



When Recorded, Return to:

**HILLIS CLARK MARTIN & PETERSON, P.S.**  
Attention: Steven R. Rovig  
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1221 Second Avenue  
Seattle, WA 98101-2925

**DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE VILLAGE AT LAKE CHELAN**

<b>Grantor:</b>	<u>THE VILLAGE AT LAKE CHELAN, LLC</u>	
<b>Grantee:</b>	<u>PLAT OF THE VILLAGE AT LAKE CHELAN</u>	
<b>Legal Description</b> (abbreviated):	PLAT OF THE VILLAGE AT LAKE CHELAN (PHASE I) ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME _____ OF PLATS, PP. _____ THROUGH _____, RECORDS OF CHELAN COUNTY.	
<input checked="" type="checkbox"/> Complete on:	<u>Exhibit A</u>	
<b>Assessor's Tax Parcel ID #:</b>	<u>282136681144</u>	<u>282136681152</u>
	<u>282136681148</u>	<u>282136681156</u>
<b>Reference Nos. of Documents Released or Assigned:</b>	<u>N/A</u>	



**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE VILLAGE AT LAKE CHELAN**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by **THE VILLAGE AT LAKE CHELAN, LLC**, a Washington limited liability company ("Declarant").

**INTRODUCTION TO THE COMMUNITY**

*The Village at Lake Chelan, LLC, as the developer of The Village at Lake Chelan ("Village") has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the development, administration, maintenance and preservation of the residential planned unit development which comprises the Village.*

**ARTICLE 1. CREATION OF THE COMMUNITY**

**1.1. Purpose and Intent.**

Declarant, as the owner of the real property described in EXHIBIT A, intends by recording this Declaration to create a general plan of development for "the Village. This Declaration provides a flexible and reasonable procedure for the future expansion of the community to include additional real property as Declarant deems appropriate. An integral part of the development plan is the creation of The Village at Lake Chelan Owners Association, an association comprised of the residential owners of real property in the Village, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

**1.2. Binding Effect.**

With the consent of the owner as set forth below, Declarant hereby declares that all property described in EXHIBIT A shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. Except as otherwise specifically provided, this Declaration shall be binding upon all Persons having any right, title or interest in any portion of the Properties, their heirs, successors, successors-in-title and assigns.

**1.3. Governing Documents.**



The Governing Documents create a general plan of development for the Properties which may be supplemented by additional covenants, restrictions and easements applicable to particular neighborhoods within the community. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration.

All provisions of the Governing Documents shall apply to all Owners and to all occupants of their Units, as well as their respective tenants, guests and invitees. Any lease on a Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of the Governing Documents.

## ARTICLE 2. CONCEPTS AND DEFINITIONS

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows.

**2.1. "Architectural Review Committee" or "ARC":** The committee of the Association appointed by Declarant during the Class B Control Period and the Board thereafter to adopt Architectural Standards, to accept and review applications from owners for improvements to be constructed within the Properties and to fulfill those functions set forth in this Declaration.

**2.2. "Architectural Standards":** The architectural, design and construction guidelines and review procedures adopted pursuant to Article 4, as they may be amended.

**2.3. "Areas of Common Responsibility":** The Common Area, together with such other areas the Association has or assumes responsibility for pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts or agreements.

**2.4. "Articles of Incorporation" or "Articles":** The Articles of Incorporation of The Village at Lake Chelan Owners Association, as filed with the Washington Secretary of State.

**2.5. "Association":** The Village at Lake Chelan Owners Association, a Washington nonprofit corporation, its successors or assigns.

**2.6. "Base Assessment":** Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.



**2.7. "Board of Directors" or "Board":** The body responsible for administration of the Association, selected as provided in the Bylaws and serving as the board of directors under Washington corporate law.

**2.8. "Builder":** Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within the Properties for further subdivision, development and/or resale in the ordinary course of such Person's business.

**2.9. "Bylaws":** The Bylaws of The Village at Lake Chelan Owners Association.

**2.10. "Class B Control Period":** The period of time during which the Class B Member is entitled to appoint a majority of the members of the Board. The Class B Control Period expires upon the first to occur of the following:

- (a) when all of the total number of residential dwellings planned by Declarant for construction within the Properties have been constructed;
- (b) December 31, 2012; or
- (c) when, in its discretion, the Class B Member so determines.

**2.11. "Common Area":** All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including, without limitation, entrance tracts, private roads, recreation areas, surface water retention/detention tracts, landscape tracts and other tracts or parcels conveyed to the Association by Declarant.

**2.12. "Common Expenses":** The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.'

**2.13. "Community-Wide Standard":** The standard of conduct, maintenance or other activity generally prevailing throughout the Properties. Such standard shall be established initially by Declarant and may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and demands of the Properties change.

**"2.14. "Declarant":** The Village at Lake Chelan, LLC, a Washington limited liability company, or any successor or assign who takes title to any portion of the property described in EXHIBIT A or EXHIBIT B for the purpose of development and/or sale and who is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, upon such designation of such successor



Declarant, all rights of the former Declarant in and to such status as "Declarant" under this Declaration shall cease, it being understood that as to all of the property described in EXHIBIT A and EXHIBIT B, which is now or hereafter subjected to this Declaration, there shall be only one "Declaration" hereunder at any one point in time.

**2.15. "Governing Documents":** A collective term referring to this Declaration and any applicable Supplemental Declaration, the Bylaws, the Articles, the Architectural Standards, the Use Restrictions and the Rules and Regulations Costs, as each may be amended.

**"2.16. "Master Plan":** The land use plan for the Village, which includes all of the property described in EXHIBIT A and all or a portion of the property described in EXHIBIT B. Without limitation, the Master Plan incorporates by reference the Conditions of Approval set forth in the report of the Hearing Examiner for Chelan County for Preliminary Plat No. 2004-002 and Planned Development No. 2004-001 dated April 11, 2005 as approved by the Hearing Examiner the same day. The application was originally filed August 31, 2004.

