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RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

NNP-Creekstone, LLC  
c/o Newland Northwest  
16701 S.E. McGillivray Blvd., Suite 150  
Vancouver, Washington 98683

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR**  
**CREEKSTONE**

**Grantor (i.e. Declarant):** NNP-CREEKSTONE, LLC

**Grantee (i.e. Plat Name):** CREEKSTONE

**Legal Description (abbreviated):**

Ptn. Section 9-8-29, records of Benton County, Washington

**Full Legal Description:** Set forth on attached Exhibit A

**Assessor's Tax Parcel ID Nos.:** 1-0989-200-0003-000  
1-0989-200-0004-000



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## TABLE OF EXHIBITS

Exhibit	Subject Matter
"A"	Property Initially Submitted (Property Subject to Declaration)
"B"	Property Subject to Annexation
"C"	Bylaws of Creekstone Community Assn.

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR  
CREEKSTONE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CREEKSTONE ("Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2001, by NNP-CREEKSTONE, LLC, a Delaware limited liability company, duly authorized to transact business in the state of Washington (the "Declarant").

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference.

Declarant intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property which is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and shall be appurtenant thereto, and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of the Washington Condominium Act, Chapter 64.34 RCW.



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## Article I. Definitions

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility.

Section 2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Creekstone Community Assn., as filed with the Secretary of State of the State of Washington.

Section 3. "Association" shall mean and refer to Creekstone Community Assn., a nonprofit corporation, its successors or assigns. The use of the term "association" or "associations" in lower case shall refer to any condominium association or other owners association having jurisdiction over any part of the Properties.

Section 4. "Board of Directors" or "Board" shall mean and refer to the elected body having its normal meaning under Washington corporate law.

Section 5. "Bylaws" shall mean and refer to the Bylaws of Creekstone Community Assn., attached hereto as Exhibit "C" and incorporated herein by reference, as they may be amended from time to time.

Section 6. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article III, Section 2, of the Bylaws.

Section 7. "Common Area" shall be an inclusive term referring to all General Common Area as defined herein.

Section 8. "Common Assessments" shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

Section 9. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred during the Class "B" Control Period for initial



development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class "A" vote of the Association.

Section 10. "Community Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties as set forth in Article XI. Such standard may be more specifically determined by the Board of Directors and the New Construction Committee. In no event, however, shall such standard be reduced below that standard established by the Declarant as of the termination of the Class "B" Control Period.

Section 11. "Declarant" shall mean and refer to NNP-Creekstone, L.P., a Delaware limited liability company, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 12. "General Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners.

Section 13. "Lighting Improvement District" or "LID" shall mean and refer to a local unit of special purpose government which has been created to provide street light systems and lighting services to the area in which the Properties are located.

Section 14. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein and in the Bylaws.

Section 15. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 16. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 17. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 18. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then the purchaser (rather than the fee owner) will be considered the Owner. If a Unit is subject to a written lease with a term in excess of one (1)



year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors the lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all privileges of membership in the Association.

Section 19. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 20. "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 21. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 3 of this Declaration.

Section 22. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Association pursuant to Article VIII, Section 2 of this Declaration to subject additional property to this Declaration.

Section 23. "Unit" shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of the lot owned as well as any structure thereon. The term shall not include apartment buildings or complexes or other multi-family structures intended for development as rental projects.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the site plan approved by Declarant, until such time as a certificate of occupancy is issued on all or a portion thereof by the building department of Benton County, Washington or the City of Kennewick, as applicable. After issuance of a certificate of occupancy on any portion thereof, the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.



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## Article II. Property Rights

Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;
- (b) the right of the Association to limit the number of guests, and to adopt rules regulating the use and enjoyment of the Common Area;
- (c) the right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Declaration, Bylaws, or rules of the Association after notice and a hearing pursuant to Article III, Section 23 of the Bylaws;
- (d) the right of the Association, acting through the Board, to grant easements and to dedicate or transfer all or any part of the Common Area pursuant to Article XIII, Section 5 hereof;
- (e) the right of the Association to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;
- (f) the right of the Board to permit nonmember use of the Common Area upon payment of use fees established by the Board; and
- (g) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the approval requirements set forth in Article XIV, Sections 2 and 3 hereof.

Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.



The initial Common Area shall be conveyed to the Association prior to the conveyance of a Unit to any Unit purchaser other than a builder or developer holding title for the purpose of development and resale.

### Article III. Membership and Voting Rights

Section 1. Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Bylaws.

Section 2. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any. Therefore, each Class "A" Member shall be an Owner.

Class "A" Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote per Unit.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit and more than one (1) Person holds the interest in such Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the Bylaws, are specified elsewhere in this Declaration and the Bylaws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III, Section 2, of the Bylaws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:



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(i) Expiration of the Class "B" Control Period pursuant to Article III of the Bylaws;

(ii) When seventy-five percent (75%) or more of the Units are owned by Persons other than the Declarant and builders or developers holding title for the purpose of development and resale; or

(iii) When, in its discretion, the Declarant so determines.

#### Article IV. Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements, including all private streets, situated upon the Common Areas, all entry features within the Properties, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Common Assessment, notwithstanding that the Association may be entitled to reimbursement from the owner(s) of certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owners(s) thereof.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the LID or to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 2. Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, parking areas and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner thereof in accordance with Article X, Section 3 of this Declaration; provided, however, except when entry is required due to an emergency



situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

### Section 3. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction on the Units which shall serve and separate any two (2) adjoining Units shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it. If the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. If any dispute arises concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

## Article V.

### Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy



providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents or any other person who has a right to occupy a unit. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association and shall be included in the Common Assessment, as defined in Article I and as more particularly described in Article X, Section 1. The policies may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in subsection (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in the State of Washington which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.

(b) All policies on the Common Area shall be for the benefit of the Association and its Members and their Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.



(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Benton County, Washington area.

(f) The Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or nonrenewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than one-sixth (1/6) of the annual Common Assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or nonrenewal.





Section 2. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Unit(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article V for insurance on the Common Area, unless the Association carries such insurance (which it is not obligated to do hereunder). Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Unit in a neat and attractive condition consistent with the Community-Wide Standard.

### Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Members representing at least seventy-five (75%) percent of the total Class "A" vote of the Association and the Class "B" Member (so long as such membership shall exist) shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area or common property of a Neighborhood shall be repaired or reconstructed.



