

Filed for Record at Request of and  
After Recording Return to:

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**AMENDED AND RESTATED DECLARATION  
AND COVENANTS, CONDITIONS, RESTRICTIONS,  
EASEMENTS AND RESERVATIONS FOR  
THREE WILLOWS DIVISION NO. 2**

Grantor: THREE WILLOWS, INC., a Washington corporation  
Grantee: Homeowners in Three Willows Division No. 2  
Tax Parcel Nos.: 342506-9040-08; -9057-08; -9052-03; -9040-81  
Legal Description: SW ¼ of SE ¼, Section 34, T 25 N, R 6 E, W.M.  
Related Documents: 9803311304

THIS AMENDED AND RESTATED DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR THREE WILLOWS DIVISION NO. 2 (the "Declaration") is made by THREE WILLOWS, INC., a Washington corporation ("Declarant") as of this 22<sup>nd</sup> day of February, 1999.

**RECITALS**

Declarant is the owner of certain real property (the "Property") in King County, Washington, legally described on Exhibit A hereto.

The Property is subdivided as shown in the Plat for Three Willows Division No. 2, recorded in volume 184 of Plats, pages 88 through 91 records of King County, Washington (the "Plat").

The Property was initially known as Tract D of The Plat of Three Willows, which plat was recorded on December 16, 1997, under Recording No. 9712160594, records of King County, Washington (the "Three Willows Original Declaration"). In the event of any inconsistency between the Three Willows Original Declaration and this Declaration with respect to the Property, the terms, covenants and conditions of this Declaration shall govern.

Declarant has previously subjected the Property to that certain Declaration and Covenants, Conditions, Restrictions, Easements and Reservations for Three Willows Division No. 2, recorded on March 31, 1998 under King County Recording No. 9803311304 (the "Original Declaration").

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Article 17 of the Original Declaration provides that Declarant may, at any time prior to the Transition Date, amend the Original Declaration on its sole signature. The Transition Date has not yet passed.

NOW, THEREFORE, Declarant wishes to amend the Original Declaration and declares that the Property subject to all restrictions and easements of the Plat, shall be held, transferred, sold, conveyed, leased, used and occupied subject to the covenants, conditions, restrictions, easements, assessments, and liens hereinafter set forth which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property and which shall be binding on all parties having any right, title, or interest in the Property or any portion thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLE 1. DEFINITIONS

Section 1.1 Words Defined. In this Declaration and any amendments hereto, the following terms shall have the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

1.1.1 "Apartment Building" shall mean a building on one or more Lots owned by a person or entity, consisting of two or more attached residential living units under one roof, but excluding Condominium Units and Duplexes.

1.1.2 "Association" shall mean Vintage 2 Homeowners Association described in Article 4 of this Declaration, its successor and assigns.

1.1.3 "Board" shall mean the Board of Directors of the Association, and "Directors" shall mean members of the Board of Directors.

1.1.4 "Common Areas" shall mean the real property (including the improvements and facilities thereon) described as all areas of the Property outside the Lots, including roadways, walkways, parking areas, parks, open space buffer and wetland areas shown on the Plat which will be conveyed by Declarant to the Association and held for the common use and enjoyment of the members of the Association, but shall not include any streets or other areas now or hereafter dedicated for public use. Common Areas specifically shall include Tract T as shown on the face of the Plat and shall also include the Community Common Areas more particularly defined in Section 2.10.

1.1.5 "The Community" shall mean the real property more particularly described in Section 2.10, which as of the date of this Declaration has been partially platted or shall be platted into Phases consisting of the Property, the Plat of Three Willows, the Plat of The Heights at Beaver Crest, the Plat of The Vistas at Beaver Crest Division 1, the Plat of The Vistas at Beaver Crest Division 2 and the Plat of The Vistas at Beaver Crest Division 3.



1.1.6 "Condominium" shall mean any Living Unit created in a declaration filed pursuant to the Horizontal Property Regimes Act, RCW 64.32, or any successor statute, including without limitation such units located in duplexes, fourplexes, and other multi-dwelling unit buildings, and any building composed of such units if the context shall require.

1.1.7 "Construction" and "Constructed" shall mean any construction, reconstruction, erection or alteration of an Improvement, except wholly interior alterations to a then existing Structure.

1.1.8 "Declarant" shall mean Three Willows, Inc., or such successor or assign (including a Participating Builder) as Declarant may designate by a writing recorded in the records of the Auditor of King County.

1.1.9 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, and Reservations for Three Willows Division No. 2, as hereby amended and restated, and as it may from time to time be further amended.

1.1.10 "Development Period" shall mean that period of time beginning on the date of the Original Declaration and ending on the Transition Date.

1.1.11 "First Mortgage" and "First Mortgagee" shall mean, respectively, (a) a recorded mortgage on a Lot that has legal priority over all other Mortgages thereon, and (b) the holder of a First Mortgage.

1.1.12 "Living Unit" shall mean a building or structure or any portion thereof situated in The Community that is designed and intended for use and occupancy as a residence by a Single Family, including attached or detached houses, Condominiums, and units within Apartment Buildings, and the appurtenant landscaping, fences, garages, driveways or parking areas occupying any Lot on which a Living Unit is situated. If a Living Unit is constructed on a Lot, the definition of Living Unit shall be deemed to encompass the underlying Lot, as well, but the definition shall not include any Lot on which a Living Unit has not yet received a certificate of occupancy or analogous certificate from the applicable governmental authority.

