

Recording requested by, and
when recorded mail to:

Robert Howe
Kingsley Glen LLC
5446 Hyada Blvd. N.E.
-Tacoma, WA 98422



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KING COUNTY, WA

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS AND RESERVATIONS
FOR
KINGSLEY GLEN**

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Grantor Kingsley Glen LLC
Grantee 1. Kingsley Glen (Plat Name) 2 The Public
Abbreviated Legal Description: <u>SECT 34, TNSP 22N, R6E 5E</u>
Complete legal description is on Exhibit A, 26
Assessor's Tax Parcel IDs 342205-9156-02; 342205-9038-06; 342205-9037-07

Said document(s) were filed for record
by Transnation Title as accommodation
only. It has not been examined as to proper
execution or as to its effect upon title.

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS AND RESERVATIONS
FOR
KINGSLEY GLEN**

THIS DECLARATIONS OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS ("Declaration") is made as of the 27 day of February, 2002 by **KINGSLEY GLEN, LLC**, a Washington limited liability company ("Declarant").

RECITALS

A Declarant, **Kingsley Glen, LLC**, a Washington limited liability company, is the owner of certain real property located in the City of Kent, King County, State of Washington, described in **Exhibit A**, attached hereto (the "Property")

B The Property is to be improved as a single-family residential development in the manner described in **Exhibit B** attached hereto, with separate title to the Lot and improvements thereto

C Each residential Lot, as hereinafter defined, shall have as appurtenant to it a membership in **Kingsley Glen Homeowners Association, Inc**, which will be the governing body with respect to the Property

D The Property is to be developed with a total of forty (40) residential lots.

DECLARATION

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be conveyed, hypothecated, encumbered, leased, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of the protection, maintenance and sale of lots within the Property and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. All limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, and shall be equitable servitudes in accordance with the laws of the State of Washington and shall be binding upon Declarant and all parties having any right, title or interest in the Property or any portion thereof and shall inure to the benefit of their heirs, successors and assigns

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**ARTICLE 1
DEFINITIONS**

1.1 **"Association"** shall mean and refer to Kingsley Glen Homeowners Association, Inc, its successors and assigns

1.2 **"Board"** shall mean the Board of Directors of the Association

1.3 **"Bylaws"** shall mean the bylaws of the Association adopted by Declarant, as such bylaws may be amended from time to time

1.4 **"Common Area"** shall mean those Lots, if any, described as part of the Common Area in **Exhibit B**, including any improvements thereon

1.5 **"Declarant"** shall mean Kingsley Glen, LLC, a Washington limited liability company, its successors and assigns, if such successors and assigns acquire or hold title to all, or any portion of the Property for development purposes

1.6 **"Development"** shall mean the Property, being the land described on **Exhibit A**, and such additions thereto as may hereafter be subject to the terms of the Declaration, and all improvements and structures now or hereafter placed on the Property

1.7 **"First Mortgage"** and **"First Mortgagee"** shall mean, respectively (a) a recorded Mortgage on a Lot that has the legal propriety over all other Mortgages thereon, and (b) the holder of a First Mortgage. For purposes of determining the percentage of First Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds First Mortgages on more than one Lot, such Mortgage shall be deemed a separate Mortgagee for each such First Mortgage so held.

1.8 **"Lot"** shall mean a parcel of the Property consisting of the following

1.8.1 A separate interest in a parcel of real property and all improvements thereon

1.8.2 Any easements appurtenant to the real property

1.8.3 A membership in the Homeowners Association.

1.9 **"Member"** shall mean every person or entity who holds a membership in the Association through ownership in a Lot

1.10 **"Mortgage"** shall mean a mortgage or deed of trust encumbering a Lot or other portion of the Development. A **"Mortgage"** shall also mean an installment sales contract in a Lot or other portion of the Development

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1 11 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a Mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.