(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against all Owners on the same basis as provided for Common Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

#### Article VI. No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

#### Article VII. Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of



Members representing at least sixty-seven (67%) percent of the total Class "A" vote in the Association) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvement have been constructed, then, unless within sixty (60) days after such taking the Declarant (during the Class "B" Control Period only) and Members representing at least seventy-five (75%) percent of the total Class "A" vote of the Association shall otherwise determine, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

#### Article VIII. Annexation of Additional Property

Section 1. Annexation Without Approval of Class "A" Membership. Subject to Article XIV, Section 3, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "B" attached hereto and incorporated herein by this reference, has been subjected to this Declaration or December 31, 2020, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B". Such annexation shall be accomplished by filing in the Auditor's Office of Benton County, Washington, a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Subject to Article XIV, Section 3, Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.



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Section 2. Annexation With Approval of Class "A" Membership. Subject to Article XIV, Section 3, and subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B", and following the expiration of the right in Section 1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class "A" votes of the Association present at a meeting duly called for such purpose and the consent of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Article VIII, Section 1.

Annexation shall be accomplished by filing of record in the Auditor's Office of Benton County, Washington, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Subject to Article XIV, Section 3, Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B" which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

Section 4. Withdrawal of Property. Subject to Article XIV, Section 3, Declarant reserves the right to amend this Declaration unilaterally at any time during the Class "B" Control Period, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

Section 5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Article VIII, Section 1. Any amendment is also subject to Article XIII, Section 2 and Article XIV, Section 3.



Article IX.  
Rights and Obligations of the Association

Section 1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the Bylaws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county ordinances and to permit Benton County or the City of Kennewick to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. Governmental Interests. During the Class "B" Control Period, the Declarant shall have the authority to designate sites within the Properties, which may include Common Area owned by the Association, for fire, police, water, and sewer facilities, public schools and parks, and other public facilities.



Article X.  
Assessments

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 6 of this Article. There shall be two (2) types of assessments: (a) Common Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Section 3 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

Common Assessments shall be levied equally on all Units. Each Unit shall be subject to Common Assessments on the first date of the first month following the month in which such Unit is either issued a certificate of occupancy by the building department of Benton County or the City of Kennewick, as applicable, or is actually occupied, whichever is earlier, subject to the following exceptions:

(a) If construction of a residence is not commenced on a Unit by the first day of the twelfth (12<sup>th</sup>) month following the month in which an Owner (excluding Declarant) acquires record title to such Unit or a purchaser's interest under a recorded contract of sale, such Unit on that day shall become subject to Common Assessments. For purposes of this Section 1 of Article X, the time construction of a residence is commenced shall mean grading or other site preparation preparatory to construction of improvements on the Unit.

(b) If construction of a residence is commenced on a Unit prior to the first day of the twelfth (12<sup>th</sup>) month following the month in which an Owner (excluding Declarant) acquires record title to such Unit or a purchaser's interest under a recorded contract of sale, and a certificate of occupancy by the building department of Benton County or the City of Kennewick, as applicable is not issued, or the residence on such Unit is not actually occupied, by the first day of the sixth (6<sup>th</sup>) month following the month in which construction was commenced, then such Unit shall become subject to Common Assessments on that day (even if that day is prior to the end of the 12-month period described in subparagraph (a) above.

(c) Declarant shall not at any time be subject to Common Assessments on Units owned by Declarant.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Washington law) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a



continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the Common Assessments may be paid in monthly installments. Each Owner, by acceptance of a deed to his or her Unit, acknowledges that all Common Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; nevertheless, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may revoke the privilege of paying in installments and require annual assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by nonuse of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials for the payment of some portion of the Common Expenses.

Section 2. Computation of Common Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The



budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared as provided in Section 5 of this Article.

The Common Assessment to be levied against each Unit for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves. In determining the amount of the Common Assessment, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Units subject to assessment under Section 6 hereof on the first day of the fiscal year for which the budget is prepared and the number of Units reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right to annex additional property pursuant to Article VIII, Section 1 hereof, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above); provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Members by Members representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Article II, Section 4, of the Bylaws, which petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

### Section 3. Special Assessments.

(a) Entire Membership. The Association may levy Special Assessments from time to time provided such assessment receives the affirmative vote or written consent of Members representing a majority of the total Class "A" votes in the Association and the affirmative vote or written consent of the Class "B" Member, if such then exists. Special





Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines. Declarant shall not at any time be subject to Special Assessments on Units owned by Declarant.

(b) Less Than All Members. The Association may levy a Special Assessment against any Member individually and against such Member's Unit to reimburse the Association for costs incurred in bringing a Member and such Member's Unit into compliance with the provisions of this Declaration, any amendments hereto, the Articles, the Bylaws, or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 4. Lien for Assessments. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments, late charges, interest, costs, and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5. Reserve Budget and Capital Contribution. The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 2 and 3 of this Article.

Section 6. Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence as to each Unit on the first day of the month following the conveyance of the Unit to a Person other than Declarant. However, any Person

*Amended*

*Amended*



who purchases a Unit shall only be obligated to pay one-half (1/2) of the Regular Common Assessment levied on such Unit until the first day of the month following the issuance of a certificate of occupancy on such Unit by the building department of Benton County, Washington, or the City of Kennewick, as applicable. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Section 7. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Washington law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 8. Capitalization of Association. Upon acquisition of record title to a Unit by the first purchaser thereof other than the Declarant or an Owner who purchases solely for the purpose of constructing a dwelling thereon for resale, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Common Assessment per Unit for that year as determined by the Board. This amount shall be in addition to, not in lieu of, the annual Common Assessment levied on the Unit and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Section 9. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Common Assessments and Special Assessments:

- (a) all Common Area; and



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(b) all property dedicated to and accepted by any governmental authority, public utility or the LID, including, without limitation, public schools, public streets, public lights, and public parks.

#### Article XI. Architectural Standards

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained pursuant to Sections 1 and 2 below. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications prepared by a licensed architect which are approved by Benton County or the City of Kennewick, as applicable, and the New Construction Committee (NCC).

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committees established in Sections 1 and 2 of this Article XI. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

Section 1. New Construction Committee. The NCC shall consist of at least three (3), but not more than five (5), persons and shall have exclusive jurisdiction over all original construction on any portion of the Properties. During the Class "B" Control Period, the Declarant retains the right to appoint all members of the NCC who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC, who shall serve and may be removed at the discretion of the Board of Directors. The members of the NCC may include architects, engineers and other persons who are not members of the Association.