1.1.13 "Lot" shall mean any legally segmented and alienable portion of The Community shown upon any recorded subdivision map of the Property, the Plat of Three Willows, the Plat of The Heights at Beaver Crest, The Plat of The Vistas Division 1, the Plat of the Vistas Division 2 and any other Parcels within The Community, with the exception of streets and other public areas and the Common Areas.

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

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1.1.15 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.

1.1.16 "Owner" shall mean the record owner, whether one or more Persons, of fee simple title to any Lot or Living Unit within The Community, including without limitation the Property, including Participating Builders but excluding Mortgagees or other persons or entities having such interest merely as security for the performance of an obligation. Purchasers of assignees under recorded real estate contracts shall be deemed Owners as against their respective sellers or assignors.

1.1.17 "Parcel" shall mean any portion of The Community not yet included within a Phase.

1.1.18 "Participating Builder" shall mean a Person who acquires from Declarant one or more Lots for the purpose of improving the same for resale to future Owners.

1.1.19 "Person" shall mean an individual, corporation, partnership, association, trustee, or other legal entity.

1.1.20 "Phase" shall mean any portion of The Community that is segregated by Declarant's (or a related entity) filing for recording of a final plat, short plat, binding site plan, condominium declaration or other analogous recorded plan, map or document that creates Lots, Living Units or Common Areas.

1.1.21 "Plat" shall mean the recorded plat of Three Willows Division No. 2 and any amendments, corrections or addenda thereto subsequently recorded.

1.1.22 "Property" shall mean the land described on Exhibit A and such additions thereto as may hereafter be subjected to the terms of the Declaration, and all improvements and structures now or hereafter placed on the land.

1.1.23 "Single Family" shall mean a single housekeeping unit that includes not more than four adults who are legally unrelated.

1.1.24 "Structure" shall mean any building, fence, wall, driveway, walkway, patio, garage, storage shed, carport, mailboxes, swimming pool, rockery, dog run, climbing or play toy or structure, basketball hoop or the like.

1.1.25 "Transition Date" shall be as defined in Section 4.10.

Section 1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably.



Section 1.3 **Exhibits.** The following are exhibits to this Declaration:

Exhibit A - Legal Description of the Property

Exhibit B - Fence Detail

Exhibit C - Legal Description of real property within The Community

**ARTICLE 2. COMMON AREAS, LIMITED COMMON AREAS, EASEMENTS AND PARTY WALLS.**

Section 2.1 **Conveyance to Association.** Declarant hereby grants and conveys the Common Areas to the Association.

Section 2.2 **Use.** Each Owner shall have the right to use the Common Areas in common with all other Owners. The right to use the Common Areas shall be appurtenant to and pass with the ownership of each Lot and shall extend not only to each Owner, but also to his agents, tenants, members of his household, invitees, and licensees. The right to use the Common Areas shall be governed by the provisions of this Declaration, the Bylaws, and the rules and regulations of the Association.

Section 2.3 **Abandonment of Common Areas.** The Common Areas may not be abandoned, partitioned, subdivided, encumbered, sold, or transferred by the Association, any Owner or any third party, provided that, with the approval of at least 67% of the Owners and compliance with any restrictions on the face of the Plat, the Common Areas may be transferred to or encumbered for the benefit of a public agency, authority, or utility. The granting of easements for utilities or for other purposes consistent with the intended use of the Common Areas by the Owners shall not be deemed a partition or division.

Section 2.4 **Alteration of Common Areas.** Nothing shall be altered or constructed in or removed from any Common Areas except upon the prior written consent of the Board.

Section 2.5 **Private Easements.**

2.5.1 **Private Drainage and Utility Easements.** Declarant hereby creates private drainage and utility easements more particularly identified below and as shown on the face of the Plat, for the benefit of the identified Lots and Lot Owners. The Owners of benefited Lots shall share equally in the operation, maintenance and replacement costs for the drainage facilities and utilities located within the easements. The Board may assess the benefited Lots for such purposes.

Lot 183. 10 foot drainage easement to benefit Lot 182.

Lots 184 - 195. 10 foot drainage and utility easement to benefit those Lots.

Lot 197. 10 foot sanitary sewer easement to benefit Lot 196.

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Lots 198 - 201. 10 foot drainage and utility easement to benefit those Lots.

Lots 156 - 161. 10 foot drainage and utility easement to benefit those Lots.

Lots 162 - 171. 10 foot drainage and utility easement to benefit those Lots.

Lots 202 - 207. 10 foot drainage and utility easement to benefit those Lots.

Lots 212 - 217. 10 foot drainage and utility easement to benefit those Lots.

Lots 172 - 182. 15 foot drainage and utility easement to benefit those Lots.

2.5.2 Private Sanitary Sewer Easements. Declarant hereby creates a 10 foot private sanitary sewer easement over Lot 182, as shown on the face of the Plat, for the benefit of Lot 183. Declarant further hereby creates a 10 foot private sanitary sewer easement over Lot 197, as shown on the face of the Plat, for the benefit of Lot 196. Declarant further hereby creates a 10 foot sanitary sewer easement over Lot 199, as shown on the face of the Plat, for the benefit of Lot 198.

