or any structure of a temporary character erected or placed on the Property shall at any time be used as a residence permanently.

8.5 Completion of Construction. Any building erected or placed on any Lot shall be completed as to external appearance, including finished painting and minimal landscaping, within twelve (12) months from the date of commencement of construction. Each Lot owner shall be required to clean up the Lot of all cut or fallen trees, bushes, shrubs, etc. (clearing and grubbing) within two (2) months after the clearing and grubbing activity begins and to haul away such debris from the subdivision. Each Owner shall also be required to clean up the Lot within fourteen (14) days of completing construction or when deemed necessary by the Architectural Review Committee to present a neat and tidy appearance to each Lot during the building process.

8.6 Building Set-Back and Location. Any structure shall comply with applicable City of Pasco front, side and rear Lot setback requirements. No structure on any Lot may be placed within the boundaries of any utility easement or private driveway easement, or on top of any utility or private driveway.

8.7 Radio and Television Antennas, Satellite Dishes. No Owner may be permitted to construct, use, or operate his own external radio or other electronic antenna. Satellite dishes not to exceed twenty-four (24) inches in diameter are permitted, but the location of the installation for any such dish shall be approved by the ACC, and shall not be placed in a location in which said dish is visible from the front elevation of the building upon which such dish is to be installed.

8.8 Power Equipment and Car Maintenance. No power equipment, or outside car maintenance of any nature whatsoever shall be permitted on the Property except with prior written approval of the Board. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections. Long term allowed use of power equipment on a Lot must be inside a portion of the building.

8.9 Parking. Parking or storage of automobiles, boats, trailers, motorcycles, trucks, truck/campers, motorhomes, and like vehicles and equipment shall not be allowed on individual Lot. Any vehicle, which is unable to be operated on its own power, shall be removed from the property within forty-eight (48) hours of said vehicle becoming non-operable. An abandoned vehicle – as defined by Washington State or municipal statutes will be removed from the property at the owner's expense. The Board of the Association may employ a tow truck to remove the vehicle from the premises after delivering written notice to Unit occupied by the Owner or authorized user of the vehicle. The Owner and/or user of the vehicle shall be responsible for any charges arising therefrom.

8.10 Lot Maintenance. Each Lot shall be maintained by the appurtenant Lot Owner in a clean, neat and orderly condition and in good repair at all times. All rubbish, trash and garbage shall be regularly removed from the Project, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers which shall be kept screened and concealed from the view of other Lots, the Common Area, and all public ways.

8.11 Nuisances. No noxious, illegal, or offensive activities shall be carried on in any Lot, or in any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his/her respective Lot, and/or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of the Lot. This includes, but is not limited to odors, loud noise/music, disruptive or harmful actions towards other residents, guests, and/or owners of the property.

8.12 Vehicle and Equipment Restrictions. No utility, boat, camper or other types of trailers, mobile home (RV), commercial vehicle, bus, truck (other than standard size pickup truck) shall be permitted to park on the premises unless such vehicle is necessary for the construction, repair, and/or remodeling of any Unit and/or building on the premises. No one (1) vehicle shall occupy more than one (1) parking space. No noisy or off-road, unlicensed motor vehicles shall be maintained or operated upon the Property.

8.13 Signage. Signs advertising Lot(s) for sale or Units for rent may be displayed on the Property without prior approval of the Board provided that such signs shall be of reasonable and customary size (18" x 24") and shall be displayed only at such location or locations within the Common Area as shall be designated for such purpose by the Board. Except as expressly permitted by this Paragraph, no signs shall be displayed to the public view on any Lots or on any portion of the Property, unless first approved by the Board in its discretion.

8.14 Leasing of Units. Any Owner may lease his/her Units to any tenant or lessee under such terms and conditions as they may agree, except that no lease or rental agreement shall relate to less than the whole of any Unit. Any lease or rental agreement shall be in writing and shall by its terms provide that it is subject in all respects to the Project Documents. Any failure by a lessee to comply with the terms of the Project Documents shall be a default under the lease, whether or not it is expressed therein, and the Owner shall be liable for any costs incurred which result from the Lessee's actions.