The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate a Development Standards Manual and a Lot Developer's Manual which shall set



forth design and development guidelines and application and review procedures. Copies shall be available from the NCC for review. The guidelines and procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend them. It shall make the guidelines and procedures available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

In the event that the NCC fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within forty-five (45) days after submission thereof, the plans shall be deemed approved.

Section 2. Modifications Committee. The Board of Directors may establish a Modifications Committee (MC) to consist of at least three (3) and no more than five (5) persons, all of whom shall be appointed by, and shall serve at the discretion of, the Board of Directors. Members of the MC may include architects or similar professionals who are not Members of the Association. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto. Notwithstanding the above, the MC shall not take any action or approve any plans inconsistent with the guidelines promulgated by the NCC.

The MC shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with those of the NCC. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his or her Unit, or to paint the interior of his or her Unit any color desired; provided, modifications or alterations to the interior of his or her screened porches, patios and similar portions of a Unit visible from outside the Unit shall be subject to approval hereunder. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

Section 3. No Waiver of Future Approvals. The approval of either the NCC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.



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Section 4. Variance. The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 5. Compliance With Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the NCC or MC may be excluded by the Board from the Properties without liability to any person, subject to the notice and hearing procedures contained in Article III, Section 23 of the Bylaws.

Section 6. No Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither committee shall bear any responsibility of ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

## Article XII. Use Restrictions

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and amendments hereto). Any Supplemental Declaration or amendments to this Declaration may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, canceled or modified in a regular or



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special meeting of the Association by the vote of Members representing a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

Whenever in the use restrictions set forth in this Article XII, the consent or approval of the Board of Directors is required for certain activities, the Board of Directors may from time to time adopt resolutions designating an authorized representative to give such consent or approvals in lieu of the Board, and such resolutions may include conditions to and limitations on the authority granted by the Board.

Section 1. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except entry and directional signs installed by Declarant. However, the Board of Directors may from time to time, adopt resolutions permitting "for sale" signs on Units without the written consent of the Board, subject to such restrictions as the Board may include in such resolutions. If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors or Declarant (during the Class "B" Control Period) shall each have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties shall be permitted within the Properties.

## Section 2. Parking and Prohibited Vehicles.

(a) **Parking.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Units or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors may adopt. The Declarant (during the Class "B" Control Period) and/or the Association may designate certain on-street parking areas on the private streets within the Properties for visitors or guests subject to reasonable rules.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board, except as set forth in Article XIII, Section 15 of this Declaration. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties



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during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section 23 of the Bylaws.

Section 3. Occupants Bound. All provisions of the Declaration, Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants, guests and invitees of any Unit. Every Owner shall cause all Occupants of his or her Unit to comply with this Declaration, the Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such Occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of this Declaration, the Bylaws, and rules and regulations adopted pursuant thereto.

Section 4. Animals and Pets.

(a) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of two (2) may permitted in a Unit.

(i) Excluded from the foregoing restriction shall be birds, fish, small reptiles and small animals which are kept in cages or tanks which are permanently kept within the interior of a dwelling or residence situated on the Unit.

(ii) The Owner of a Unit may apply to the Board of Directors to increase the maximum number of two (2) household pets set forth above if the increased number and the type of household pet or pets would not be reasonably objectionable to the Owners of neighboring Units or other Units in the vicinity. The Board, in its sole discretion, may grant such applications subject to such terms, conditions and modifications as the Board may determine to be appropriate to accomplish the intent and purpose of this Section 4 and the other use restrictions of Article XII.

(b) Provided, however, and notwithstanding anything to the contrary set forth in paragraph (a) above, those pets which are permitted to roam free, or, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board; and if the Owner fails to honor such request, the pet may be removed by the Board.

(c) No pets shall be kept, bred, or maintained for any commercial purpose.



(d) Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person.

Section 5. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 6. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be undertaken on any part of the Properties.

Section 7. Antennas. To the extent limitations are permitted by applicable law, no exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, without the prior written consent of the Board. In order to comply with the applicable rules of the Federal Communications Commission relating to the installation of an antenna or dish, and notwithstanding any other provision of this Declaration expressing or implying to the contrary, the Board shall act promptly in responding to any request for installation thereof, and any restrictions which the Board places on the installation of such antenna or dish shall not (a) unreasonably delay or prevent its installation, maintenance or use (b) unreasonably increase the cost of its installation, maintenance or use, or (c) preclude reception of an acceptable quality signal. Provided, however, there may be installed within a Unit a satellite systems dish not to exceed one (1) meter (i.e. 39.37 inches) in diameter, screened by fencing or tasteful landscaping so as to be concealed from the view of neighboring Units, streets, and property located adjacent to the Unit. The Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna or





cable system for the benefit of all or a portion of the Properties, should any such master system or systems be utilized by the Association and require any such exterior apparatus.

Section 8. Basketball Equipment, Clotheslines, Garbage Cans, Tanks, Etc. All basketball hoops and backboards shall be portable and shall be confined to a driveway or backyard within a Unit. Basketball hoops and backboards shall not be affixed to a garage, residence, stationary post or other structure on a Unit. When not in use, basketball hoops and backboards shall be stored out of sight of neighboring Units, Persons on adjacent streets and other property located adjacent to the Unit. Clotheslines, garbage cans, above ground storage tanks, mechanical equipment, and other similar items on Units shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

Section 9. Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 10. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

Section 11. Pools. No above-ground swimming pools shall be erected, constructed or installed on any Unit.

Section 12. Sprinklers and Irrigation. All sprinkler or irrigation systems installed in Units which are connected to a public or potable water supply must include the necessary back flow control devices. With respect to any sprinkler or irrigation system utilized by a Unit, the water shall be confined within the boundaries of such Unit. Provided, however, this Section 12 shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to annex property in accordance with Article VIII, Section 1.

Section 13. Tents, Trailers and Temporary Structures Except as may be permitted by the Declarant or the NCC or the Board of Directors, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties.



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Section 14. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic tanks and drain fields are prohibited on the Properties.

Section 15. Tree Removal. No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as such committees may determine necessary in its sole discretion to mitigate the damage.

Section 16. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit a clear line of vision across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 17. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any Unit.

Section 18. Lighting. Except for seasonal decorative lights, which may be displayed between Thanksgiving and January 10 only, all exterior lights must be approved in accordance with Article XI of this Declaration.

Section 19. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Article XI of this Declaration.

Section 20. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Unit unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the NCC or MC, as appropriate.