1 12 "Owner" shall mean each person and entity holding a record ownership in a Lot, including the Declarant. The term "Owner" shall not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation

**ARTICLE 2
PROPERTY RIGHTS, RIGHTS OF
ENJOYMENT AND EASEMENTS**

2 1 **Lot Ownership; Exclusive Easements** The ownership of each Lot within the Development shall include one (1) Lot, one (1) membership in the association and all rights incidental thereto, and the exclusive easement or easements appurtenant to such Lot over adjoining Lots as described hereinbelow and over the Common Area, if any, as described in the deed to such Lot or on a map of the Tract. Any conveyance, judicial sale or other voluntary or involuntary transfer of a Lot includes any exclusive easements or easements appurtenant to the Lot and in the Common Area. Any conveyance, judicial sale or other voluntary or involuntary transfer of the Owner's entire estate also includes the Owner's membership interest in the Association

2 2 **Ownership of the Common Area** The Common Area shall be owned by the Association. The Common Area shall be conveyed to the Association prior to or coincident to the first transfer or conveyance of a subdivision interest by the Declarant. Membership in the Association through ownership of a Lot shall entitle and Owner, his family, guests and invitees to use the Common Area pursuant to the use restrictions contained herein, and in the Bylaws and Rules and Regulations of the Association.

2 3 **Maintenance of Common Area** The Association shall maintain the Common Area as provided herein

2 4 **Owner Non-Exclusive Easements of Enjoyment** Every Lot Owner shall have a non-exclusive easement of use and enjoyment in and to and throughout the Common Area of the Development, as well as a non-exclusive easement for ingress, egress and support over and through the Common Area. Each such easement shall be appurtenant to and pass with the title to every Lot, subject to the following restrictions

2 4 1 The right of the Association to limit the number of guests, and to adopt Association rules and regulations regulating the use and enjoyment of the Common Area

2 4 2 The right of the Association to borrow money for the purpose of improving the Common Area, subject to the approval of the majority of the total voting power of the membership residing in Members

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2 4 3 The right of Declarant or its designees to enter upon the Development for purposes of construction of the Development and for purposes of making repairs and remedying construction defects

2 4 4 The right of the Association, or its agents to enter any of the Lots in order to perform its obligations hereunder, which right shall be immediate in case of an emergency originating in or threatening such Lot, whether the Owner is present or not

2 4 5 The right of any Owner, or his representative, to enter the Lot of any other Owner for purposes of performing permissible installations, alterations or repairs to mechanical or electrical services, including installations of television cables, provided requests for entry are made in advance and that such entry is at a time convenient to the Owner whose Lot is being entered, and in the case of emergency, such right of entry shall be immediate

2 4 6 The right of access and entry to the Development, all buildings and structures for any official charged with carrying out the laws of the City of Kent, State of Washington, or the United States of America

2 4 7 In addition to the general easements for use of the Common Area reserved herein, there shall be, and Declarant hereby reserves and covenants for itself and all further Owners within the Development, nonexclusive easements appurtenant to all the Lots in the Development for vehicular and pedestrian traffic over the private streets and walkways within the Common Area, subject to the parking provisions set forth in Article 3, Section 3 5

2 4 8 In addition to the foregoing easements over the Common Area, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners within the Development, easements for public services of the City of Kent, including, but not limited to, the right of the police and fire departments to enter upon any part of the Common Area for the purpose of carrying out their official duties

2 4 9 For so long as Declarant owns any Lot in the Development and for a period of three (3) years thereafter, Declarant hereby expressly reserves for its benefit, for the benefit of its agents, employees and contractors, and for the benefit of its successor and assigns, a non-exclusive easement appurtenant to each Lot in, to and over the Common Area for access, ingress, egress, use and enjoyment, in order to show the Lot to prospective purchasers, or to development, market, sell, lease, repair, maintain or otherwise dispose of the Lot Declarant and its successors and assigns also reserves the right to construct a house of any design, location, color, architectural scheme or size on any Lot in the Development for a period of four (4) years hereafter

2 4 10 In addition to the foregoing easements over the Common Area, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners within the Development, easements for public and private utility purposes, including, but not limited to, the right of any public utility or water district of ingress and egress over the Common Area for the purposes of reading and maintaining meters and using and maintaining fire hydrants located on the Common Area