8.15 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot agrees to hold Declarant harmless therefrom.

## ARTICLE 9 INSURANCE

9.1 Duty to Obtain Insurance; Types. The Association shall obtain and maintain the following policies of insurance:

9.1.1 Hazard Insurance: With respect to the Common Area, a "blanket" or "master" policy of hazard insurance covering loss or damage to all parts of the Common Area in the amount of the full replacement value thereof, providing protection against all direct causes of loss. The policy shall name the Association (for the use and benefit of the individual Owners), as the named insured and shall contain the standard mortgage clause, naming the holders of first mortgages (and their successors and assigns) as the mortgagees.

9.1.2 Liability Insurance: With respect to the Common Area, a comprehensive general liability insurance policy, with policy limits and endorsements deemed appropriate by the Board

(but having a combined single limit of liability of not less than \$1,000,000.00), covering all occurrences within the Common Area.

- 9.1.3 Fidelity Bonds: If required by any first mortgagee, blanket fidelity bonds for anyone who either handles or is responsible for funds which are held or administered by the Association, whether or not they receive compensation for such services.

9.2 Lenders' Requirements. Without limiting the foregoing insurance requirements, the Association and each Lot Owner shall maintain insurance and fidelity bonds meeting the requirements for similar projects established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Mortgage Association ("TMC"), Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA"), so long as any of them shall be a holder, insurer, or guarantor of a mortgage on a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA, TMC, VA and/or FHA/as applicable.

9.3 Waiver of Claim Against Association. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, and unless otherwise set forth herein, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors, and the Declarant to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

9.4 Right and Duty of Owners to Insure. It is the responsibility of each Owner to provide insurance on his/her personal property and upon all other property and improvements within his/her Lot. Nothing hereby shall preclude any Owner from carrying any public liability insurance as he or she deems desirable to cover his/her individual liability for damage to persons or property occurring inside his/her individual Lot or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him/her to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

9.5 Notice of Expiration Requirements. If available, all of the policies of insurance maintained by the Association shall contain a provision that said policy or policies shall not be cancelled, terminated or expired by their terms, without thirty (30) days prior written notice to the Board, Declarant, Owners and their respective first mortgagees (provided that such persons shall have filed written requests with the carrier for such notice).

9.6 Insurance Premiums. Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the reserve fund to be used solely for the payment of premiums of required insurance as such premiums become due.

## ARTICLE 10 EMINENT DOMAIN REPRESENTATION

In any proceedings, negotiations, settlements, or agreements respecting condemnation which affect all or any portion of the Common Area the Association shall be the agent for all affected Owners. For such

purpose, the Association shall be deemed appointed attorney-in-fact for the Owners. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith. Condemnation proceeds shall be used by the Association for the repair or replacement of the Common Area remaining after or affected by the condemnation.

## ARTICLE 11 RIGHTS OF MORTGAGEES

In order to induce various lenders and lending agencies, including without limitation, The Mortgage Corporation ("TMC"), the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), the Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA") to participate in the financing of the sale of Lots within the Project, this Article 11 is included in this Declaration. For purposes of this Article 11, the terms "Eligible Holder" and "Eligible Insurer or Guarantor" refer to a holder, insurer or guarantor of any first mortgage on a Lot, who has provided a written request to the Association, to be notified of any proposed action requiring the consent of a specified percentage of such holders, insurers, or guarantors.

11.1 No amendment or violation of the Project Documents shall operate to defeat or render invalid the rights of any mortgagee of a Lot made in good faith and for value, provided that after the foreclosure of any such mortgage, such Lot shall remain subject to the Project Documents.

11.2 Each first mortgagee of a mortgage encumbering any Lot, which obtains title to such Lot pursuant to judicial foreclosure or the powers provided in such mortgage, shall take title to such Lot free and clear of any claims for unpaid assessments or charges against such Lot which accrued after the time such mortgagee recoded its mortgage, and prior to the time such mortgage acquires title to such Lot, subject to assessment under Section 6.9 after foreclosure.