Section 21. Wetlands, Lakes and Water Bodies. All wetlands, lakes, stormwater ponds and other ponds, streams, biofiltration swales and water retention facilities within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, or use of personal flotation



devices, shall be permitted without the prior approval of the Board. The Association shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of wetlands, lakes, stormwater ponds and other ponds, streams, biofiltration swales or water retention facilities within the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by the Declarant or the Association.

Section 22. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 23. Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit except as approved in accordance with Article XI of this Declaration.

Section 24. Business Use. No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. The Board may from time to time restrict, limit and/or condition garage sales, moving sales or similar activities on a Unit.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this section. This Section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program.

Section 25. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 26. Leasing of Units.

(a) Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or Persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) Leasing. In order (i) to protect the equity of Owners of Units; and (ii) to carry out the purpose for which the Properties were formed by preserving the character of the Properties as a homogenous residential development of predominantly owner-occupied homes and by preventing the Properties from assuming the character of an apartment, renter-occupied complex, leasing of a Unit shall be prohibited, except in the case of undue hardship as provided below, and except in the case of an Owner who is the initial builder or developer of the dwelling on a Unit for a term not to exceed three (3) years from the date of substantial completion of the dwelling; however, should the initial builder or developer sell, transfer or convey the Unit to any other Person, the exception to the leasing prohibition provided in this clause shall end ninety (90) days after the sale, transfer or conveyance of the Unit to such other Person.

(c) Undue Hardship. The Board of Directors shall be empowered to allow reasonable leasing of Units upon written application to avoid undue hardship on an Owner. By way of illustration and not of limitation, examples of circumstances which would constitute "undue hardship" are those in which (i) an Owner must relocate his or her residence outside the Tri-Cities, Washington area, cannot sell his or her Unit within ninety (90) days from the date the Unit was placed on the market, and the Owner continues to offer and advertise the Unit for sale at a reasonable price no greater than its current appraised market value; (ii) the Owner dies and the Unit is being administered by his or her estate; (iii) the Owner takes a leave of absence or temporarily relocates outside the metropolitan Tri-cities area and intends to return to reside in the Unit; or (iv) the Unit is to be leased to a member of the Owner's immediate family (which shall be defined to include a spouse, child, parent, or parent-in-law). Those Owners who have demonstrated that their inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Board may lease their Units for such duration as the Board reasonably determines is necessary to prevent undue hardship notwithstanding the provisions of subsection (b).



Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. When an Owner's right to lease is approved by the Board, a copy of the lease shall be submitted to the Board within ten (10) days after it has been signed by both parties.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section 26. Any transaction which does not comply with this Section shall be voidable at the option of the Board.

(d) Leasing Provisions. Such leasing as is permitted by this Section 26 shall be governed by the provisions set forth below. Any written lease used in connection with the rental of a Unit in the Properties shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the Unit. Any tenant, by occupancy in a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) General. Units may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Board. No transient tenants may be accommodated in a Unit. All leases shall be in writing and in a form approved by the Association. All rentals must be for a term of no less than one (1) year. The Unit Owner must make available to the tenant copies of the Declaration, Bylaws, and the rules and regulations.

(ii) Liability for Assessments. Each tenant agrees to be personally obligated for the payment of all assessments against the Owner which become due during the term of the lease and any other period of occupancy by the tenant or which become due as a consequence of the tenant's activities which violate provisions of the Act, the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Unit Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment for a period of more than thirty (30) days after it is due and payable, then, upon request by the Board, the tenant shall pay to the Association all unpaid annual and special assessments, as lawfully determined and made payable during the term of the lease and any other period of occupancy by the tenant; provided, however, the tenant need



not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All such payments made by the tenant shall reduce, by the same amount, the tenant's obligation to make monthly rental payments to the lessor. If the tenant fails to comply with the Board's request to pay assessments, the tenant shall pay to the Association all late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney fees actually incurred, to the same extent the tenant would be required to make such payment to the Association if the tenant were the Owner of the premises during the term of the lease and any other period of occupancy by the tenant.

(iii) Compliance with Declaration, Bylaws and Rules and Regulations. The tenant shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to ensure compliance with the foregoing. The tenant acknowledges that the violation by the tenant or any occupant living with the tenant of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under the lease. The Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the tenant, or a Person living with the tenant, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, such fine shall be assessed against the tenant; provided, however, if the fine is not paid by the tenant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the tenant's failure to pay the fine. Unpaid fines constitute a lien against the Unit. Any tenant charged with violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

(iv) Use of Common Areas. The Owner transfers and assigns to the tenant, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area of the Properties, including, but not limited to, the use of any and all recreational facilities and other amenities.

Section 27. Laws and Ordinances. Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.



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### Article XIII. General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, shall be appurtenant thereto, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. Any amendment to this Declaration shall require prior approval from the United States Department of Housing and Urban Development ("HUD") and/or the Department of Veterans Administration ("VA") and/or a duly authorized representative of such federal agencies as long as there is Class "B" membership. Such approval while there is a Class B membership is sometimes hereinafter referred to as "HUD/VA Approval." Subject to HUD/VA Approval, prior to the conveyance of the first Unit, Declarant may unilaterally amend this Declaration. Thereafter, subject to HUD/VA Approval, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Auditor's Office of Benton County, Washington.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege during the Class "B" Control Period.

Section 3. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees,



reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any such easement of encroachment, between each Unit and such portion or portions of the Common Area as are adjacent thereto due to unintentional engineering errors, unintentional errors in original construction, unintentional building overhangs or projections, or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Area, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing action (not unintentional action) on the part of, or with the knowledge and consent of, the encroaching Owner or the encroaching Association, as the case may be.

Section 5. Easements for Utilities, Etc. There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B", the Association, and the designees of each (which may include, without limitation, Benton County, Washington, the City of Kennewick, the LID, and any utility), blanket easements upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, drainage systems, street lights, signage, entry features, all other portions of the Area of Common Responsibility, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Owner or occupant thereof.



Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier easements across all Units and the Common Areas for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to Benton County, Washington, the City of Kennewick, the LID, or to any other local, state, or federal governmental entity, subject to such approval requirements as may be contained in Article XIV, Sections 2 and 3 of this Declaration.

The LID shall have the power to levy taxes upon any and all Owners of any of the Properties, including Unit Owners and the Association, for providing lighting and related services to the Properties.