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2 5 **Delegation of Use** Any Owner may delegate his rights of enjoyment in the Development, including any recreational facilities thereof, to the members of his family, his guests, and invitee, and to such other persons as may be permitted by the Bylaws of the Association rules and regulations, provided, however, that neither the Owner of a Lot who has sold the Lot to a contract purchaser thereof or has leased or rented the same, nor members of his family, his guests and invitee shall be entitled to delegate the rights of enjoyment in the same manner as if such contract purchaser, lessee or renter were the owner of such Lot during the period of his occupancy of such Lot. Each Owner shall notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser, lessee or renter has delegated ay rights of enjoyment in the Development and the relationship which each person bears to such Owner, contract purchaser, lessees or renter. Any rights of enjoyment delegated pursuant hereto are subject to suspension to the same extent that rights of Owners are subject thereto. No Owner may lease or rent less than an entire Lot nor put the Lot to time share uses or transfer it to a time-share estate. Any lease or rental agreement shall be required to provide that the terms of the lease or rental agreement shall be subject in all respect to the provision of the Declaration and the Bylaws and that any failure by the lessee or renter to comply with the terms of such documents shall be a default under the lease. All leases and rental agreements shall be required to be in writing and for a term no less than thirty (30) days. Nothing herein shall be construed to prohibit an Owner from transferring his Lot into or holding title to his Lot in tenancy-in-common, joint tenancy, tenancy by the entirety, or as community property.

2 6 **Minor Encroachments** If any portion of the Common Area encroaches upon any of the Lots, a valid easement for such encroachment and for the maintenance of same as long as it remains shall and does exist, and pursuant to this Declaration, all Lots are made subject to such easements.

2 7 **Easements Granted by Association** The Association shall have a power of attorney to grant and convey to any thirty party, on behalf of any Owner of a Lot, easements and rights-of-way in, on, over and under the Common Area for the purpose of constructing, erecting, operating or maintaining thereon, therein, or thereunder, overhead or underground lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm drains and pipes, water systems, sprinkling systems, water and gas lines or pipes, and any similar public or quasi-public improvements expressly consents hereto, provided, however, that no such easements may be granted if same would interfere with the use, occupancy or enjoyment by any Owner of a Lot, or any exclusive easements over the Common Area appurtenant thereof, if any.

ARTICLE 3 USE RESTRICTIONS

3 1 **Residential Use** Lots shall be used for residential purposes only, provided, however, that for a period of three (3) years from and after the date of recordation of this Declaration or whenever all Lots have been sole, whichever occurs first, Lots owned by Declarant may be used by Declarant its designee as models, sales offices and construction offices for the purpose of developing, improving and selling Lots in the Development. Nothing herein shall

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prevent an Owner from leasing or renting his Lot, provided, however, any lessee or renter thereof shall abide by and be subject to all terms and provisions of this Declaration, Bylaws, Articles of Incorporation and the Association rules

3 2 **Commercial Use** Except as otherwise expressly provided in this Declaration, no part of the Development shall ever be used or caused, allowed or authorized to be used in any way, directly or indirectly for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes. The provisions of this Section 3 2 shall not preclude any of the above-described activities without external evidence thereof, provided that all of the following conditions are fulfilled (a) such activities are conducted in conformance with all applicable governmental ordinances, (b) the patrons or clientele of such activities do not visit the Lot or park automobiles or other vehicles within the Property, (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Lot, (d) no such activity increases the liability or casualty insurance obligations or premium of the Association, and (e) such activities are consistent with the residential character of the Development and conform with the provision of this Declaration

3 3 **Lot Maintenance** Each Owner of a Lot shall be responsible for maintaining his Lot and all improvements thereto, except any portion of the Lot which is to be maintained by the Association or subject to an easement for an Owner of an Adjoining Lot to perform such maintenance, in a first-class, clean, sanitary, workable and attractive condition. Windows on the Lots may be covered by drapes, shades or shutters only and may not be painted or covered by foil, cardboard or other similar materials. Each Owner shall be responsible for and repair any damage to improvements in his Lot caused by wood destroying pests or organisms.

The repair and maintenance, and the costs thereof, of each wall or fence which is built as part of the original construction of the Development and placed on the dividing line between the Lots shall be shared equally by the Owners of the Lots appurtenant to such wall or fence. However, each Owner shall be solely responsible for repainting the side of any such wall or fence facing his Lot. If any such wall or fence is destroyed or damaged by fire or other casualty, any Owner whose Lot is affected thereby may restore it and the Owner of the other Lot which is affected thereby shall contribute equally to the cost of restoration thereof without prejudice however to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