2.5.3 Private Water Easement. Declarant hereby creates a 10 foot private water easement over Lot 170, as shown on the face of the Plat, for the benefit of Lot 171.

2.5.4 Joint Use Driveway Easement. The easement area on Lots 182 and 183 which is shown on the face of the Plat shall be used for joint driveway, ingress and egress purposes for the benefit of Lots 182 and 183. The Owners of Lots 182 and 183 shall be jointly responsible, in equal shares, for maintenance, repair and replacement of the joint driveway. Neither Owner shall obstruct in any way use of the joint driveway by the other Owner. Any disputes between the Owners of Lots 182 and 183 shall be resolved by the Board, whose decision shall be binding on the Owners.

Section 2.6 Easements for Utilities. Declarant hereby creates and reserves a 10 foot easement along all property lines adjoining street frontage for the benefit of any power company, any Telephone Company, Washington Natural Gas Company, any Water and Sewer District, the cable television company and such other similar private utility and drainage users as may be authorized by the Board, all for installation, repair, replacement and operation of the utility services provided by such entities, together with the right to enter upon the easements at all time for the purposes stated. No structures shall be constructed on any area reserved for this easement. For purposes of this section, "structures" shall not include landscaping, fencing, walkways, driveways or rockeries. The Board, with the consent of at least 51% of the voting power of the Association, shall be entitled to designate those additional private utilities that shall be entitled to utilize the easement area reserved in this Section 2.6. No lines or wires for the transmission of electric current or for telephone use or cable television shall be placed or permitted to be placed upon any Lot unless the same be underground or in conduit attached to a Structure.

Section 2.7 Sammamish Plateau Sewer and Water District. Declarant hereby creates and reserves, for the benefit of the Sammamish Plateau Sewer and Water District, and its successors and assigns, easements as shown on the face of the Plat and described as "sanitary sewer easements" to

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install, maintain, replace, repair and operate water and sewer systems, mains, and appurtenances for the Plat and other property, together with the right to enter onto said easements at all times for the purposes stated in this Section 2.7. No structures or obstructions shall be constructed on any areas reserved for these easements. For purposes of this Section 2.7, "structures" shall include fences, trees, bushes or other shrubbery.

**Section 2.8 Drainage Easement – King County.** Declarant hereby creates and reserves, for the benefit of King County, a twelve-foot wide easement across Lot 175, to install, maintain, replace and repair storm drainage facilities, together with the right to enter onto said easement at all times for the purposes stated in this Section 2.8. No structures or obstructions shall be constructed on the area reserved for this easement. For purposes of this Section 2.8, "structures" shall include fences, trees, bushes or other shrubbery.

**Section 2.9 Conditions for Grant of Easements.** The easements granted in Sections 2.5, 2.6,, 2.7 and 2.8 are subject to the agreement of grantees to compensate grantor (or grantor's successors and assigns) for any damage to the affected property caused by the exercise of grantee's easement rights; to use reasonable care in carrying out any construction or repair in the easement areas and to restore such areas, to the extent reasonably practicable, to the condition they were immediately prior to such work; and to indemnify and hold harmless grantor (and grantor's successors and assigns) from any and all claims for injuries and/or damages suffered by any person caused by grantee's exercise of the rights therein granted.

**Section 2.10 Cross Easements Over Common Areas.** Declarant, together with related entities which are part of the Murray Franklyn Family of Companies ("Murray Franklyn"), Quadrant Corporation and Connor Development Corporation (collectively, the "Developers") own a large assemblage of real property commonly known as Beaver Crest and Three Willows, which assemblage includes and/or is adjacent to the Property. Hereinafter, Beaver Crest and Three Willows, which includes the Property, shall be referred to collectively as "The Community", (which, for marketing purposes, shall be known as "Vintage", including "Avignon", "Keswick", "Touraine", "Pomerol", "Provence", "Bouchard", and any other marketing names adopted by Declarant, Murray Franklyn or Developers, at their sole discretion). The initial legal description of The Community is set forth in Exhibit D. Declarant or Murray Franklyn may, at their sole discretion, annex additional real property to The Community or delete portions of the real property described in Exhibit D from The Community. The Developers intend to develop The Community with separate homeowner associations for different portions, but with integrated use of certain Common Areas, defined as The Community Common Areas, all as more particularly described in Section 4.10 of this Declaration. Each homeowner association may be responsible for the maintenance of certain Common Areas within the boundaries of the Phase governed by that homeowner association, and each homeowner association will be authorized to create reasonable rules and regulations governing use of such Common Areas, provided that no such rules and regulations may discriminate among members of The Community. In addition, all of the associations and Building Apartment Owners shall contribute toward the maintenance and operation of the Community Common Areas, all as more particularly described in Section 4.10. Each Owner of or tenant in a Living Unit within The Community shall have an easement for use and enjoyment of all the Common Areas. Accordingly, Declarant hereby grants and conveys to all of the Owners