**Section 6. Easement for Future Development.** The Declarant and its duly authorized agents, representatives, and employees as well as its successors, assigns, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of the property described in Exhibit "B" attached hereto and by this reference incorporated herein, whether or not such property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on such property. Declarant agrees that it, its successors or assigns, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to the property described in Exhibit "B" and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property. Such agreement shall provide for sharing of costs based on the ratio which the number of residential dwellings on that portion of property which is served by the easement and is not made subject to this Declaration bears to the total number of residential dwellings within the Properties and on such portion of the property described in Exhibit "B".



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Section 7. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 8. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Unit for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and the Association rules, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

Section 11. Use of the Words "Creekstone." No Person shall use the words "Creekstone" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the words "Creekstone" in printed or promotional matter where such words are used solely to specify that particular property is located within Creekstone, and the Association shall be entitled to use the words "Creekstone" in its name.

Section 12. Compliance. Every Owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the Bylaws and rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owners.



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Section 13. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, HOWEVER, AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNIT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE NEW CONSTRUCTION AND MODIFICATIONS COMMITTEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE NEW CONSTRUCTION OR MODIFICATIONS COMMITTEES MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY UNIT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 14. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser



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or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Unit hereunder, including payment of assessments, notwithstanding the transfer of title to the Unit.

Section 15. Storage Area. The Declarant or the Association shall have the right to designate a portion of the Properties as a storage area as provided in this Section 15, to make improvements thereto, including, without limitation, paving, striping, signage, landscaping, lighting, fences, barriers and the like, as may be determined in the discretion of the Declarant or Association, as applicable. The portion designated as a storage area (the "Storage Area") shall be an Area of Common Responsibility as defined in Article I but not a part of the Common Area as described in Article I. The Storage Area shall be for the use of Owners for the storage of boats and other water craft, boat trailers, recreational vehicles, recreational trailers, recreational motor homes (but not mobile homes or manufactured mobile homes), campers and camper trailers owned or leased by Owners. The Association may limit the size of such vehicles or other equipment to be stored. The Storage Area may be used only for storage and for no other use or activity.

(a) The Association shall have the right, power and authority to adopt rules and regulations for the use of the Storage Area, to charge storage fees to each Owner using the Storage Area, to establish the term of the use of the Storage Area and renewals thereof, to prepare storage agreements which will include provisions customarily included (including imposition of fines and termination provisions for breach) in such storage agreements together with such other provisions as the Association may deem appropriate for the benefit of the Properties and the Members.

(b) In determining fees for the Storage Area, the Association may take into consideration the size of the specific spaces, the ease or difficulty of access thereto, the frequency of access to and from specific spaces and the location of specific spaces.

(c) An Owner shall have no right to space in the Storage Area except as may be approved by the Association, and then only to the extent determined by the Association. No Owner may utilize a space in the Storage Area unless and until a storage agreement has been signed by the Owner.

(d) If the Association, in its discretion, from time to time determines that there are excess spaces in the Storage Area not being used by Owners, the Association may, on such terms as it determines, permit the general public (i.e. Persons not Owners or Members) to lease certain storage spaces in the Storage Area.

(e) Fees received by the Association for the use of the Storage Area may, but are not required to, be used for expenses of the Association in connection with the Storage Area.

(f) The Association will not provide security to the Storage Area. Any Owner or Person using the Storage Area shall do so at such Owner's or Person's risk. The provisions of Article XIII, Section 13 of this Declaration (Security) shall apply to the Storage Area and to all equipment and property stored in the Storage Area.

(g) Each Owner who uses the Storage Area shall be bound by the rules and regulations adopted from time to time by the Association with respect to the Storage Area and communicated to the Owners and by the terms of the storage agreement signed by such Owner.

(h) The Association may from time to time, delegate some of the rights set forth in this Section 15 to one or more (i) members of the Board, (ii) Members or (iii) Persons who are not members, including, without limitation, a professional managing agent or manager.

(i) The Association may, from time to time, reconfigure the Storage Area, reduce the size of the Storage Area or eliminate the Storage Area in its entirety, subject to the terms of then outstanding storage agreements.

(j) All actions and determinations by the Association pursuant to this Section 15 shall be taken, made or authorized by the Board of Directors without the necessity of a vote by the Members.

Section 16. Common Irrigation System. The Declarant shall have the right, but not the obligation, to install an irrigation system with non-potable water to service the Units within the Properties and the Common Area, utilizing water from the Kennewick Irrigation District (or its successor). The Board of Directors may from time to time adopt rules and regulations as to the use of the irrigation water, including limiting each Unit to reasonable use of the irrigation water. Payment to the Kennewick Irrigation District shall be treated as Common Expenses, which will be funded by Common Assessments.

#### Article XIV. Mortgagee Provisions

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.



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Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Unit of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven (67%) percent of the first Mortgagees or Members representing at least sixty-seven (67%) percent of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (a decision, including contracts, by the Board shall not be subject to this provision where such decision is otherwise authorized by this Declaration);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (the issuance and amendment of architectural



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standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. HUD/VA Provisions. Anything to the contrary in this Declaration notwithstanding, the following requirements of HUD and/or VA (collectively "HUD/VA") shall control:

(a) The lien of any assessment is subordinate to the lien of any first Mortgage, as more particularly set forth in Article X, Section 7.

(b) Mortgagees are not required to collect assessments.

(c) Failure to pay assessments shall not constitute a default under any insured Mortgage.

(d) Approval by members representing at least sixty-seven percent (67%) of the total Class "A" votes in the Association is required to amend this Declaration, as more particularly set forth in Article XIII, Section 2. Amendment of this Declaration also requires prior approval by HUD/VA as long as there is Class "B" membership, as more particularly set forth in Article XIII, Section 2.

(e) The Common Area cannot be mortgaged or conveyed without the approval of members representing at least sixty-seven (67%) percent of the total Class "A" votes of the Association (excluding the Declarant). The dedication of Common Area also requires prior approval by HUD/VA as long as there is a Class "B" membership.

(f) If ingress or egress to any Unit is through Common Area, any conveyance or encumbrance of such area is subject to the easement of the Owner of the Unit.

(g) The Common Area shall be conveyed to the Association free and clear of all encumbrances (except easements, conditions and restrictions of record) before HUD



insures the first Mortgage on the Properties, and any provision in this Declaration conflicting with the foregoing HUD requirement shall have no force or effect.

(h) Absolute liability is not imposed on Owners of Units for damage to Common Area or to Units.

(i) Annexation of real property described in Exhibit "B" and annexation of any other real property, as provided in Article VIII, shall require prior approval by HUD/VA as long as there is a Class "B" membership.