3 4 **Offensive Conduct; Nuisance** No noxious or offensive activities, including, but not limited to, the use of the a large power tools, and noisy or smoky vehicles shall be carried on, upon or within the Development, nor shall anything be done thereon which may be or become any annoyance or nuisance to the residents of the Development, or which shall in any way interfere with the quite enjoyment of occupants of the Lots. No items which unreasonably interfere with radio or television reception of any Owner or horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of any improvements or the contents thereof, shall be place or used on a Lot. No repair, maintenance or restoration of any vehicle shall be conducted on the Development except within an enclosed garage, provided that such activity

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is not undertaken as a business, and provided that such activity may be prohibited entirely by the Association if the Association determines that it constitutes a nuisance

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3 5 **Parking Restrictions; Use of Garages** Each Owner is required to provide adequate off-street parking. On-street parking is reserved for the temporary use of guests and for emergency purposes only. No parking of any vehicle shall be allowed on any unpaved portion of a Lot. No boats, trailers, recreational vehicles, campers, motorcycles having more than two wheels, trucks having manufacturer's rating or payload capacity of over one ton, vans or buses designed to hold more than ten (10) passengers, vehicles or parts of vehicles, aircraft, commercial vehicles (e.g. stakebed trucks, tank trucks, dump trucks, step vans, and concrete trucks), or any vehicle or vehicular equipment deemed a nuisance by the Association shall be parked or left on a Lot other than in fully enclosed garages or a fully enclosed fenced area of a Lot, provided, further, that their presence on the Development does not violate any other provision of this Declaration or the Association rules, if any. Parking by commercial vehicles for the purposes of making deliveries shall be permitted in accordance with the Association rules. Garages shall be used for the parking of vehicles only and shall not be converted for living activities. Each Owner shall insure that each garage accommodates at least the number of vehicles for which it was originally constructed. There shall be no parking or stopping in the fire lanes.

3 6 **Signs** No sign of any kind shall be displayed to the public view on or from any Lot or on or from the Common Area without the approval of the Association, excepting such signs as may be used by the Declarant or its designees for the purpose of developing, selling and improving Lots within the Development. All of Declarant's signs are to be removed when the last Lot owned by Declarant closes escrow. Notwithstanding the foregoing, one (1) sign not larger than twenty (20) inches by thirty (30) inches advertising a Lot for sale or for rent may be placed within each Lot or within the Common Area immediately adjacent thereto by the Owner thereof, the location and design thereof to be subject to reasonable approval by the Association. Small political signs shall be allowed but shall be promptly removed following the election. Traffic and other signs installed by Declarant as part of the original construction of the Development are not affected by this Section.

3 7 **Antennae, External Fixtures, Etc.** No television or radio poles, antennae, flag pole or other external fixtures other than those originally installed by Declarant or approved by the Association, and any replacements thereof, shall be constructed, erected or maintained on or within the Common Area, including any structures thereon. No wiring, insulation, air conditioning or other machinery or equipment other than that originally installed by Declarant or approved by the Association, and any replacements thereof, shall be constructed, erected or maintained within the Common Area. No radio station or short-wave operators of any kind shall operate from any Lot or improvements thereon unless approved by the Board. Each Owner shall have the right to install a satellite/cable television dish no larger than 30" diameter on the rear half of the lot.

3 8 **Fences, Etc.** No fences, awning, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Development except such as are installed in accordance with the original

construction of the Development, and any replacement thereof, except fences along property lines or as are authorized and approved by the Association

3 9 **Lighting** Area, flood and ornamental lighting must be of a subdued nature and must be approved by the Board

3 10 **Animals** No animals, reptiles, rodents, livestock or poultry shall be keep in any Lot or elsewhere within the Development, except each Lot may maintain three (3) pets consisting of any combination of birds, fish, domestic dogs and domestic cats In any event, the Association shall have the absolute right to prohibit the maintenance of any animals or pets, which constitute, in the sole and exclusive opinion of the Board, an unreasonable disturbance to another Owner or occupant of the Development Each person bringing or keeping a pet upon the Development shall be absolutely liable to each and all other Owners, their family members, guests, invitee, lessees, renter and contract purchasers, and their respective family members, guests, and invitees for any damage brought upon or kept upon the Development by such person or by members of his family, his guests or invitees It shall be the responsibility of each person bringing a pet onto the Development to keep that pet within an enclosure or on a leash being held by a person capable of controlling the animal and to clean up after such animals, which have used any portion of the Development, or public streets abutting or visible from the Development. Notwithstanding anything herein set forth, all Owners shall comply with all applicable governmental laws, codes, ordinances and regulations pertaining to animals