**2.17. "Member":** A Person subject to membership in the Association pursuant to Section 6.2.

**2.18. "Mortgage":** A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. A "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

**2.19. "Owner":** One or more Persons who hold the record title to any Unit, 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, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

**2.20. "Person":** A natural person, a corporation, a partnership, a trustee or any other legal entity.

**2.21. "Properties:"** The real property described in EXHIBIT A, together with such additional property, whether contiguous or noncontiguous, as is subjected to this Declaration in accordance with Article 9.

**2.22. "Rules and Regulations":** Board-adopted Rules and Regulations which establish administrative procedures for internal Association governance and operating procedures for use of the Common Area and property included within the Area of Common Responsibility.

**"2.23. "Special Assessment":** An assessment levied in accordance with Section 8.4.



**2.24. "Specific Assessment":** An assessment levied in accordance with Section 8.5.

**2.25. "Supplemental Declaration":** An instrument recorded pursuant to Article 9 which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

**2.26. "Unit":** A portion of the Properties, whether improved or unimproved, which may be independently owned and is intended for development, use and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

Prior to recording a subdivision plat, a parcel of vacant land or land on which improvements are under construction, shall be deemed to contain the number of Units designated for residential use for such parcel on the preliminary plat or the site plan approved by Declarant, whichever is more recent. Until a preliminary plat or site plan has been approved, such parcel shall be deemed to contain the number of Units set by Declarant in conformance with the Master Plan.

**2.27. "Use Restrictions":** The initial Use Restrictions set forth in EXHIBIT C, as they may be supplemented, modified and repealed pursuant to in Article 3.

**2.28. "Village":** The planned unit development comprised of all property subjected (now or later) to this Declaration as well as other property developed in accordance with the Master Plan.

**ARTICLE 3. USE RESTRICTIONS**

**3.1. Adoption; Amendment.**

The Use Restrictions set forth in the attached EXHIBIT C shall govern the Properties including the ownership, occupation and use of the Units by the Owners thereof. Amendment of such Use Restrictions shall be in accordance with Article 16 hereof.

**3.2. Owners' Acknowledgment and Notice to Purchasers.**

All Owners are given notice that use of their Units and the Common Area is limited by the Use Restrictions as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this

provision and that the Use Restrictions may change from time to time. All purchasers of Units are on notice that changes may have been adopted by the Association.

### 3.3. Limitation of Use Restrictions.

Except as may be otherwise set forth in this Declaration, all Use Restrictions shall comply with the following provisions:

- (a) **Similar Treatment.** Similarly situated Owners shall be treated similarly.
- (b) **Displays.** The rights of Owners to display religious and holiday signs, symbols and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place and manner restrictions with respect to any displays outside of a dwelling or visible from outside the dwelling. No Use Restrictions shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).
- (c) **Household Composition.** Except as otherwise provided in Article 4, no Use Restriction shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area and on the basis of compliance with applicable Chelan County ordinances.

#### Active adult community restrictions

- (d) **Activities Within Dwellings.** No Use Restriction shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.
- (e) **Household Occupations.** No Use Restriction may interfere with the rights of an Owner or occupant residing in a Unit to conduct business activities within the Unit so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (ii) the business activity is consistent with the residential character of the Village and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of the Village, as may be determined in the Board's sole discretion; and (iii) it is as otherwise allowed by Chelan County Ordinances.



(f) **Allocation of Burdens and Benefits.** No Use Restriction shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable Rules and Regulations for use of Common Area, or from denying use privileges to those who abuse the Common Area or violate the Governing Documents.

(g) **Alienation.** Except as otherwise provided in Article 4, no Use Restriction shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer. No Unit may be leased for a term less than six months.

(h) **Abridging Existing Rights.** No Use Restriction shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such Use Restriction and which was in compliance with all Use Restrictions previously in force. This dispensation shall apply only for the duration of such Owner's ownership of such personal property, and this right shall not run with title to any Unit.

(i) **Reasonable Rights to Develop.** No Use Restriction, Rule or Regulation or action by the Association or Board shall unreasonably impede Declarant's right to develop the Properties or other portions of the Village.

**ARTICLE 4. OCCUPANCY OF UNITS**

**4.1. General.**

(a) The Units within the Village are intended for the housing of persons 55 years of age or older. The provisions of this Article are intended to be consistent with, and are set forth in order to comply with the Fair Housing Amendments Act, 42 U.S.C. § 3601 *et seq.* (1988), as amended (the "Act"), and the exemption therefrom provided by 42 U.S.C. § 3607(b)(2)(C) regarding discrimination based on familial status. Declarant or the Association, acting through its Board, shall have the power to amend this Article, without the consent of the Members or any Person except Declarant, for the purpose of making this Article consistent with the Act, as it may be amended, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Article.

(b) Notwithstanding Section 4.1(a) of this Article, **DECLARANT HEREBY RESERVES THE RIGHT TO ALTER ITS PLANS FOR MARKETING AND SALE OF THE PROPERTIES IN ORDER TO INCLUDE PERSONS**





**UNDER AGE 55 AND FAMILIES WITH CHILDREN AND IN SUCH EVENT, TO UNILATERALLY AMEND THIS DECLARATION AT ANY TIME PRIOR TO EXPIRATION OF THE CLASS "B" CONTROL PERIOD FOR THE PURPOSE OF MODIFYING OR ELIMINATING THIS RESTRICTION ON OCCUPANCY OF UNITS. EACH OWNER ACKNOWLEDGES THAT DECLARANT SHALL HAVE SUCH RIGHT AND THAT IN THE EVENT OF SUCH AN AMENDMENT, SOME OR ALL UNITS MAY BE OCCUPIED BY PERSONS UNDER THE AGE OF 55, INCLUDING CHILDREN.**

**4.2. Restrictions on Occupancy.**

(a) Each occupied Unit within the Properties shall at all times have as a permanent occupant therein at least one person who is 55 years of age or older (the "Qualifying Occupant"); provided, in the event of the death of a person who was the sole Qualifying Occupant of a Unit, the spouse of such Qualifying Occupant may continue to occupy the Unit as long as the provisions of the Act and the regulations adopted thereunder are not violated by such occupancy. For purposes of this Section, an occupant shall not be considered a "permanent occupant" unless such occupant considers the Unit to be his or her legal residence and actually resides in the Unit for at least six months during every calendar year.