(j) Declarant intends that this Declaration and the Articles and Bylaws shall comply with HUD certification requirements as set forth in HUD Form 4150.1 REV-1 (2/90), as contained in the U.S. Department of Housing and Urban Development publication entitled Valuation Analysis for Home Mortgage Insurance, February, 1990, Handbook 4150.1 REV-1, pages 11-23 and 11-24 (the "HUD Certification"), the provisions of which are incorporated herein, and in the event of any conflict between the HUD Certification and the Declaration, Articles or Bylaws, the provisions of the HUD Certification shall prevail.

Section 4. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 5. Notice to the Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 6. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 7. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Washington law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.





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Article XV.  
Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the Bylaws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Auditor's Office of Benton County, Washington. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) December 31, 2020, (b) the termination of the Class "B" membership, or (c) upon recording by Declarant of a written statement that all sales activity has ceased.



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84.00 Benton County

IN WITNESS WHEREOF, the undersigned Declarant has executed this  
Declaration this 1st day of FEBRUARY, 2001.

NNP-CREEKSTONE, LLC,  
a Delaware limited liability company

By: NEWLAND NATIONAL PARTNERS L.P.,  
a California limited partnership,  
Manager

By:

Name:

Title:

LA JONRA K. MONSEES  
V.P. & C.F.O.

By:

Name:

Title:

DEREK C. THOMAS  
SECRETARY

STATE OF CALIFORNIA )

County of San Diego )

) ss.  
)

On \_\_\_\_\_, 2001, before me, the undersigned Notary Public,  
personally appeared \_\_\_\_\_, personally known to me (or proved to  
me on the basis of satisfactory evidence) to be the person whose name is subscribed to the  
within instrument and acknowledged to me that he/she executed the same in his/her  
authorized capacity, and that by his/her signature on the instrument the person or entity upon  
behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary



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STATE OF CALIFORNIA )

County of *San Diego* ) ss.  
)

On *January 31*, 2001, before me, the undersigned Notary Public, personally appeared *FRANCIS MONSIEE & Sarah Thomas*, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

*Frances A. Elgas*  
Signature of Notary





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2000-023972  
Page: 8 of 12  
09/18/2000 08:55  
Benton County

12898LD2  
7-7-00  
MRN/eed

# *Mackay & Sposito Inc.*



ENGINEERS SURVEYORS PLANNERS  
1703 MAIN STREET VANCOUVER, WASHINGTON 98660  
WASHINGTON FAX OREGON EMAIL  
(360) 695-3411 (360) 695-0833 (503) 289-6726 msinc@mackaysposito.com

## EXHIBIT "A" LEGAL DESCRIPTION GRANTEE'S PARCEL KENNEWICK, WASHINGTON

Real property being a portion of the West half of Section 9, Township 8 North, Range 29 East of the Willamette Meridian, situated in the City of Kennewick, Benton County, Washington, more particularly described as follows:

### PARCEL A

The West half of the Northwest quarter, EXCEPT the North 40 feet,

AND

That portion of the West half of the Southwest quarter, lying, North of the centerline of the main Kennewick Irrigation District Canal.

EXCEPT therefrom that portion Deeded to the City of Kennewick by deed recorded under Auditor's File No. 351688.

### PARCEL B

The West half of the Northeast quarter of the Northwest quarter, Southeast quarter of the Northwest quarter, and that part of the East half of the Southwest quarter (E1/2 SW 1/4) lying northerly of the center line of the main canal, Kennewick Division, Yakima Reclamation Project, of Section 9, in Township 8 North, Range 29 East, W.M., EXCEPTING therefrom that part of the Southwest quarter of the Northeast quarter of the Northwest quarter of said Section 9 which lies within a strip of land 150 feet in width, the boundaries of said strip lying 75 feet distant from, on each side of, and parallel to the center line of Bonneville Power Administration's Richland Kennewick transmission line as the same is now established, and extended from the East line of said West half of the Northeast quarter of the Northwest quarter to lines drawn to said center line having



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Benton County



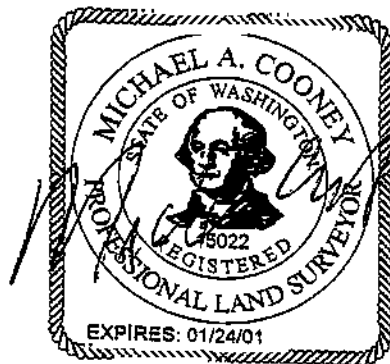
2000-023972  
Page: 9 of 12  
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19.00 Benton County

FIRST AMERICAN TITLE EAS

12898LD2  
7-7-00  
MRN/eed

EXHIBIT "A"

bearings of North 00° 59' 50" East and South 00° 59' 50" West from a point thereon distant 2089.1 feet measured southeasterly along said center line from the West line of said Section 9; ALSO EXCEPTING therefrom that part of the Northeast quarter of the Southwest quarter of said Section 9 heretofore conveyed to the City of Kennewick under deed dated December 20, 1955.



7/07/00



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84.00 Benton County

FIRST AMERICAN TITLE COV



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FIRST AMERICAN TITLE EAS



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Benton County

FIRST AMERICAN TITLE COV 94.00

**EXHIBIT "B"**

**Property Subject to Annexation**

**NONE**



2003-058639

Pg: 1 of 5

12/01/2003 11:09A

23.00 Benton County

EXCISE TAX PAID

FRONTIER TITLE &amp; ESC D

AFTER RECORDING RETURN TO:

DE-103K07142

Creekstone Community Assn.

c/o Newland Communities BENTON COUNTY WA

16701 S.E. McGillivray Boulevard, Suite 150

Vancouver, Washington 98683

RECEIVED  
DEC 15 2003

NEWLAND NORTHWEST

## STATUTORY WARRANTY DEED

E.A.-M.I.

FRONTIER TITLE CO.

**Grantor:** NNP-Creekstone, LLC**Grantee:** Creekstone Community Assn.**Abbreviated Legal Description:** Portion of Section 9, Township 8 North, Range 29 East of the Willamette Meridian, Benton County, Washington**Full Legal Description.** Set forth on attached Exhibit A.

1-0989-200-0010-000

**Assessor's Tax Parcel No(s):** see legal descriptions**Reference No(s). of Related Documents:** 2001-015821, 2001-015820, 2001-015819, 2002-00906, 2003-018065, 2003-018066,

The Grantor, NNP-CREEKSTONE, LLC, a Delaware limited liability company, for and in consideration of TEN DOLLARS AND OTHER VALUABLE CONSIDERATION in hand paid, conveys and warrants to the Grantee, CREEKSTONE COMMUNITY ASSN., a Washington nonprofit corporation, the real estate situated in the County of Benton, State of Washington, described in Exhibit A attached hereto and by this reference incorporated herein.