11.3 First mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours; (2) require from the Association the submission of annual audited financial reports and other financial data; (3) receive written notice of all meetings of the Owners; and (4) designate, in writing, a representative to attend all such meetings.

11.4 Each Owner hereby authorizes the first mortgagee of a first mortgage on his/her Lot to furnish information to the Board concerning the status of the first mortgage and the loan which it secures.

11.5 The Declarant shall have the right to amend the Project Documents in accordance with Article 12 below, subject to the rights of Eligible Holders to participate in the amendment process as provided in this Paragraph. Amendments of a material nature shall be made only by the Declarant (so long as the Declarant owns any Lot in the Project). Once the Declarant no longer owns any Lot in the Project such approval must be by: (i) Lot Owners representing at least sixty-seven percent (67%) of the total voting power in the Association; and (ii) Eligible Holders representing at least fifty-one percent (51%) of the voting power of Lots that are subject to mortgages held by Eligible Holders. A change to any of the provisions governing the following would be considered as material:

- Voting rights;
- Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- Reductions in reserves for maintenance, repair and replacement of Common Area;
- Responsibility for maintenance and repairs;
- Reallocation of interest in the Common Area, or rights to their use;
- Redefinition of any Lot boundaries;

- Convertibility of Lots into Common Area or vice-versa;
- Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;
- Hazard or fidelity insurance requirements;
- Imposition of any restrictions on the leasing of Lots;
- Imposition of any restrictions on a Lot Owner's right to sell or transfer his/her Lot;
- A decision by the Association to establish self-management if processional management had been required previously by the Project Documents or by an Eligible Holder;
- Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Project Documents;
- Any provisions that expressly benefit mortgage holders, insurers or guarantors.

11.6 Implied approval of an Eligible Holder under Paragraph 11.5 may be assumed when the Eligible Holder fails to submit a response to any written proposal for an amendment or for termination of the legal status of the Project, within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

11.7 Each Eligible Holder and each Eligible Insurer or Guarantor, upon written request therefore, is entitled to timely written notice of the following:

- Any sixty (60) day delinquency in the payment of assessments for charges owed by the Owner of any Lot on which it holds the mortgage;
- A lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- Any proposed action that requires the consent of a specified percentage of Eligible Holders.

11.8 In addition to the foregoing, the Board shall have the power and authority, without the vote of the Association, to enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, TMC, the FNMA or the GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first mortgages encumbering Lots. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their residential Lots, if such agencies approve the Property as a qualifying Project under their respective policies, rules and regulations, as adopted from time-to-time.

## ARTICLE 12

### DURATION AND AMENDMENT

12.1 Duration. This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirement of a material amendment to this Declaration as set forth in Paragraph 12.2.

12.2 Amendment Procedures. As long as the Declarant owns any Lot within the Project, then the Declarant shall have the sole and exclusive right to amend this Declaration without any vote or approval by any Lot Owners or anyone else. After the Declarant sells the last Lot, then amendments to the Declaration shall be made as follows: Notice of the subject matter of a proposed amendment to this Declaration, in reasonably detailed form, shall be included in the notice of any meeting of the Association at which the proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of the Members of the Association. The resolution for amending

these CCR's shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than sixty-seven percent (67%) of the total voting power of the Association.

Notwithstanding the foregoing, the following special voting provisions shall apply:

- a) Amendments of a material nature shall be enacted in compliance with the provisions of Article 12.2 and Article 2 of this Declaration;
- b) The specified percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes prescribed for action to be taken under that provision;
- c) A certificate, signed and sworn to by two (2) officers of the Association, that the record Owners of the required number of Lots (and the required number of first mortgagees, where applicable) have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years.