3 11 **Restricted Use of Recreational Vehicles, Etc.,** No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living area while located on the Development, provided, however, trailers or temporary structures for use incidental to the initial construction of the Development or the initial sales of Lots in the Development or incidental to the initial construction on Property owned by Declarant or Declarant's designee and situated in the vicinity of the Development or the initial sales therein may be maintained within the Development, but shall be promptly removed upon completion of all such initial construction and all such initial sales

3 12 **Trash Disposal** Trash, garbage, or other waste shall be kept only in sanitary containers No Owner of a Lot shall permit or cause any trash or refuse to be kept on any portion of the Development subject to this Declaration other than in the receptacles customarily used therefore, and placed or maintained as required by the local codes and/or ordinances No odor shall be permitted to arise from any of the receptacles so as to render the Development, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants Such receptacles shall be exposed to the view of neighboring Lots only when set out for a reasonable period of time before or after scheduled trash collection There shall be no exterior fires whatsoever, except barbecue fires contained within receptacles therefore and fire pits in enclosed areas and designed in such a manner that they do not create a fire hazard No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Development except within an enclosed structure or if appropriately screened from view No plants or seeds infected with noxious insect or plant diseases shall be brought upon, grown or maintained upon the Development

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3 13 **Outside Drying and Laundering** No exterior clothesline shall be erected or maintained and there shall be no exterior drying or laundering of clothes on balconies, patios, porches or other areas

3 14 **Temporary Structures** No structure of a temporary character, trailer, tent, shack, garage or other outbuilding shall be installed, placed or used on any Lot either temporarily or permanently without prior written consent of the Board

3 15 **Exterior Alterations** No Owner shall, at his expense or otherwise, make any alterations or modifications, including the installation of patio covers, wiring, or air conditioning fixtures, to the exterior of the buildings, fences or walls situated within any Lot without prior written consent of the Association Any installation which increases Lot coverage shall require the approval of the City of Kent No fence, wall, basketball backboard or other fixed sports apparatus shall be constructed or maintained without prior approval of the Board

3 16 **Compliance with Laws, Etc.** Nothing shall be done or kept in any Lot or in the Common Area which might increase the rate of, or cause the cancellation of, insurance on the Development, or any portion thereof, without the prior written consent of the Board

3 17 **Indemnification** Each Owner shall be liable to the remaining Owners for any damage to the Common Area, which may be sustained by reason of negligence of an Owner, members of his family, his contract purchasers, lessees, renters, guests or invitees, to the extent that any such damage shall not be covered by insurance Each Owner, by acceptance of his deed, agrees for himself, and for the members of his family, his contract purchasers, lessees, renters, guests or invitees, to indemnify each and every other Owner, and to hold him or her harmless from, and to defend him or her against, any claim of any person or persons for personal injury or property damage occurring within the Lot of that particular Owner, unless said injury or damage occurred by reason of the negligence of any other Owner or person temporarily visiting in said Lot

3 18 **Provision for Monitoring Lot Condition** The Board shall, in its sole discretion, determine when the condition of a Lot falls below the "first class, clean, sanitary, workable and attractive condition" described in Section 3 3 hereof, and may request the Owner of the Lot whose condition falls below the above standard to cause such repair or maintenance to be performed so as to bring the Lot up the above mentioned standard In the event the Owner refuses to perform or cause to be performed the maintenance or repairs, the Board may contract for repairs or maintenance and levy a special assessment against such Owner to provide for the contracted repairs or maintenance

3 19 **Drainage** Each Owner of a Lot in the Development agrees for himself, his heirs, assigns, vendees and successors in interest, that he will refrain from interference with the established drainage over his Lot from adjoining or other Lots or parcels in the Development For the purposes hereof, established drainage is defined as the drainage established at the time the overall grading of the Development, including the landscaping of each Lot or parcel thereof, is completed

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3 20 **Handicapped Access** Subject to design approval by the Board, each Owner shall have the right to modify the improvements on his Lot at his sole cost and expense to facilitate access thereto by persons who are blind, visually handicapped, deaf or physically disabled or to alter conditions existing thereon which could be hazardous to such persons