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within the Plat of the Heights at Beaver Crest, the Plats of Three Willows and Three Willows Division 2, the Plats of Vistas Division 1, Vistas Division 2 and Vistas Division 3 and such future plats or Phases as may be created within The Community, the right to use the Common Areas (including any Community Common Areas) located within the Plat, consistent with such reasonable, non-discriminatory rules and regulations as may be adopted by the Board. As new Phases are created, Declarant, Murray Franklyn and the Developers shall from time to time during the Development Period convey to various homeowner associations the Common Areas designated on a final plat or other recorded map or plan creating the Phase. Upon its creation as a Common Area in a Phase, and whether or not it shall have been conveyed as yet to the relevant association, every Common Area shall be subject to an easement of common use and enjoyment in favor of all associations within the Community and every Owner, their heirs, successors, and assigns, in accordance with the terms and conditions of the applicable declaration, rules and regulations. Such easement shall be appurtenant to and shall not be separated from ownership of any Lot or Living Unit and shall not be assigned or conveyed in any way except upon the transfer of title to such Lot or Living Unit, and then only to the transferee of such title and shall be deemed so transferred and conveyed whether or not it shall be so expressed in the deed or other instrument conveying title. Certain rights of use, ingress, egress, occupation, and management authority in the Common Areas set forth in this Declaration or the applicable declaration shall be reserved to Declarant or the applicable developer or builder during the Development Period. The Association shall reasonably cooperate with other homeowner associations created as part of creating Phases within The Community and with the Maintenance Committee in enforcing reasonable and non-discriminatory rules and regulations adopted by such other associations which govern use of the Common Areas. Unless it elects to otherwise delegate its authority, the Maintenance Committee shall have sole authority to adopt and enforce reasonable and non-discriminatory rules and regulations governing use of the Community Common Areas.

Section 2.11 Joint Ownership Tracts. Any disputes with respect to the joint ownership of the Tracts described in this Section 2.11 shall be resolved by the Board, whose decision shall be binding upon the parties in dispute.

2.11.1 Tract V. Declarant hereby grants and conveys to the Owners of Lots 158 through 161 an equal, undivided tenancy in common interest in Tract V, to provide ingress, egress and utilities to said Lots. The Owners of Lots 158 through 161 shall share equally in the costs of maintaining, repairing and replacing the driveway and any other improvements located within Tract V which serve all four Lots, as well as property taxes assessed against Tract V. Tract V is subject to an easement for water, sanitary sewer and drainage as shown on the face of the Plat.

2.11.2 Tract H. Declarant hereby grants and conveys to the Owners of Lots 172 through 174 an equal, undivided tenancy in common interest to Tract H, to provide ingress, egress and utilities to said Lots. The Owners of Lots 172 through 174 shall share equally in the costs of maintaining, repairing and replacing the driveway and other improvements located within Tract H which serve all three Lots, as well as property taxes assessed against Tract H. Tract H is subject to an easement for water, sanitary sewer and drainage, as shown on the face of the Plat.



2.11.3 Tract U. Declarant hereby grants and conveys to the Owners of Lots 195 through 199 an equal, undivided tenancy in common interest to Tract U, to provide ingress, egress and utilities to said Lots. The Owners of Lots 195 through 199 shall share equally in the costs of maintaining, repairing and replacing the driveway and other improvements located within Tract U which serve all four Lots, as well as property taxes assessed against Tract U. Tract U is subject to an easement for water, sanitary sewer and drainage, as shown on the face of the Plat.

2.11.4 General Terms, Conditions and Covenants Governing Joint Ownership Tracts. Declarant, on behalf of itself and its successor Lot Owners, effective on recording of this Declaration, and until the Transition Date, hereby appoints the Board as its true and lawful attorney for Declarant and in its name, place and stead to perform all work and take all actions as may be deemed necessary by the Board to maintain, repair and replace the driveways located in Tracts V, H and U (the "Driveways"). The Board may specially assess the Lot Owners for their proportionate share of maintenance expenses. Until the Transition Date, this power of attorney shall be irrevocable and the appointment of the Board as attorney in fact shall be a grant of authority coupled with an interest which shall survive the death or incompetence of any successor Lot Owners. This power of attorney shall terminate automatically, without further action of Declarant or any other person, on the Transition Date. After the Transition Date, any owner believing it is necessary for work to be performed on a Driveway shall notify the other affected owners, in writing, as to the nature and estimated cost of such work, and a time and place for a meeting to discuss the proposed work, which shall be not less than two weeks nor more than two months following the date of delivery of the notice. At the meeting, the owners shall vote on the proposed work by being present or by proxy. Each Lot shall be entitled to one vote. A quorum is present throughout any meeting if the Owners to which fifty percent (50%) of the votes are allocated are present in person or by proxy at the beginning of the meeting. The decision whether to proceed with the work shall be made by a vote of the majority of those constituting a quorum. If, after the meeting and the vote, bids are received which exceed the estimate by 15%, another meeting shall be called and a new vote of the Owners shall be taken, based upon the actual bid amounts. In the event of a deadlock or for resolution of any other dispute with respect to maintenance or operation of the Driveways, any Lot Owner may submit the dispute to the Board, whose decision shall be binding. Each Lot Owner shall promptly pay its share of the costs of maintaining, repairing and replacing the Driveway within thirty (30) days after receipt of an invoice setting forth the total amount paid and the Lot Owner's share. If a Lot Owner fails to pay their proportionate share when due, one or more of the other Lot Owners may pay the defaulting Lot owner's share and the unpaid sums shall constitute a lien on the defaulting owner's Lot, from the date the payment is made until paid in full. The lien for such unpaid sums shall be subordinate to tax liens on the Lot in favor of any assessing unit and/or special district, but to the extent permitted by applicable law shall have priority over all other liens against the Lot. The lien for delinquent payments may be foreclosed by suit by the Lot Owners making the delinquent payment, in the same manner as provided for other assessments under the terms of this Declaration. The owners making payment for a delinquent owner may charge interest at the rate of 12% per annum on the sum so paid, from the date of payment. No Lot Owner shall park vehicles within a Driveway or otherwise obstruct use of the Driveway by any other Lot Owner. Any Lot Owner using a Driveway shall indemnify, defend and hold the other Lot Owners harmless from and against claims, damages, causes of action, costs and attorneys' fees arising from or in connection