### ARTICLE 13 DECLARANT'S RIGHTS AND RESERVATIONS

Declarant is undertaking the work of construction of the Project. The completion of that work and the sale, rental, and other disposal of the Lots is essential to the establishment and welfare of the Property as a residential project. In order that said work may be completed and said Property be established as a fully occupied residential project as rapidly as possible, nothing in this Declaration shall be understood or construed to:

13.1 Prevent Declarant, its contractors, or subcontractors from doing on the Property or within any Lot, whatever is reasonably necessary or advisable in connection with the completion of the work; or

13.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and disposing of the Lots by sale, lease or otherwise; or

13.3 Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease or disposition thereof; or

13.4 Prevent Declarant from designating Declarant owned sites within the Property for fire, police and utility facilities, public schools and parks, and other public facilities in accordance with the PUD and applicable laws. The sites may include Common Area if otherwise permitted by applicable land use regulations. Such property shall be exempt from assessment under Article 6.

So long as Declarant, or Declarant's successors-in-interest and assigns, owns one or more of the Lots established and described in this Declaration, and except as otherwise specifically provided herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

In the event Declarant shall convey all of its right, title and interest in and to the Property to any third person, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such third person shall be obligated to perform all such duties and obligations of the Declarant.

**ARTICLE 14**  
**GENERAL PROVISIONS**

14.1 Enforcement. The Association (acting through the Board), any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Project shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

14.2 Invalidity of Any Provision. Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

14.3 Conflict of Project Documents. If there is any conflict among or between the Project Documents, the priority shall be given to Project Documents in the following order: Declaration, Articles; Bylaws; and rules and regulations of the Association.

The undersigned, being the Declarant herein, has executed this Declaration on this 2<sup>nd</sup> day of August, 2005.

Declarant: MT III LLC,  
a Washington Limited Liability Company  
By and Through its Managing Member  
Dagney Taggart LLC,  
a Washington Limited Liability Company




STATE OF WASHINGTON     )  
  ) ss  
County of Spokane         )

On this 1<sup>st</sup> day of August, 2005, before me, the undersigned, a Notary in and for the State of Washington, personally appeared Lorri A. Taylor, known or identified to me to be the Managing Member of Dagney Taggart LLC, a State of Washington Limited Liability Company, the Managing Member of MT III LLC, a State of Washington Limited Liability Company, whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



  
Notary Public in and for the State of Washington

Commission Expires: Feb. 22, 2009

## EXHIBIT A

### Legal Description for Entire Property Composing the Project

#### PERIMETER OF THE VILLAGES @ CHAPEL HILL

A parcel of land in a portion of the Southwest quarter and the Southeast quarter of Section 15, Township 9 North, Range 29 East, Willamette Meridian, Franklin County, Washington, more particularly described as follows:

Beginning at the Northwest corner of the Southwest quarter of said Section 15;  
Thence North 88°38'28" East along the North line of said Southwest quarter for a distance of 593.60 feet to a point on the Southerly Right-of-Way line of State Route 182;  
Thence along said Southerly Right-of-Way line the following courses:  
Thence South 71°21'40" East, for a distance of 101.27 feet;  
Thence South 72°40'03" East, for a distance of 602.99 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said Southerly Right-of-Way line the following courses:

Thence South 66°57'25" East, for a distance of 750.00 feet;

Thence South 62°22'59" East, for a distance of 250.80 feet;

Thence South 66°57'25" East, for a distance of 883.11 feet;

Thence leaving said Southerly Right-of-Way line South 23°02'35" West, for a distance of 270.00 feet;

Thence North 66°57'25" West, for a distance of 950.69 feet;

Thence along the arc of a 730.00 feet radius tangent curve to the left, for an arc distance of 288.40 feet, through a central angle of 22°38'08", the radius of which bears South 23°02'35" West, the long chord of which bears North 78°16'29" West for a chord distance of 286.53 feet;

Thence North 89°35'33" West, for a distance of 301.99 feet;

Thence North 85°43'29" West, for a distance of 148.24 feet;

Thence North 89°35'33" West, for a distance of 12.29 feet;

Thence North 00°11'22" West, for a distance of 560.32 feet to the **TRUE POINT OF BEGINNING**.

**CONTAINING:** 585,876 square feet or 13.45 acres of land, more or less.  
Perimeter: 4415.85 feet

Together with and subject to easements, reservations, covenants and restrictions apparent or of record.