3 21 **Common Area Improvements** Nothing shall be altered or constructed in or removed from the Common Area without the prior written consent of the Association and approval by the City, if requested

3 22 **Water Supply Systems** No individual water supply or sewer disposal system shall be permitted on any Lot in the Development unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendation of any applicable water district, the City of Kent, the Association, and all other applicable governmental authorities

3 23 **View Obstructions** Each Owner, by accepting a deed to the Lot, hereby acknowledges that any construction or installation by Declarant may impair the view of such Owner and hereby consents to such impairment. No other improvement or obstruction shall be constructed, planted or maintained upon any Lot in such location or of such height as to unreasonably obstruct the view from any other Lot in the vicinity thereof. If there is a dispute between Owners concerning the obstruction of a view from a Lot, the dispute shall be submitted to the Association, whose decision in such matters shall be binding. Any items or vegetation maintained upon any Lot, which item or vegetation is exposed to the view of any Owner, shall be removed or otherwise altered to the satisfaction of the Association if it determines that the maintenance of such item or vegetation in its then existing state is contrary to the purposes or provisions of this Declaration. If an Owner fails to perform necessary pruning, trimming or thinning, the Association shall have the right, after notice and hearing, to enter upon such Lot for the purpose of performing such work. The Association shall ensure that vegetation on the Common Area, if any, maintained by the Association is pruned so that the view of any Owner is not unreasonably obstructed.

ARTICLE 4

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

4 1 **Form of Association** The Association shall be an incorporated association. The rights and duties of the Members and the corporation shall be governed by the provisions of the Articles, Bylaws and this Declaration

4 2 **Membership Qualification** Each Owner of a Lot (including Declarant) shall be a member of the Association and shall be entitled to one membership and one vote for each Lot owned, provided, that if a Lot has been sold on contract, the contract purchaser shall exercise the rights of an Owner for purposes of the Association, this Declaration and the Bylaws, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Lot shall be the sole and exclusive qualification for membership in the Association

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4 3 **Transfer of Membership** The Association membership of each Owner (including Declarant) shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant to the Lot to the new Owner thereof.

4 4 **Voting Rights in the Association** The Association shall have two (2) classes of voting membership.

4 4 1 Class A Members shall be all the Owners, as defined in Section 1 12 hereof and the Articles of Incorporation, with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership. When more than one (1) person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to such Lot.

4 4 2 Class B Members shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which he holds the interest required for membership by Section 4 2, provided, however, that the Class B members shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership first equal or exceed the total votes outstanding in the Class B membership. From and after this conversion, the Class B Member shall be deemed a Class A Member entitled to one vote for each Lot in which it holds the interest required for membership.

4 5 **Joint Owner Disputes** The vote for a Lot must be cast as a single vote and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, the majority of the joint Owners shall prevail and the vote allocated to such Lot shall be cast accordingly. In the event more than one (1) vote is cast for a particular Lot, none of the votes shall be counted and the votes shall be deemed void.

4 6 **Pledged Votes** In the event the record Owner has pledged in writing his vote regarding specified matters to a Mortgagee under a duly recorded Mortgage, or to the vendor under a duly recorded real estate contract, only the vote of such Mortgagee or vendor shall be recognized in regard to the specific matters upon which the vote is so pledged during a period of foreclosure involving a Mortgage and/or during a period of forfeiture involving a real estate contract and only if a copy of the instrument with this pledge has been filed with the Board. Amendments to this subsection shall only be effective upon the written consent of all the voting Owners and their respective Mortgagees and vendors, if any.

4 7 **Annual Meetings, Audits** There shall be an annual meeting of the Owners in the first quarter of each calendar year at such reasonable place and time as may be designated by written notice of the Board delivered to all Owners not less than ten (10) days nor more than thirty (30) days prior to the date fixed for the annual meeting. At the annual meeting, there shall be presented a report of the common expenses, itemizing receipts and disbursements for the preceding

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year, and the allocation thereof to each Owner, and the estimated common expenses for the coming year. The Board at any time, or at the written request of Owners having at least forty percent (40%) of the total votes, may require that an outside audit of the Association and management books be presented at a special or annual meeting. An Owner, at his own expense, may at any reasonable time make an audit of the books of the Board and Association. The Board may require an audit of the Association books as often as deemed appropriate.