(b) No Unit shall be occupied by any person under the age of 18. For purposes of this Section, a Unit shall be deemed to be "occupied" by any person who stays overnight in the Unit for more than 21 days in any 60-day period or for more than 30 days in any 12-month period.

(c) Nothing in this Article is intended to restrict the ownership of or transfer of title to any Unit; provided, no Owner may occupy the Unit unless the requirements of this Article are met nor shall any Owner permit occupancy of the Unit in violation of this Article. Unit Owners shall be responsible for including the statement that the Units within the Village are intended for the housing of persons 55 years of age or older, as set forth in Section 4.1(a) of this Article, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Unit, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, purchaser or other potential occupant of the Unit. Every lease of a Unit shall provide that failure to comply with the requirements and restrictions of this Article shall constitute a default under the lease.

(d) Any Owner may request in writing that the Board of Directors make an exception to the requirements of this Section with respect to his or her Unit. The Board of Directors may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the Act would still be met.



**4.3. Change in Occupancy; Notification.**

In the event of any change in occupancy of any Unit, as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Unit shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Unit and such other information as the Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Board and provide all required information within 10 days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against Owner and the Unit for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Article, in addition to all other remedies available to the Association under this Declaration and Washington law.

**4.4. Monitoring Compliance; Appointment of Attorney-in-Fact.**

(a) The Association shall be responsible for maintaining age records on all occupants of Units. The Board shall adopt policies, procedures and rules to monitor and maintain compliance with this Article, including policies regarding visitors, updating of age records, the granting of exemptions pursuant to Section 4.2(d), and enforcement. The Association shall periodically distribute such policies, procedures and rules to Owners and make copies available to Owners, their tenants and Mortgagees upon reasonable request.

(b) The Association shall have the power and authority to enforce this Section in any legal manner available, as the Board deems appropriate, including, without limitation, conducting a census of the occupants of Units, requiring copies of birth certificates or other proof of age for each occupant of the Unit to be provided to the Board on a periodic basis, and taking action to evict the occupants of any Unit which does not comply with the requirements and restrictions of this Article. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER UNIT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Unit which in the judgment of the Board are reasonably necessary to monitor compliance with this Article.

(c) Each Owner shall be responsible for ensuring compliance of its Units with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by itself and by its tenants and other occupants of its Unit. EACH OWNER, BY ACCEPTANCE OF TITLE TO A UNIT, AGREES TO INDEMNIFY, DEFEND AND HOLD THE ASSOCIATION HARMLESS FROM ANY

AND ALL CLAIMS, LOSSES, DAMAGES AND CAUSES OF ACTION WHICH MAY ARISE FROM FAILURE OF SUCH OWNER'S UNIT TO SO COMPLY.

**ARTICLE 5. ARCHITECTURE AND LANDSCAPING**

**5.1. General.**

No structure or thing shall be placed, erected or installed upon any Unit within the Properties and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements or planting or removal of landscaping) shall take place within the Properties, except in compliance with this Article and the Architectural Standards.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios and similar portions of a Unit visible from outside the structure and modifications to enclose garages as living space shall be subject to approval.

This Article shall not apply to Declarant's activities, nor to the Association's activities during the Class B Control Period.

This Article shall apply to the activities of governmental entities and public utilities only with respect to activity which requires the issuance of a building permit by Chelan County or any successor permitting authority.

**5.2. Architectural Review.**

(a) **Purpose of Review.** Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that Declarant has a substantial interest in ensuring that the improvements within the Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article ("Work") shall be commenced on such Owner's Unit unless and until the Architectural Review Committee ("ARC") has given its prior written approval for such Work, which approval may be granted or withheld in the ARC's sole discretion.

Until Declarant has conveyed all of the Properties to Owners or until Declarant earlier relinquishes its rights under this Article, Declarant may, in its sole discretion, designate those Persons who shall serve as members of the ARC in reviewing applications hereunder. Members of the ARC appointed by Declarant may include architects, engineers or other persons who may or may not be Members of the Association. Any such appointment shall be in writing, specifying the scope of



responsibilities delegated, and shall be subject to Declarant's right to revoke such appointment at any time.

(b) **Board-Appointed ARC.** Upon expiration or termination of Declarant's rights under this Article to appoint the ARC, the Association, acting through the ARC, shall assume jurisdiction over architectural matters hereunder. The ARC, when appointed by the Board, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The ARC may be broken into or may form subcommittees to preside over particular areas of review (e.g., a new construction subcommittee and a modifications subcommittee.) Any reference herein to the ARC should be deemed to include a reference to any such subcommittee.

Until such time as Declarant's rights under this Article to appoint the ARC terminates, the Association shall have no jurisdiction over architectural matters.

(c) **ARC Fees; Assistance.** ARC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

**5.3. Guidelines and Procedures.**

(a) **Architectural Standards.** The Declarant-appointed ARC shall prepare initial Architectural Standards, which may contain general provisions applicable to all of the Properties as well as specific provisions which vary from neighborhood to neighborhood. The Architectural Standards are not the exclusive basis for decisions of the ARC and compliance with the Architectural Standards does not guarantee approval of any application.

The Declarant-appointed ARC shall have sole and full authority to amend the Architectural Standards as long as Declarant owns any portion of the Properties or has a right to expand the Properties pursuant to Section 9.1. Upon termination or delegation of Declarant's right to appoint the ARC, the Board-appointed ARC shall have the authority to amend the Architectural Standards only with the consent of the Board. Any amendments to the Architectural Standards shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.