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with that Lot Owner's use of the Driveway, except to the extent such claims, damages, causes of action, costs and attorneys' fees arise from the negligence of another Lot Owner.

**Section 2.12. Party Walls.**

**2.12.1 Description and Definition.** The type of Living Units which shall be constructed on the Property shall consist of attached houses with one or more party walls. For purposes of this Declaration, a "Party Wall" shall mean any wall which is located on a Lot boundary line and which serves as a common wall between two Living Units.

**2.12.2 Ownership.** Each Owner of a Living Unit containing a Party Wall shall be deemed to own the one-half of the Party Wall the exterior surface of which forms the interior surface of their Living Unit, whether or not the actual center of the Party Wall corresponds exactly to the common Lot boundary.

**2.12.3 Use.** Each Owner may use the Party Wall for any and all purposes that do not interfere with the use of the Party Wall by the other Owner. Notwithstanding the foregoing, neither Owner may cut openings through the Party Wall, do anything to impair the structural integrity or strength of the Party Wall, or do anything to alter, damage, or deface the exterior surface of the Party Wall located on the other Owner's Lot (whether such exterior surface is on the inside or outside of the Living Unit).

**2.12.4 Repair; Maintenance.** Each Owner shall maintain the exterior surface of the Party Wall located on their Lot and shall maintain all utilities serving their Living Unit which are located within the Party Wall, if any. In the event that the structural components of the Party Wall are damaged or destroyed, each Owner shall pay for one-half of the cost of the repair or rebuilding of such structural components; provided that if the damage or destruction occurs as a result of the negligence or willful misconduct of one Owner or the invitee of an Owner then such Owner shall pay all of the costs of the repair or rebuilding of the Party Wall. In the event that the Party Wall needs to be repaired or rebuilt, it shall be repaired or rebuilt using the same standards of construction, and shall be the same size and configuration of the Party Wall that exists as of the date of this Declaration except as provided in Section 2.12.5 hereof.

**2.12.5 Change of Size or Configuration.** In the event that the Party Wall needs to be repaired or rebuilt, the size, configuration, or standards of construction of the Party Wall may be changed upon the request of one Owner and the prior written approval of the other Owner, which approval shall not be unreasonably withheld. In the event that any such change in size, configuration, or standards of construction results in a higher cost than a repair or rebuilding of the Party Wall based upon the size, configuration, and standards of construction that existed as of the date of this Declaration, then the Owner requesting the change shall be responsible to pay all of the increased costs associated with any such change. In the event that either Owner wishes to change the size, configuration, or standards of construction of the Party Wall when the Party Wall is not in need of repair or rebuilding, such Owner may do so at its sole cost and expense with the prior written approval of the other Owner, which approval shall not be unreasonably withheld.

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2.12.6 Payment. In the event that the Party Wall is in need of repair or rebuilding, the Owners shall attempt to agree on all aspects of the repair and rebuilding, including the contractor to be used, the timing of the repair and rebuilding, and the allocation of costs pursuant to Sections 2.12.4 and 2.12.5 hereof. In the event that the Owners cannot reach agreement within 10 days from the date of the damage or destruction to the Party Wall resulting in the need for repair or rebuilding, then either Owner may cause the repair or rebuilding to be done and shall have the right to reimbursement from the other Owner for such Owner's proportionate share of the costs of the repair and rebuilding, together with interest at a floating rate of interest equal to the prime rate of U.S. Bank of Washington plus 3 percent per annum until such costs are reimbursed in full. Either Owner may submit a dispute regarding payment or any other dispute with respect to the Party Wall to the Board, whose decision shall be binding on the Owners in dispute.

2.12.7. Cross-Easement. Declarant hereby reserves for the benefit of each Owner an easement in the Lot of the other Owner upon which any portion of the Party Wall is located for each Owner's use of the Party Wall as provided for in this Section 2.12 of this Declaration.