4.8 **Special Meetings** Special meetings of the Owners may be called at any time for the purpose of considering matters which by the terms of this Declaration require approval of all or some of the Owners, or for any other reasonable purpose. Such meetings shall be called by written notice of the president, or other request signed by a majority of the Board, or by written request by Owners having at least forty percent (40%) of the total votes, which notice shall be delivered not less than ten (10) days nor more than thirty (30) days prior to the date fixed for the special meeting. The notice shall specify the date, time and place of the meeting and the matters to be considered. No business other than that set forth in the notice shall be transacted at the meeting.

4.9 **Adoption of Bylaws** Bylaws for the administration of the Association and for other purposes not inconsistent with the intent of this Declaration shall be adopted at the first regular meeting of the Owners, or at a special meeting of the Owners called for that purpose, upon the vote of Owners holding at least sixty percent (60%) of the total voting power. Amendments to the Bylaws may be adopted in the same manner as provided for in the original adoption of the Bylaws by the Owners, pursuant to this Section 4.9. Declarant may adopt initial Bylaws.

4.10 **Bylaw Provisions** The Bylaws may contain provisions identical to those provided in this Article 4, and may contain supplementary, not inconsistent, provisions regarding the operation of the Development and administration of the Property. The Bylaws shall establish such provision for quorum, ordering of a meeting and details regarding the giving of notice as may be required for the proper administration of the Association.

4.11 **Management by Declarant** Until a date five (5) years from the date of recording this Declaration, or the date on which Declarant shall have closed the sales of ninety percent (90%) of the available Lots, or the date on which Declarant elects to permanently relinquish all of its authority under this Section 4.11 by written notice to all Owners, whichever date first occurs, the Property shall be managed and the Association organized, in the exercise of the sole discretion of the Declarant, as follows:

4.11.1 So long as no temporary Board is then entitled to exercise management authority under Section 4.11.2, Declarant, or a managing agent selected by Declarant, shall have the power and authority to exercise all rights, duties and functions of the Board, including, but not limited to, enacting reasonable administrative rules, contracting for required services, property and insurance, and collection and expending all assessments and Association funds. Declarant, or any such managing agent, shall have the exclusive right to contract for all goods and services, payment for which is to be made from any common or maintenance funds.

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4 11 2 Declarant may, at such times as Declarant deems appropriate, select as a temporary Board three (3) persons who own or are purchasers of Lots, or are officers of corporation, trusts, partnerships or other entities owning or purchasing such Lots. This temporary Board shall have full authority and all rights, responsibilities, privileges and duties to manage the Development under this Declaration and the Bylaws, and shall be subject to all provisions of this Declaration and the Bylaws, provided, that after selecting any such temporary Board, Declarant, in the exercise of its sole discretion, may at any time terminate such temporary Board, and reassume its management authority under Section 4 11 1 hereof or select a new temporary Board under this Section 4 11 2

4 11 3 These requirements and covenants are made in order to assure that the Property and the Development will be adequately administered in the initial phases of development, and to assure an orderly transition to Association operation

4 12 **Management by Board** At the expiration of Declarant's management authority under Section 4 11 hereof, administrative power and authority shall vest in a Board of three (3) directors. The Board may delegate all or any portion of its administrative duties to a manager, managing agent, or officer of the Association, or in such manner as may be provided by the Bylaws

4 13 **Elections** Upon the expiration of the Declarant's management authority, the Declarant shall give notice of a special meeting, in accordance with Section 4 8, which special meeting may coincide with the annual meeting, for the purpose of electing directors to the Board. Director' terms shall be for a period of three (3) years, except that the initial Board shall elect one (1) Director for a one (1) year term, one (1) Director for a two (2) year term, and one (1) Director for a three (3) year term. Thereafter, expired terms and vacancies shall be elected or re-elected in accordance with the Bylaws. Following the election, the Board shall elect its own officers in accordance with the Bylaws

4 14 **Authority of the Board** The Board (or Declarant, or Declarant's managing Agent, as provided in Section 4 11 hereof), for the benefit of the Development and the Owners, shall enforce the provisions of this Declaration and of the Bylaws, shall have the duties, powers, authority and responsibility set forth under this Declaration and the Bylaws, and shall acquire and pay for out of the common expense fund hereinafter provided for, all goods and services requisite to the proper functioning of the Development, including but not limited to, the following