The ARC shall make the Architectural Standards available to Owners and Builders who seek to engage in renovation or additional construction within the Properties. In Declarant's discretion, such Architectural Standards may be recorded, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Standards was in effect at any particular time.

(b) **Procedures.** No Work shall commence on any portion of the Properties until an application for approval has been submitted to and approved by the ARC. Such application shall include plans and specifications ("Plans") showing site layout, structure design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation and other features of proposed construction, as applicable. The Architectural Standards and the ARC may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the ARC may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The ARC shall respond in writing to the applicant at the address specified in the application. The response may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The ARC may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the ARC fails to respond in a timely manner (as provided in the Architectural Standards), approval shall be deemed to have been given, subject to Declarant's right to veto approval by the ARC pursuant to this Section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Architectural Standards unless a differing design proposal has been approved pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Until commencement of construction, the Unit must be planted with ground cover or other landscaping in accordance with guidelines issued by the ARC.



Failure of an Owner to complete construction of a dwelling on a Unit within five years after the date of its conveyance to the Owner shall be deemed to be a violation of this Declaration and subject to enforcement action by the Association.

Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the ARC grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The ARC may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### **5.4. No Waiver of Future Approvals.**

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Standards, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the ARC may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

#### **5.5. Variances.**

The ARC 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 this Declaration; or (c) estop the ARC 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.

#### **5.6. Limitation of Liability.**

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties; they

do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwelling are of comparable quality, value or size or of similar design.

Declarant, the Association, the Board, any committee or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work, any defects in plans revised or approved hereunder, or any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board, the ARC and any members thereof shall be defended and indemnified by the Association as provided in Section 7.6.

## **ARTICLE 6. MAINTENANCE AND REPAIR**

### **6.1. Maintenance of Areas of Common Responsibility.**

The Association shall maintain the Areas of Common Responsibility as described in Section 8.2.

### **6.2. Maintenance of Units.**

Each Owner shall maintain the Owner's Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents and the Community-Wide Standard.

### **6.3. Responsibility for Repair and Replacement.**

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard. Repair and replacement may include improvement if necessary to comply with applicable building codes or other regulations or if otherwise deemed appropriate, in the Board's reasonable discretion.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on the Owner's Unit, less a reasonable deductible. In the event of damage to or destruction of structures on or comprising such Owner's Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 5. Alternatively, the Owner shall clear the Unit and maintain it in a neat and



attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

**ARTICLE 7. THE ASSOCIATION AND ITS MEMBERS**

**7.1. Function of Association.**

The Association is the entity responsible for management, maintenance, operation and control of the Areas of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents, applicable Chelan County Ordinances and Washington law.

**7.2. Membership.**

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

**7.3. Voting.**

The Association shall have two classes of membership, Class A and Class B.

(a) **Class A.** Class A Members shall be all Owners except the Class B Member, if any. Class A Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 7.2, except that there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 9.8.

(b) **Class B.** The sole Class B Member shall be Declarant. The Class B Member may appoint a majority of the members of the Board of Directors during the Class B Control Period, as specified in the Bylaws. Additional rights of the Class B Member are specified in the relevant sections of the Governing Documents.

The Class B membership shall terminate upon the earlier of:

- (i) expiration of the Class B Control Period; or
- (ii) when, in its discretion, Declarant so determines and declares in a recorded instrument.





Upon termination of the Class B membership, Declarant shall be a Class A Member entitled to Class A votes for each Unit which it owns.

(c) **Exercise of Voting Rights.** Members may exercise voting rights as set forth in the Bylaws. If there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

**ARTICLE 8. ASSOCIATION POWERS AND RESPONSIBILITIES**

**8.1. Acceptance and Control of Association Property.**

The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to the Association personal property and fee title, leasehold, easement or other property interests in any real property, improved or unimproved, described in **EXHIBIT A** or **EXHIBIT B**. The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association and any obligations or conditions appurtenant to such property. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

**8.2. Maintenance of Areas of Common Responsibility.**

The Association shall maintain, in accordance with the Community-Wide Standard, the Areas of Common Responsibility, which shall include, but need not be limited to:

- (a) all portions of, and improvements to, the Common Area;
- (b) supplemental landscaping, maintenance and repairs to property dedicated or conveyed to Chelan County or other public entities (to the extent permitted by and consistent with any conditions imposed by such entities);
- (c) such portions of any additional property included within the Areas of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration or any contract or agreement for maintenance thereof entered into by the Association;
- (d) the stormwater drainage system for the Properties, including improvements and equipment installed therein or used in connection therewith; and

(f) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Areas of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall maintain the facilities and equipment within the Areas of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 67% of the Class A votes in the Association and the Class B Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Areas of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with Declarant's prior written approval as long as Declarant owns any property described in EXHIBIT A or EXHIBIT B of this Declaration.

The costs associated with maintenance, repair, monitoring and replacement of the Areas of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Areas of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

The Association's maintenance responsibilities within the Areas of Common Responsibility shall include, without limitation, snow plowing, pavement restoration, landscape maintenance and recreation equipment maintenance.

### 8.3. Insurance.

(a) **Required Coverages.** The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering the full replacement cost all insurable improvements under current building ordinances and codes on the Common Area and within the Areas of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership;

(ii) Commercial general liability insurance on the Areas of Common Responsibility, insuring the Association and its Members with limits of (if generally available at reasonable cost, including primary and any umbrella coverage)



at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury and property damage or such additional coverage and higher limits which a reasonably prudent person would obtain;

(iii) Workers' compensation insurance and employer's liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable.

Premiums for all insurance on the Areas of Common Responsibility shall be Common Expenses.

(b) **Policy Requirements.** The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Chelan County, Washington area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 8.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Washington which satisfies the requirements of such secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;



(iii) not be brought into contribution with insurance purchased by Owners, occupants or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or household member of a Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which provide:

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

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

(iv) a cross liability provision.