Section 2.13 Limited Common Areas. Limited Common Areas are those allocated to the exclusive use of the Owners of the Lots on which the Limited Common Areas are located, but which shall be maintained by the Association. Limited Common Areas shall include specifically the roofs of Living Units, the exterior surfaces of Living Units and those portions of Lots which are adjacent to and visible from the street frontage, including all landscaping and appurtenances thereto, including without limitation the irrigation system and the controllers which shall be located on the exterior of each Living Unit to regulate the irrigation system. The Board may, at its discretion, at any time, designate other Limited Common Areas or delete Limited Common Areas from the designation. All of the costs of operating, maintaining, repairing and replacing the Limited Common Areas shall be included in the operating budget prepared by the Board and included in homeowner assessments which may be levied by the Board, all in accordance with the provisions of Article 7 of this Declaration. However, if any Owner shall damage the Limited Common Areas by its negligence or willful misconduct and does not repair the damage within 30 days following receipt from the Board of notification to repair or, where the damage cannot be repaired within the 30-day period the Owner does not commence repair of the damage within the 30 day period and thereafter diligently prosecute the same, the Board may repair the damage and specially assess the Owner for the costs of such repair. At any such time as the Board may elect to redesignate certain Limited Common Areas, operation, maintenance, repair and replacement of the Limited Common Areas so redesignated shall become the responsibility of the Owners on whose Lots the Limited Common Areas are located. In such event, each Owner shall share equally in such common costs as maintaining, repairing, and replacing roofs and painting the exterior of Living Units, except where the damage has been caused by the negligence or willful misconduct of an Owner, in which event that Owner shall have responsibility for all of the costs of repair and replacement. Any disputes between Owners arising from this Section 2.13 shall be decided by the Board, whose decision shall be binding upon the Owners in dispute. The Board shall treat all Owners in a non-discriminatory manner with respect to any redesignation of Limited Common Areas. Declarant hereby reserves a blanket easement over all Lots including Limited Common Areas for the benefit of the Board and

their agents for the purposes of operating, maintaining, repairing and replacing the Limited Common Areas.

**ARTICLE 3. CONSTRUCTION ON LOTS AND USE OF LOTS.**

**Section 3.1 Uniformity of Use and Appearance.** One of the purposes of this Declaration is to assure within the Property a uniformity of use and quality of workmanship, materials, design, maintenance and location of Structures with respect to topography and finish grade elevation. It is in the best interests of each Owner that such uniformity of use be maintained as hereinafter provided. Notwithstanding anything herein set forth, the Construction of any Structure shall comply with the more restrictive of either (i) the terms and conditions of this Declaration or (ii) the laws, codes, ordinances and regulations of any governmental entity having jurisdiction.

**Section 3.2 Submission and Approval of Plans**

**3.2.1 Construction.** No Structure shall be Constructed or caused to be Constructed on any Lot unless the Plans for the Structure have been approved in writing by the Board in its capacity as the Architectural Control Committee. The Board's approval of any Plans shall not constitute any warranty or representation whatsoever by the Board or any of its members that such Plans were examined or approved for engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations, and each Owner hereby releases any and all claims or possible claims against the Board or any of them, and their heirs, successors and assigns, or of any nature whatsoever, based upon engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations.

**3.2.2 Submission.** At least 45 days before commencing Construction of any Structure on any Lot, the Owner shall submit to the Board two complete sets of detailed building, construction, surface water run-off control and specifications and a site plan showing the location of all proposed Structures (the plans, specifications and site plans are individually and collectively referred to herein as the "Plans").

**3.2.3 Approval.** The Board may withhold its approval by reason of its reasonable dissatisfaction with the location of the Structure on the Lot, color scheme, finish, architecture, height, impact on view from another Lot or Lots, appropriateness of the proposed Structure or materials used therein. The Board's approval or disapproval of Plans shall be made within 45 days of submission of a complete set of plans, shall be in writing, and approval shall be evidenced by written endorsement on such Plans, one copy of which shall be delivered to the owner of the Lot upon which the Structure is to be Constructed. Except for violation of those restrictions specifically set forth in Sections 3.3 through 3.5, if the Board has not provided a Lot Owner with written notice of objections to any construction within six (6) months after its completion, Board approval shall not be required and the related Covenants shall be deemed to have been fully complied with. After delivering its notice of objections to a Lot Owner, the Board shall be entitled to take whatever action the Board deems reasonably appropriate to enforce the provisions of the Declaration, including, without limitation, commencing an action against the Lot Owner.

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**Section 3.3 Size and Height.**

**3.3.1 Floor Area.** The floor area of the main house Structure, exclusive of open porches and garages shall be not less than: (i) 700 square feet for a dwelling containing a single level; and (ii) 1300 square feet for a dwelling containing two levels.

**3.3.2 Lot Size.** No Lot or portion of a Lot in this Plat shall be divided and sold or resold, or ownership changed or transferred whereby the ownership of any portion of this Plat shall be less than the area required for the use district in which the Lot is located.

**3.3.3 Local Codes.** All buildings or Structures shall be constructed in accordance with the King County and other applicable Codes. In the event of a conflict between any applicable codes and this Declaration, the codes shall govern.

**Section 3.4 Appearance.**

Unless otherwise approved by the Board, the following design/construction requirements shall apply:

**3.4.1 Roofing.** The roof shall be a composition roof with a 25-year life.

**3.4.2 Siding.** All siding materials shall be of masonry (including stucco, dryvit, cultured stone, brick, stone, or similar material), and/or wood or wood type siding material. All paints or natural finishes shall be those colors commonly known as earth tones and shades of white.