2003-058639

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23.00 Benton County

FRONTIER TITLE &amp; ESC D

Subject to and excepting covenants, conditions, restrictions, bylaws, easements, rights-of-way, exceptions and reservations now of record or as shown on the recorded plats described in the attached Exhibit A.

Dated: November 17th, 2003.

NNP-CREEKSTONE, LLC,  
a Delaware limited liability company

By: 

Davis Wood, Jr. Vice President

By: 

Name:

James H. McLennan  
Vice President & C.F.O.


Title: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF CLARK )

On November 17th, 2003, before me, the undersigned, a Notary Public in and for the State of Washington duly sworn, personally appeared Davis Wood, Jr., to me known to be the Vice President of NNP-Creekstone, LLC, the company that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath that he is authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year first above written.

STEPHANIE TERRILL  
NOTARY PUBLIC  
STATE OF WASHINGTON  
COMMISSION EXPIRES  
AUGUST 27, 2007

  
Notary Public in and for the State of Washington  
Residing at: VANCOUVER, WA  
My commission expires: AUGUST 27, 2007

[Notary acknowledgment continued on following page]





2003-058639

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FRONTIER TITLE & ESC D

23.00 Benton County

STATE OF CALIFORNIA )  
 ) ss.  
County of San Diego )

On November 19, 2003, before me, M.A. Miller,  
notary public, personally appeared James H. McLennan, personally  
known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose  
name is subscribed to the within instrument and acknowledged to me that [he/she] executed  
the same in [his/her] authorized capacity, and that by [his/her] signature on the instrument, the  
person, or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

Signature



EXHIBIT A  
(Page 1 of 2)



FRONTIER TITLE & ESC D

2003-058639

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23.00 Benton County

13514LD7

7/10/03

PHK

www.mackaysposito.com

**MacKay & Sposito, Inc.**

ENGINEERS

SURVEYORS

PLANNERS

VANCOUVER

KENNEWICK



3321 West Kennewick Ave. Ste. 220 Kennewick, WA 99336 (509) 347-4248 (509) 374-4267 FAX

**LEGAL DESCRIPTION  
HOMEOWNERS ASSOCIATION**

REAL PROPERTY SITUATED IN THE CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON, BEING A PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN, AND BEING THOSE TRACTS, AS SHOWN ON THE FOLLOWING DESCRIBED PLATS:

**CREEKSTONE PLANNING UNIT 1, PHASE 1**

TRACTS 'A' THROUGH 'F' ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 140, AND AUDITOR'S FILE NUMBER 2001-015821  
1-0989-202-0003, 0004, 0005, 0006, 0007, 0008-000

**CREEKSTONE PLANNING UNIT 1, PHASE 2**

TRACT 'A' ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 139, AND AUDITOR'S FILE NUMBER 2001-015820  
1-0989-203-0005-000

**CREEKSTONE PLANNING UNIT 3, PHASE 1**

TRACTS 'A' THROUGH 'E' ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 138, AND AUDITOR'S FILE NUMBER 2001-015819  
1-0989-204-0004, 0005, 0006, 0007, 0008-000

**CREEKSTONE PLANNING UNIT 1, PHASE 3**

TRACTS 'A' THROUGH 'H' ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 165, AND AUDITOR'S FILE NUMBER 2002-00906  
1-0989-205-0008, 0009, 0010, 0011, 0012, 0013, 0014, 0015-000

EXHIBIT A  
(Page 2 of 2)

FRONTIER TITLE & ESC D



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29.00 Benton County

13514LD7  
7/10/03  
PHK

**CREEKSTONE PHASE 5**

TRACTS 'I' THROUGH 'L' ACCORDING TO THE PLAT THEREOF RECORDED IN  
VOLUME 15 OF PLATS, PAGE 207, AND AUDITOR'S FILE NUMBER 2003-018065

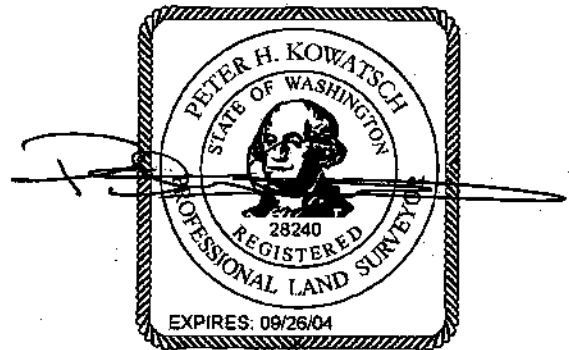
**1-0989-206-0001,0002,0003,0004-000**

**CREEKSTONE PHASE 8**

TRACTS 'L' THROUGH 'P' ACCORDING TO THE PLAT THEREOF RECORDED IN  
VOLUME 15 OF PLATS, PAGE 208, AND AUDITOR'S FILE NUMBER 2003-018066

**1-0989-207-0001,0002,0003,0004,0005-000**

**SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.**





2003-000708

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01/07/2003 11:11A

20.00 Benton County

FRONTIER TITLE & ESC AMD

When Recorded Return to:  
The Management Group  
7710 NE Vancouver Mall Drive  
Vancouver, WA 98662

## FRONTIER TITLE CO.

### AMENDMENT TO DECLARATION

#### FIRST AMENDMENT

#### TO PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

#### AFFECTING CREEKSTONE COMMUNITY ASSOCIATION

NOW, THEREFORE, the undersigned hereby adopts the following as an  
Amendment to the Covenants, Conditions and Restrictions:

1. RESOLVED, that Article XII, Section 2B is deleted, and therefore  
substituted with the following:

*2002 - 023435*

(b) **Prohibited Vehicles:** Commercial vehicles, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board, except as set forth in Article XIII, Section 15 of this Declaration. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during the daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section 23 of the Bylaws.



2003-000708

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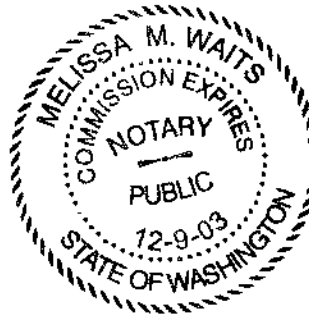
Benton County

CREEKSTONE COMMUNITY ASSOCIATION

a Washington State Non profit Organization

By

  
Davis E. Wood, Jr., Secretary



STATE OF Washington ) ss.