(c) **Restoring Damaged Improvements.** In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and



obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed in a timely manner unless Members representing at least 75% of the total Class A votes in the Association, and the Class B Member, if any, decide not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Persons entitled to use the damaged or destroyed property, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 8.3(a).

#### **8.4. Compliance and Enforcement.**

Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the Bylaws. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
- (b) suspending an Owner's right to vote;
- (c) suspending any Person's right to use any recreational facilities within the Common Area; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;



(d) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(e) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(f) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article 4 and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article 4 and the Architectural Standards from continuing or performing any further activities in the Properties; and

(h) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the Bylaws:

(a) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking Rules and Regulations)

(b) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform the Owner's maintenance responsibility, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.



### **8.5. Implied Rights; Board Authority.**

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its members.

### **8.6. Indemnification of Officers, Directors and Others.**

Subject to Washington law, the Association shall indemnify every officer, director and committee member against all damages and expenses, including counsel fees, reasonably incurred 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, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Washington law.

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 or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present 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.

### **8.7. 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 nor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security



measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

**8.8. Relations with Other Properties.**

The Association may enter into contractual agreements or covenants to share costs with other associations, properties or facilities for maintaining and/or operating shared or mutually beneficial properties or facilities.

**ARTICLE 9. ASSOCIATION FINANCES**

**9.1. Budgeting and Allocating Common Expenses.**

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 9.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 9.6.

The Association is hereby authorized to levy Base Assessments equally against all Units subject to assessment under Section 9.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 9.7(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.



Within 30 days after the adoption of a final budget by the Board, the Board shall send to each Owner a copy of the final budget, notice of the amount of the Base Assessment to be levied pursuant to such budget, and notice of a meeting to consider ratification of the budget. Such meeting shall be held not less than 14 nor more than 60 days from the mailing of such materials. The budget and assessment shall be ratified unless disapproved at a meeting by Members representing at least 67% of the total Class A votes in the Association and by the Class B Member, if such exists. Such ratification shall be effective whether or not a quorum is present.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

### **9.2. Budgeting for Reserves.**

The Board shall prepare and periodically review a reserve budget for the Areas of Common Responsibility. The budgets shall 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 include in the Common Expense budget adopted pursuant to Section 8.1, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

### **9.3. Special Assessments.**

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class B Member, if such exists. Special Assessments 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.

### **9.4. Specific Assessments.**

The Association shall have the power to levy Specific Assessments against a particular Unit to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests;

provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying any Specific Assessment under this Section.

**9.5. Authority to Assess Owners; Time of Payment.**

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the later occur of (i) the date the Board first determines a budget and levies assessments or (ii) six months after the Unit is first conveyed to an Owner by Declarant. The first annual Base 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.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

**9.6. Obligation for Assessments.**

(a) **Personal Obligation.** Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Washington law), late charges as determined by Board resolution, costs and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No



diminution or abatement of assessments or setoff shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) ***Declarant's Option to Fund Budget Deficits.*** During the Class B Control Period, Declarant may satisfy its obligation for assessments, if any, on Units which it owns either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class B Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

#### **9.7. Lien for Assessments.**

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Washington law) and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments and other levies which by law would be superior and (b) the lien or charge of any recorded first Mortgage (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 judicial or nonjudicial foreclosure.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage and convey the Unit. While 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 pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.



Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 9.6, including such acquirer, its successors and assigns.

**9.8. Exempt Property.**

The following property shall be exempt from payment of Base Assessments and Special Assessments:

- (a) All Common Area and such portions of the property owned by Declarant as are included in the Areas of Common Responsibility;
- (b) Any property dedicated or conveyed to and accepted by any governmental entity or public utility,

**9.9. Capitalization of Association.**

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, 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 of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. 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 this Declaration and the Bylaws.

**ARTICLE 10. EXPANSION OF THE COMMUNITY**

**10.1. Expansion by Declarant.**

Declarant may from time to time subject to the provisions of this Declaration all or any portion of the property described in **EXHIBIT B**, including portions which are not contiguous to other portions of the Properties, by recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand the Properties pursuant to this Section shall expire when all property described in **EXHIBIT B** has been subjected to this Declaration or 20 years after this Declaration is recorded, whichever is earlier. Until then, Declarant



may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in EXHIBIT A or EXHIBIT B. Any such transfer shall be memorialized in a written, recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in EXHIBIT B in any manner whatsoever.

**10.2. Expansion by the Association.**

The Association may also subject additional property to the provisions of this Declaration by recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Members representing more than 50% of the Class A votes of the Association and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary.

**10.3. Additional Covenants and Easements.**

Declarant may subject any portion of the Properties to additional covenants and easements. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

**10.4. Effect of Recording Supplemental Declaration.**

A Supplemental Declaration shall be effective upon recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.



## **ARTICLE 11. ADDITIONAL RIGHTS RESERVED TO DECLARANT**

### **11.1. Withdrawal of Property.**

Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 10.1, for the purpose of removing any portion of the Properties which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reasonably violate the overall scheme of development for the Master Plan. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

### **11.2. Marketing and Sales Activities.**

Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities and shall not be subject to fees or rental charges.

### **11.3. Right to Develop.**

Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion, so long as such improvements are not inconsistent with the permitted uses and purposes of the Common Areas.

### **11.4. Right to Approve Additional Covenants.**

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. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and recorded by Declarant.

### **11.5. Right to Transfer or Assign Declarant Rights.**

Any or all of Declarant's special rights and obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed and recorded by Declarant. The



foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

**11.6. Easement to Inspect and Right to Correct.**

(a) Declarant reserves for itself and such other Persons as it may designate perpetual non-exclusive easements throughout the Properties to the extent reasonably necessary for the purposes of access, inspecting, testing, redesigning, or correcting any portion of the Properties, including Units and the Area of Common Responsibility.