**3.4.3 Entry Walks, Porches and Decks.** All front entry walks shall be exposed aggregate concrete, and all decks and wood porches shall be constructed of cedar or pressure-treated materials or broom finish concrete.

**3.4.4 Driveways.** All driveways shall be constructed of exposed aggregate concrete paving or broom finish concrete.

**Section 3.5 Use Restrictions.**

**3.5.1 Residential Use.** The Lots shall be used only for single family residential purposes, and only one single family residence (and such accessory structures as are approved pursuant to this Article 3) shall be constructed on each Lot. Temporary "model homes" and real estate sales offices established for the purpose of marketing the Plat shall be considered a residential use until houses have been built and sold on all Lots.

**3.5.2 Maintenance of Buildings and Lots.** Each Owner shall, at the Owner's sole expense, keep the interior and exterior of the Structure on the Owner's Lot, as well as the Lot, in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair and shall do all redecorating, painting, landscaping, and maintenance at any time necessary to maintain the appearance and condition of the Structure and the Lot.

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3.5.3 Completion of Construction. Any Structure erected or placed on any Lot shall be completed as to external appearance within eight months from the date Construction is started, however, with good cause shown, the Board may extend this term. All front landscaping must be completed within one month from the date of issuance of the certificate of occupancy, all side and rear landscaping must be completed within six (6) months of issuance of certificate of occupancy, however, with good cause shown, the Board may extend this term. All Lots shall be maintained in a neat and orderly condition during Construction.

3.5.4 Parking. No commercial-type trucks, campers, trailers, motorhomes, boats or motorcycles shall be parked or permitted to remain on any Lot, unless the same is stored or placed in a garage, in a rear yard area screened from adjoining lots, or in a screened carport. No such vehicles shall be parked overnight on any street adjoining any Lot; provided that such vehicles belonging to guests may occasionally be so parked. No motor vehicles, inoperative for reasons of mechanical failure, shall be parked and/or stored on any Lot or in the street right-of-way for more than 72 hours.

3.5.5 Signs. No sign of any kind shall be displayed to the public view on or from any Lot without the prior written consent of the Board, except for "For Rent" or "For Sale" signs in a form not prohibited by any rules and regulations of the Board. This Section shall not apply to the Declarant or any Participating Builder.

3.5.6 Animals. No horses, livestock, poultry, reptiles, pigs or other non-domestic animals shall be kept on any lot. All animal enclosures must be kept in a clean, neat and odor-free condition at all times. Notwithstanding anything set forth herein all Owners shall comply with all applicable governmental laws, codes, ordinances, and relations pertaining to animals.

3.5.7 Temporary Structures. No Structure of a temporary character, trailer, tent, shack, garage, barn, or other outbuilding shall be installed, placed or used on any Lot as a residence, either temporarily or permanently.

3.5.8 Clothes Lines. No washing, rugs, clothing, apparel or any other article shall be hung from the exterior of any Structure or on a Lot so as to be visible from the streets and roadways adjoining the Lots.

3.5.9 Radio and Television Aerials and Satellite Dishes. No television or radio aerial shall be erected or placed on any Lot. No rotary beams, separate towers or other similar devices shall be constructed on any Lot without the written approval of the Board. No satellite receiving dishes or other such electronic receiving devices shall be located on any Lot in a location that is visible from the adjoining homes, streets, and roadways. All aerial and satellite dish installations must receive prior written approval from the Board.

3.5.10 Trash Containers and Debris. All trash shall be placed in sanitary containers either buried or screened so as not to be visible from adjoining Structures or streets or roadways. No Lot or any portion thereof shall be used as a dumping ground for trash or rubbish of any kind.

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Yard rakings, dirt and debris resulting from landscaping work or Construction shall not be dumped onto adjoining lots or streets or roadways. Compost piles may be kept upon the Lots provided they are kept in a clean, neat, odorless and sanitary condition.

3.5.11 Offensive Activity. No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind, including day schools, nurseries, or church schools (except in-home day care for not more than two children, provided that there shall be no external signage of such activity), shall be conducted or permitted on any Lot, nor shall goods, equipment, vehicles or materials used in connection therewith, be kept, parked, stored, dismantled or repaired outside of any Lot or any street within the Property. No noxious activity, including but not limited to the creation of excess levels of noise, shall be carried on in any Lot, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners or tenants.

3.5.12 Underground Utilities. No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunications purposes nor any pole, tower or other structure supporting said outdoor overhead wires shall be erected, placed or maintained within the Property. All Owners shall use underground service wires to connect any Structure to electric or telephone utility facilities.

3.5.13 Water Supply/Sewage Disposal. No individual water supply system or individual sewage system shall be permitted on any Lot.

3.5.14 Damage. Any damage to streets, Plat improvements, entry structure, fences, landscaping, mailboxes, lights and lighting standards by Lot Owners, their children, contractors, agents, visitors, friends, relatives or service personnel shall be repaired and restored to like new condition by such Owner within twelve (12) days from the occurrence of such damage.

3.5.15 Window Coverings. Curtains, drapes, blinds or valances shall be installed on all windows within ninety (90) days of occupancy. No newspapers, bed sheets or other makeshift window coverings shall be visible from the exterior of the Structure.