COUNTY OF Clallam ) ss.

On this 3<sup>rd</sup> day of January, 2003 before me, the undersigned Notary

Public in and for the State of Washington, duly commissioned and sworn,

personally appeared DAVIS E. WOOD, JR. to me known to be the

Secretary

of Creekstone Community Association, a Washington

State Non Profit Organization, and he/she acknowledged that he/she said

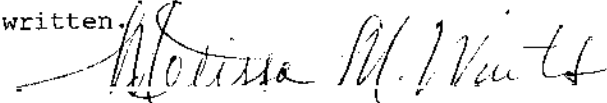
dully authorized Davis E. Wood of said organization executed said

instrument on behalf of said organization, and acknowledged the said

instrument to be the voluntary act and deed of said organization for the

uses and purposes therein mentioned.

Witness my hand official seal hereto affixed the day and year first above  
written.



Notary Public in and for the State of

Washington

. Residing at:

Vancouver, WA



2002-023435  
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06/14/2002 10:24A  
Benton County

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

NNP-Creekstone, LLC  
c/o Newland Northwest  
16701 S.E. McGillivray Blvd., Suite 150  
Vancouver, Washington 98683

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
CREEKSTONE**

**FRONTIER TITLE CO.**

FA-MI  
**Grantor (i.e. Declarant):** NNP-Creekstone, LLC.  
**Grantee (i.e. Plat Name):** Creekstone  
**Legal Description (abbreviated):** Ptn. Section 9-8-29, records of Benton County, Washington.  
**Full Legal Description:** Set forth on attached Exhibit A  
**Assessor's Tax Parcel ID No.:** 1-0989-200-0003-000  
1-0989-200-0004-000  
**Reference Numbers of Related Documents:** Auditor's No. 2001-003088

This First Amendment ("First Amendment") to Declaration of Covenants, Conditions, and Restrictions for Creekstone (the "Declaration") is made this 30<sup>th</sup> day of May, 2002, by NNP-Creekstone, LLC, a Delaware limited liability company, duly authorized to transact business in the state of Washington (the "Declarant"). This First Amendment is made with reference to the following recitals and these recitals shall constitute an integral part hereof.

### RECITALS

A. The Declaration being amended herewith was recorded on February 7, 2001, under Auditor's File No. 2001-003088, Records of Benton County, Washington. The real property subject to the Declaration is described in Exhibit A attached hereto and incorporated herein. Capitalized terms not defined herein shall have the meanings set forth in the Declaration.

B. Article X, Section-1 of the Declaration provides for the date upon which each Unit shall be subject to Common Assessments.

C. Article X, Section 6 of the Declaration, by reason of a typographical error, provides an inconsistent date as to when each Unit is subject to Common Assessments. This First Amendment is made to correct the typographical error.


### AMENDMENT


NOW, THEREFORE, Declarant hereby amends the Declaration to correct typographical error by deleting the first two sentences of Section 6 of Article X of this Declaration and substituting in lieu thereof the following one sentence:

"The obligations to pay the assessments provided herein shall commence at the time provided for in Section 1 of this Article X."

IN WITNESS WHEREOF, the undersigned Declarant has executed this First Amendment as of the date first written above.

 NNP-CREEKSTONE, LLC,  
a Delaware limited liability company,

By:   
Davis Wood, Jr.  
Vice President

By:   
Name: Joanna K. Monsees  
Title: Sr. Vice President



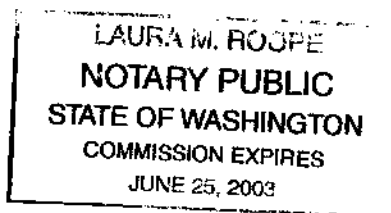
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23.00 Benton County

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Davis Wood, Jr. is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as Vice President of NNP-RIVERRIM, LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: *May 30*, 2002.



*Laura M. Roope*  
Notary Public in and for the State of  
Washington, residing at:  
*Vancouver*  
My commission expires: *6/25/03*

STATE OF CALIFORNIA )  
 ) ss.  
County of San Diego )

On *3 June 2002*, 2002, before me, the undersigned Notary Public, personally appeared *LaDONNA K. MONSEES*, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*Liz Groman*  
Signature of Notary





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MRN/eed

## *Mackay & Sposito Inc.*



ENGINEERS SURVEYORS PLANNERS  
1703 MAIN STREET VANCOUVER, WASHINGTON 98660  
WASHINGTON FAX OREGON EMAIL  
(360) 695-3411 (360) 695-0833 (503) 289-6726 msinc@mackaysposito.com

### EXHIBIT "A" LEGAL DESCRIPTION GRANTEE'S PARCEL KENNEWICK, WASHINGTON

Real property being a portion of the West half of Section 9, Township 8 North, Range 29 East of the Willamette Meridian, situated in the City of Kennewick, Benton County, Washington, more particularly described as follows:

#### PARCEL A

The West half of the Northwest quarter, EXCEPT the North 40 feet,

AND

That portion of the West half of the Southwest quarter, lying, North of the centerline of the main Kennewick Irrigation District Canal.

EXCEPT therefrom that portion Deeded to the City of Kennewick by deed recorded under Auditor's File No. 351688.

#### PARCEL B

The West half of the Northeast quarter of the Northwest quarter, Southeast quarter of the Northwest quarter, and that part of the East half of the Southwest quarter (E1/2 SW 1/4) lying northerly of the center line of the main canal, Kennewick Division, Yakima Reclamation Project, of Section 9, in Township 8 North, Range 29 East, W.M., EXCEPTING therefrom that part of the Southwest quarter of the Northeast quarter of the Northwest quarter of said Section 9 which lies within a strip of land 150 feet in width, the boundaries of said strip lying 75 feet distant from, on each side of, and parallel to the center line of Bonneville Power Administration's Richland Kennewick transmission line as the same is now established, and extended from the East line of said West half of the Northeast quarter of the Northwest quarter to lines drawn to said center line having



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EXHIBIT "A"

bearings of North 00° 59' 50" East and South 00° 59' 50" West from a point thereon distant 2089.1 feet measured southeasterly along said center line from the West line of said Section 9; ALSO EXCEPTING therefrom that part of the Northeast quarter of the Southwest quarter of said Section 9 heretofore conveyed to the City of Kennewick under deed dated December 20, 1955.



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