(b) Entry onto a Unit shall be after reasonable notice, except in an emergency. Entry into a structure on a Unit shall be only after Declarant notifies the Unit's Owner and agrees with the Owner regarding a reasonable time to enter the structures on such Unit to perform such activities; provided, however, that if entry is required due to a security alarm which has not been silenced after two hours, Declarant or the Association may enter the Unit to silence the alarm if good faith effort has been made to notify the Owner.

(c) Any damage to a Unit or the Area of Common Responsibility resulting from the exercise of the easement or right of entry described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement right. The exercise of these easements shall not unreasonably interfere with the use of any Unit and entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

**ARTICLE 12. EASEMENTS AND RESTRICTIONS**

**12.1. Easements in Common Area.**

Declarant grants to each Owner a nonexclusive right and easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association; and



(c) The Board's right to:

(i) adopt Rules and Regulations governing the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the Bylaws;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration; and

(iv) 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 contained in this Declaration.

Any Owner may extend 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. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

**12.2. Easements of Encroachment.**

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement 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 feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

**11.3. Easements for Utilities, etc.**

(a) **Installation and Maintenance.** Declarant reserves for itself, so long as Declarant owns any property described in EXHIBIT A or EXHIBIT B of this Declaration, on behalf of itself, its nominees, successors and assigns, perpetual non-exclusive easements throughout the Properties (but not through a structure) to the extent reasonably necessary for the purpose of:





(i) installing utilities and infrastructure to serve the Properties, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant owns or within public rights-of-way or easements reserved for such purpose on recorded plats;

(ii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

Notwithstanding anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. Exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

(b) **Specific Easements.** Declarant also reserves for itself the non-exclusive right and power to grant and record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in EXHIBIT A and EXHIBIT B. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

**12.4. Easements to Serve Additional Property.**

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access and development of the property described in EXHIBIT B, 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 Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property.

Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, or any other declaration of covenants, conditions and restrictions under which an owners' association is created or provided for, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property. The allocation of costs in any such agreement shall be based on the number of residential dwellings on the property served



by the easement and not subject to this Declaration as a proportion of the total number of residential dwellings within the Properties and on such benefited property.

**12.5. Easements for Maintenance, Emergency and Enforcement.**

Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities hereunder. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

**ARTICLE 13. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

**13.1. Consensus for Association Litigation.**

Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of Members representing at least 67% of the total Class A votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association against any contractor or vendor arising out of a contract for services or supplies between the Association and such contractor or vendor. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**13.2. Alternative Method for Resolving Disputes.**

Declarant, the Association, its officers, directors and committee members, all Persons subject to this Declaration, any Builder and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 13.3 ("Claims") to the procedures set forth in Section 13.3 in lieu of filing suit in any court.

**13.3. Claims.**

Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights,



obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 13.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 13.4:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article 9;
- (b) any suit by the Association to obtain equitable relief (i.e., temporary restraining order, injunction, or specific performance) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article 3 and Article 5;
- (c) any suit by a Bound Party for declaratory or injunctive relief which seeks a determination as to applicability, enforcement, clarification, or interpretation of any provisions of the Declaration;
- (d) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents if the amount in controversy exceeds \$5,000.00, which amount shall be increased in proportion to increases in the Consumer Price Index for All Urban Consumers, All Items, from the date of recordation of this Declaration to the date of any such claim;
- (e) any suit in which any indispensable party is not a Bound Party;
- (f) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.4(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and
- (g) any suit or dispute between an Owner or Owners and a Builder or Builders with respect to (i) any statutory warranty, (ii) any contractual warranty, including without limitation, any limited warranty provided by any such Builder, and/or (iii) any construction defect claim.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 13.4.



#### 13.4. Mandatory Procedures.

(a) **Notice.** Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant’s proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation and Mediation.**

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of any Chelan County dispute resolution center or, if the Parties otherwise agree, to an independent agency providing dispute resolution services in the area.

(iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.



(v) Within 5 days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) ***Final and Binding Arbitration.***

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in EXHIBIT D or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This subsection (c) is an agreement to arbitrate and is specifically enforceable under Washington's applicable arbitration laws. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under Washington laws.

**13.5. Allocation of Costs of Resolving Claims.**

Each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs, except as otherwise provided in this subsection.

**13.6. Enforcement of Resolution.**

If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 15.4 and any Party thereafter fails to abide by the terms of such agreement, or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such Award, then any abiding or complying Party may file suit or initiate administrative proceedings to enforce such agreement or Award



without the need to again comply with the procedures set forth in Section 13.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

#### **ARTICLE 14. MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors 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.

##### **14.1. Notices of Action.**

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby 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 a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 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.

##### **14.2. Other Provisions for First Lien Holders.**

To the extent not inconsistent with Washington law:

- (a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which at least



51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

**14.3. Amendments to Documents.**

The following provisions do not apply to amendments to the constituent documents or termination of the Association as a result of destruction, damage, or condemnation pursuant to Section 14.2(a) and (b), or to the addition of land in accordance with Article 10.

(a) The consent of Members representing at least 67% of the Class A votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

(b) The consent of Members representing at least 67% of the Class A votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, Bylaws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such  
liens;
- (iii) reserves for maintenance, repair and replacement of the  
Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of the Properties;
- (vii) expansion or contraction of the Properties or the addition,  
annexation, or withdrawal of Properties to or from the Association;
- (viii) boundaries of any Unit;



- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

#### **14.4. 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.

#### **14.5. Notice to 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.

#### **14.6. 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 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.

#### **14.7. Amendment by Board.**

Should the Federal National Mortgage Association or FHLMC subsequently delete any of its respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

### **ARTICLE 15. CHANGES IN OWNERSHIP OF UNITS**

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least 7 days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Each transferee of a Unit shall, within 7 days of taking title to a Unit, confirm that the information previously provided by the transferor is complete and





accurate. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

**ARTICLE 16. CHANGES IN COMMON AREA**

**16.1. Condemnation.**

If 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 67% of the total Class A votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 10.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 10.1, and Members representing at least 67% of the total Class A vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 8.3(c) regarding funds for restoring improvements shall apply.