4 14 1 Water and other necessary utility services as required for the Common Area

4 14 2 All costs for the operation and maintenance of a street light system for the Development

4 14 3 Policies of insurance or bonds providing coverage for fire and other hazards, liability for personal injury and property damage, and for the fidelity of Association officers and other employees, as the same are more fully required by the Bylaws

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4 14 4 The services of persons or firms as required to properly manage the affairs of the Association to the extent deemed advisable by the Board as well as such other personnel as the Board shall determine are necessary whether such personnel are employed directly by the Board or are furnished by the manager or management firm or agent

4 14 5 Legal and accounting services necessary or proper to the operation of the Association's affairs, administration of the Common Areas, or the enforcement of this Declaration

4 14 6 Painting, maintenance, repair and all landscaping and gardening work for the Common Areas

4 14 7 Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, tax or assessments which the Board is required to secure by law, or which, in its opinion, shall be necessary or proper for the operation of the Common Areas or for the enforcement of this Declaration

4 14 8 Maintenance and repair of the exterior of any building, including the roof, windows and doors

4 14 9 Maintenance, repair and replacement of the entrance sign and related landscaping, if any

4 14 10 The Board and its agents or employees may enter any Lot or the Common Area when necessary in connection with the maintenance, landscaping or construction for which the Board is responsible or in the event of emergency Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaid by the Board out of the common expense fund if the entry was due to any emergency or for the purpose of maintenance or repairs If the repairs or maintenance were necessitated by or for the Lot entered or its Owner, or requested by its Owner, the costs thereof shall be specifically charged to such Lot

4 14 11 The Board shall have the right to make minor changes and/or waive various use restrictions as recommended by the Board, provided, however, that these changes or waivers shall not detract from the intent of this Declaration

ARTICLE 5 NOTICE FOR ALL PURPOSES

All notices given under the provisions of this Declaration or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail If delivery is made by mail, the notice shall be deemed to have been delivered on the third day of regular mail delivery after a copy has been deposited in the United States mail, first class, postage prepaid, addressed to the person entitled to such notice at the most recent address known to the Board Mailing addresses may be changed by notice in writing to the Board Notices to the Board may be given

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to any Board member or mailed to the residence address of the president or secretary of the Board
Notice to any one (1) Owner of a Lot shall be deemed notice to all (joint) Owners of such Lot

ARTICLE 6 AUTHORITY OF THE BOARD

6.1 **Adoption of Rules and Regulations** The Board is empowered to adopt, amend and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration to promote the comfortable use and enjoyment of the Property and to govern the operation and procedures of the Association. The rules and regulations may, without limitation, authorize voting by proxy or mail, or both, on Association matters. The rules and regulations of the Association shall be binding upon all Owners and occupants and all other persons claiming any interest in the Property.

6.2 **Adoption of Architectural Requirements** The Board is empowered to adopt, amend and revoke on behalf of the Association detailed architectural control requirements and considerations for use by Owners, home builders, architects and the Board in interpreting and enforcing the restrictions contained in this Declaration. Copies of such requirements and considerations shall be made available to Owners, home builders, architects and other interested parties upon request. When adopted, such architectural control requirements and considerations shall be enforceable as part of this Declaration as though fully set forth herein. The Board shall have the power to create an Architectural Control Committee as a committee of the Association and shall be empowered to delegate to the Architectural Control Committee the authority granted to the Board in Article 3 of this Declaration and the authority granted to the Board in this Section 6.2.

6.3 **Enforcement of Declaration, Etc.,** The Board shall have the power to enforce the provisions of this Declaration, and the rules and regulations of the Association for the benefit of the Association. Its successors or assigns shall also have the power to enforce the provisions of this Declaration. The failure of any Owner to comply with the provisions of this Declaration, or the rules and regulations of the Association will give rise to a cause of action in the Association (acting through the Board) for recovery of damages, injunctive relief, or both. If a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, or the rules and regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs and attorneys' fees in the amount awarded by the Court.

6.4 **Certificate of Unpaid Assessments** Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any fiscal year for the ensuing fiscal year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the assessment amount and payment method established for the preceding fiscal year, if any, shall continue until a new assessment is established. Upon the request of any

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