3.5.16 Wood Piles. No wood piles shall be located within the front yard setback or otherwise in a location visible from the street.

3.5.17 Fences. All fences shall conform to the fence detail shown on Exhibit B unless otherwise authorized by the Board. Unless otherwise authorized by the Board, no fence, wall hedge or mass planting over three feet in height, other than foundation planting, shall be permitted to extend nearer to any street than the minimum setback line; however, nothing shall prevent erection of a necessary retaining wall, the top of which does not extend more than two feet above the finished grade at the back of said retaining wall.

Section 3.6 Fire Code Requirements. Any future residence to be constructed in the Plat shall be required to be constructed with a National Fire Protection Association (NFPA) standard 13D sprinkler system unless the King County Fire Code Hydrant Requirements have been met.

Upon recording of a letter from the King County Fire Marshall stating that the Fire Hydrant Requirements have been met, this Section 3.7 shall no longer be applicable.

**ARTICLE 4. VINTAGE 2 HOMEOWNERS ASSOCIATION.**

Section 4.1 Form of Association. The Owners of Lots within the Property shall constitute the members of The Vintage 2 Homeowners Association, a Washington nonprofit corporation to be formed by Declarant. The rights and duties of the members and of the Association shall continue to be governed by the provisions of this Declaration, and the Association's Articles of Incorporation and Bylaws.

Section 4.2 Board of Directors. The affairs of the Association shall be governed by a Board of Directors (the "Board"). The initial Board shall be as described in the Articles of Incorporation of The Vintage 2 Homeowners Association and shall serve until the Transition Date. Except, however, so long as Declarant owns any Lot within the Plat, the initial Board shall continue to function in its capacity as the Architectural Control Committee, as more particularly set forth in Article 3. At such time as the last Lot owned by Declarant is sold to a retail purchaser, the duties of the Board set forth in Article 3, in its capacity as the Architectural Control Committee, shall be assumed by the Board elected to serve after the Transition Date. After the Transition Date, the Board shall consist of such numbers of members as provided for in the Articles of Incorporation and Bylaws of the Association. Subject to any specific requirements hereof, the Board shall have authority to establish operating rules and procedures. In the event of death or resignation of any member or members of the Board, the remaining member or members, if any, shall have full authority to appoint a successor member or members. Members of the Board shall not be entitled to any compensation for services performed as Directors pursuant to this Declaration. Upon the Transition Date and without further action by any person or persons, (i) the term of the initial Directors or their successors shall end, and (ii) the initial Directors and their then successors shall be released from any and all liability whatsoever for claims arising out of or in connection with this Declaration, excepting only claims arising prior to the Transition Date.

Section 4.3 Qualification for Membership. Each owner of all or a portion of the fee interest in a Lot (including Declarant) shall be a member of the Association. Ownership of a Lot shall be the sole qualification for membership in the Association. Membership shall be appurtenant to and may not be separate from Ownership of any Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the persons constituting the new Owners.

Section 4.4 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned; provided, that if a Lot has been sold on

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contract, the contract purchaser shall exercise the rights of an Owner. Except with respect to contract purchasers, when more than one person holds an interest in any Lot, all such persons shall be members.

Class B: Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership effective on the Transition Date.

Section 4.5 Voting. If a Lot is owned by more than one person and only one of them is present or represented at a meeting, the one who is present or represented will represent the Owner. The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. If joint owners are unable to agree among themselves how their vote shall be cast, they shall lose their right to vote on the matter in question. An Owner may, by written notice to the Board, designate a voting representative for the Lot. The designated voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a Person having an ownership interest in a Lot, or by actual notice to the Board of the death or judicially declared incompetence of any Person with an ownership interest in the Lot, except in cases in which the Person designated is a Mortgagee of the Lot. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact for the Owner under a durable power of attorney, and the administrator or executor of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each Lot shall be the group composed of all of its Owners. Unless otherwise expressly provided in this Declaration, a quorum is present throughout any meeting of the Association if the Owners to which thirty-four percent (34%) of the votes of the Association are allocated are present in person or by proxy at the beginning of the meeting.

Section 4.6 Pledged Votes. An Owner may, but shall not be obligated to, pledge his vote on all issues or on certain specific issues to a Mortgagee; provided, however, that if an Owner is in default under a Mortgage on his Lot for 90 consecutive days or more, the Owner's Mortgagee shall automatically be authorized to declare at any time thereafter that the Owner has pledged his vote to the Mortgagee on all issues arising after such declaration and during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, only the vote of the Mortgagee will be recognized on the issues that are subject to the pledge.

Section 4.7 Annual and Special Meetings. Within one year following recording of the final plat, on a date selected by the Board, there shall be a meeting of the members of the Association and thereafter there shall be an annual meeting of the members of the Association in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than 30 days before the meeting. At the first such meeting, and at each annual meeting thereafter, the Owners shall elect by majority vote individuals to serve as Directors until a successor is elected at the next annual meeting. Each Lot shall be entitled to one vote for each Director and the voting for Directors shall be non-cumulative. The financial statement for the preceding fiscal year (if any) and the budget the Board has adopted for the pending fiscal year shall be presented at the annual meeting for ratification by the members, as more specifically provided in Section 7.1. Special meetings of the members of the Association may be called at any

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