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

**16.2. Partition.**

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.



## ARTICLE 17. AMENDMENT OF DECLARATION

### 17.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, so long as Declarant owns property described in EXHIBIT A or EXHIBIT B for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner or unless such Owner shall consent in writing.

### 17.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 67% of the total Class A votes in the Association, including 67% of the Class A votes held by Members other than Declarant, and Declarant's consent, so long Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 10.1. In addition, the approval requirements set forth in Article 14 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.

### 17.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class B Member without Declarant's written consent or the Class B Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority 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.

Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

#### **ARTICLE 18. MISCELLANEOUS.**

##### **18.1. Exhibits**

The exhibits attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be as provided herein.

##### **18.2. Duration.**

This Declaration shall be enforceable by Declarant, the Association, any Owner and their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. If, however, the period for the enforcement of covenants running with the land is limited by law, the Declaration shall be enforceable as provided above for a period of 20 years. After such time, this Declaration shall be extended automatically for successive periods of 10 years each, unless an instrument signed by a majority of the then Owners has been recorded within the year preceding any extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified in such instrument.

##### **18.3. Severability.**

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.



IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

**THE VILLAGE AT LAKE CHELAN, LLC,**  
a Washington limited liability company

By *JF*  
Name: Jason J Fors  
Its: \_\_\_\_\_

STATE OF WASHINGTON }  
COUNTY OF CHELAN } ss.

On this day personally appeared before me Jason J. Fors, to me known to be the Manager of **THE VILLAGE AT LAKE CHELAN, LLC**, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that s/he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 4 day of Nov., 2005.



*Floddie Marie Shaev*  
Printed Name Floddie Marie Shaev  
NOTARY PUBLIC in and for the State of Washington,  
residing at Wentworth  
My Commission Expires 8/8/06



**EXHIBIT A**

**LAND INITIALLY SUBMITTED**

[Legal description of Phase I property.]

The West one-half of Tract 22, Low Line Division No. 2 of the Lake Chelan Land Company's Irrigated Lands, Chelan County, Washington, according to the plat thereof recorded in Volume 3 of Plats, page 11.

TOGETHER WITH Lots 23 and 24, Lake Chelan Land Company's Irrigated Lands, Low Line Division No. 2, Chelan County, Washington, according to the Plat thereof recorded in Volume 3 of Plats, page 11, EXCEPT that portion of said Lot 24 described as follows: beginning at the Southwest corner of said Lot and thence running South 72°41' East along the North Boundary of Wapato Way for 363.50 feet; thence North 17°19' East for 136.10 feet; thence North 37°26' West for 336.30 feet; thence South 89°08' West 187.45 feet, more or less, to the West line of said Lot; thence South 0°52' East along said West line for 285.89 feet, more or less, to the Point of Beginning.

EXCEPT All of the above described property lying easterly of the following described line; Beginning at the Southeast corner of the said West half of Tract 22; thence North 72°49'36" West for a distance of 547.12 feet, to the True Point of Beginning of this described line; thence North 17°08'32" East for a distance of 113.93 feet; thence North 72°51'28" West for a distance of 29.08 feet; thence North 17°08'39" East for a distance of 152.08 feet; thence North 72°51'15" West for a distance of 79.61 feet; thence North 17°08'45" East for a distance of 93.26 feet; thence North 72°51'15" West for a distance of 58.36 feet; thence North 17°08' 26" East for a distance of 81.61 feet; thence 2.48 feet along a 24.50 foot radius non tangential curve to the right having a delta angle of 05°48'22" and a chord bearing of South 75°45'46" East for a chord distance of 2.48 feet; thence North 17°08'26" East for a distance of 21.00 feet; thence South 72°51'34" East for a distance 21.41 feet; thence 13.81 feet along a 24.50 foot radius curve to the right having a delta angle of 32°17'45" and a chord bearing of North 56°42'42" West for a chord distance of 13.63 feet; thence North 17°08'26" East for a distance of 64.72 feet; thence South 72°51'34" East for a distance of 47.93 feet; thence North 17°08'26" East for a distance of 60.51 feet; thence North 72°51'34" West for a distance of 111.00 feet; thence 25.00 feet along a 24.50 foot radius non tangential curve to the right, having a delta angle of 58°26'51" and a chord bearing of North 37°36'50" East for a chord distance of 23.93 feet; thence North 66°50'16" East for a distance of 5.41 feet; thence North 23°09'44" West for a distance of 28.00 feet; thence North 00°18'09" West for a distance of 108.25 feet, and the Termination of this line description.



**EXHIBIT B**

**LAND SUBJECT TO ANNEXATION**

The West one-half of Tract 22, Low Line Division No. 2 of the Lake Chelan Land Company's Irrigated Lands, Chelan County, Washington, according to the plat thereof recorded in Volume 3 of Plats, page 11.

TOGETHER WITH Lots 23 and 24, Lake Chelan Land Company's Irrigated Lands, Low Line Division No. 2, Chelan County, Washington, according to the Plat thereof recorded in Volume 3 of Plats, page 11, EXCEPT that portion of said Lot 24 described as follows: beginning at the Southwest corner of said Lot and thence running South 72°41' East along the North Boundary of Wapato Way for 363.50 feet; thence North 17°19' East for 136.10 feet; thence North 37°26' West for 336.30 feet; thence South 89°08' West 187.45 feet, more or less, to the West line of said Lot; thence South 0°52' East along said West line for 285.89 feet, more or less, to the Point of Beginning.

**EXCEPT** All of the above described property lying westerly of the following described line; Beginning at the Southeast corner of the said West half of Tract 22; thence North 72°49'36" West for a distance of 547.12 feet, to the True Point of Beginning of this described line; thence North 17°08'32" East for a distance of 113.93 feet; thence North 72°51'28" West for a distance of 29.08 feet; thence North 17°08'39" East for a distance of 152.08 feet; thence North 72°51'15" West for a distance of 79.61 feet; thence North 17°08'45" East for a distance of 93.26 feet; thence North 72°51'15" West for a distance of 58.36 feet; thence North 17°08' 26" East for a distance of 81.61 feet; thence 2.48 feet along a 24.50 foot radius non tangential curve to the right having a delta angle of 05°48'22" and a chord bearing of South 75°45'46" East for a chord distance of 2.48 feet; thence North 17°08'26" East for a distance of 21.00 feet; thence South 72°51'34" East for a distance 21.41 feet; thence 13.81 feet along a 24.50 foot radius curve to the right having a delta angle of 32°17'45" and a chord bearing of North 56°42'42" West for a chord distance of 13.63 feet; thence North 17°08'26" East for a distance of 64.72 feet; thence South 72°51'34" East for a distance of 47.93 feet; thence North 17°08'26" East for a distance of 60.51 feet; thence North 72°51'34" West for a distance of 111.00 feet; thence 25.00 feet along a 24.50 foot radius non tangential curve to the right, having a delta angle of 58°26'51" and a chord bearing of North 37°36'50" East for a chord distance of 23.93 feet; thence North 66°50'16" East for a distance of 5.41 feet; thence North 23°09'44" West for a distance of 28.00 feet; thence North 00°18'09" West for a distance of 108.25 feet, and the Termination of this line description.

## EXHIBIT C

### INITIAL USE RESTRICTIONS

The following Use Restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited by the Association.

**1. General.** 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 Declarant, approved Builders, or the Association consistent with this Declaration and any Supplemental Declaration). Any Supplemental Declaration or additional covenants imposed on the property within any neighborhood may impose stricter standards than those contained in the Declaration and the Association shall have standing and the power to enforce such standards.

**2. Restricted Activities.** The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

**2.1 Parking.** Parking of commercial vehicles (even if owned by the Owner or occupant of the Unit), recreational vehicles, mobile homes, boats or other watercraft, or other oversized vehicles, stored vehicles or inoperable vehicles in places other than enclosed garages; provided that such operable vehicles may be parked outside for a period between 7:00 a.m. and 10:00 p.m. for purposes of loading and unloading;

**2.2 Parking on Private Roads.** Parking on private roads within the Property is prohibited. Parking for guests of Owner's is limited to designated short-term guest parking within the Common Areas;

**2.3 Vehicle Repair.** Storing, repairing or maintaining vehicles or equipment of any type on any part of a Unit except in an enclosed garage;

**2.4 Recreational Parking.** Parking areas serving the swimming pool and central recreation area for the Properties shall be limited to cars and golf carts;

**2.5 Wildlife.** Capturing, trapping, injuring or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties or except as required or permitted by any applicable governmental authority. Chasing, injuring or killing of wildlife within the Properties by pets of Owners or occupants of Units within the Properties;

**2.6 Pets.** Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that two small (or one large) dog, cat or other usual and common household pet may be permitted in a Unit. (A large pet is one weighing more



than 50 pounds.) However, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Pets shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and such owners shall pick up after their animals;

**2.7 Leasing; Timesharing.** Leasing or renting a Unit for less than 6 months or operation of a timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

**2.8 Garage Sales.** Any garage sale, moving sale, rummage sale or similar activity, except in accordance with Rules and Regulations the Board may adopt;

**2.9 Architectural Standards.** Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 4 of the Declaration and the Architectural Standards. This shall include, without limitation, signs, swing sets and similar sports and play equipment; clotheslines; fountains, birdbaths and lawn statuary; flag poles and ornamentation; garbage cans; woodpiles; above-ground swimming pools, hot tubs or spas; docks, piers and similar structures; and hedges, walls, dog runs, animal pens or fences of any kind;

**2.10 Satellite Dishes.** Standard TV antennas and satellite dishes one meter in diameter or less shall be permitted at the Properties; however, such over-the-air reception devices shall comply with screening requirements, Architectural Standards and other applicable Use Restrictions adopted by Declarant, the ARC, the Board, or Association, pertaining to the means, method, and location of TV antenna and satellite dish installation. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Properties, should any master system or systems be utilized by the Association and require such exterior apparatus; and

**2.11 Open-Air Burning.** Open-air burning; provided, however, that open-air burning may be allowed if done in accordance with rules, regulations and ordinances of the Chelan County and provided further that such burning does not constitute a nuisance as determined by the Board of Directors of the Association.

**3. Prohibited Conditions.** The following shall be prohibited within the Properties:





**3.1 Noxious Plants, etc.** Plants, animals, devices, or other things 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;

**3.2 Dilapidated Items.** Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

**3.3 Withdrawal of Ground or Surface Water.** Sprinkler or irrigation systems or wells of any type which draw upon ground or surface waters within the Properties; and

**3.4 Wood-Burning Fireplaces.** Wood-burning fireplaces or stoves; provided, that outdoor cooking facilities, such as barbecues, are permissible subject to rules, regulations and ordinances of the Chelan County, if any.



## EXHIBIT D

### RULES OF ARBITRATION

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").

2. The Parties shall select arbitrators ("Party Appointed Arbitrators") as follows: all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("Neutral") so that the total arbitration panel ("Panel") has three arbitrators.

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the JAMS/Endispute, or such other independent body providing arbitration services, for any dispute relating to the design or construction of improvements at the Properties, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. If either agency is unavailable or unable to provide such arbitration services, the Association or any Party may apply to any court of competent jurisdiction to appoint an arbitrator in accordance with Washington law. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral's Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.

5. The Appointed Neutral or Neutral, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.



6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

12. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

13. There will be no post-hearing briefs.



14. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

15. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

16. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.



**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE VILLAGE AT LAKE CHELAN**

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