

97-18283

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR NORTH BRINSON BUSINESS PARK**

This Declaration made this 29th day of May, 1997, by JERIKO DEVELOPMENT, L.L.C. ("Declarant"), relates to certain property owned by Declarant in the City of Bend, Deschutes County, Oregon, which is described on the attached Exhibit A (the "Business Park").

Declarant intends to develop the Business Park as a planned business and industrial complex in which diverse light industrial and commercial uses can operate in an efficient and aesthetically pleasing physical environment. To insure the orderly development of the Business Park in accordance with this goal, Declarant shall impose architectural controls, limitations on improvements, and other covenants and restrictions. To provide for continuity in the development of the Business Park, Declarant desires to provide a formal mechanism for the continued exercise of controls and enforcement of protective covenants as set forth in this Declaration.

ARTICLE 1

GENERAL DECLARATION CREATING BUSINESS PARK

1.1 Declaration of Protective Covenants

Declarant hereby declares that the Business Park is now held and shall hereafter be conveyed, leased, occupied, operated and used solely in compliance with the conditions, covenants, restrictions and agreements (hereafter referred to as the Protective Covenants) set forth in this Declaration. The Protective Covenants shall inure to the benefit of and pass with each and every Site into which the Business Park may be divided, shall apply to and bind the heirs, successors and assigns of every Owner, and shall constitute covenants running with the land with respect to each Site.

1.2 Additional Land

Declarant may submit additional contiguous land owned by Declarant to this Declaration at any time by recording in the county deed records a document describing the additional land and stating that it is subject to these Protective Covenants. Upon recording, the additional land shall be a part of the Business Park.

ARTICLE 2

DEFINITIONS

The following definitions shall apply to the use of the associated words and phrases in this Declaration:

Return To:

Hickman, Williams + Associates, Inc.
805 SW Industrial Way, Suite 10
Bend, OR 97702

2.1 **Owner:** The holder of a fee simple interest in a Site, the holder of a vendee's interest in a Site under a recorded installment contract of sale, and the holder of a leasehold estate in a Site. The holder of a leasehold estate in a building or a portion of a building comprising less than all of a Site is not an Owner. If there are two or more co-owners of a Site, they shall collectively constitute only one Owner for the purposes of these Protective Covenants, and shall have only one vote on any matter on which Owners may vote as provided in Section 7.3(b).

2.2 **Owners' Committee:** The committee of owners formed pursuant to the provisions of Article VIII.

2.3 **Site:** A parcel comprising all of the contiguous land in the Business Park held by the same Owner or Owners, unless such parcel has been lawfully partitioned or subdivided, in which case each parcel or lot created by partition or subdivision is a Site.

ARTICLE 3

USE RESTRICTIONS

3.1 Approval of Uses

A Site shall only be used for purposes consistent with these Protective Covenants. No use shall be made of a Site without the prior written approval of Declarant. A request for approval shall be submitted in writing to Declarant by an Owner and Declarant shall have thirty (30) days in which to indicate approval or disapproval. If Declarant gives no written notice to the Owner within such thirty-day (30) period, then the proposed use shall be considered denied.

3.2 Compliance with Zoning

Subject to 3.1 above, a Site shall only be used for business and industrial purposes consistent with the zoning ordinances of the governmental agency having jurisdiction over the Business Park.

3.3 Partition, Subdivision and Lot-Line Adjustments

A Site shall not be partitioned or subdivided, nor shall any lot line be adjusted, without the prior written approval of Declarant. A request for approval shall be submitted and reviewed in the same manner provided in Section 3.1 above.

3.4 Prohibited Activities

No use will be conducted on a Site, nor shall any materials or products be manufactured, processed or stored thereon, which shall, in the opinion of the Declarant, cause an undue fire or health hazard in the Business Park, or which shall constitute a nuisance or cause the emission of noxious odors, gases, smoke, or particulates, or cause excessive noise.

3.5 Compliance with Laws and Regulations

In addition to compliance with these Protective Covenants, each Owner shall assure that the condition and use of its Site shall comply with all applicable federal, state and local laws and regulations, including but not limited to those of the State of Oregon Department of Environmental Quality, and applicable health, zoning and building codes.

ARTICLE 4

DESIGN APPROVAL

4.1 Approval Required

No excavation, building, structure, landscaping, pavement or other improvement of any kind shall be constructed, altered, modified, or placed on any Site until the plans therefor submitted by an Owner shall have received Declarant's written approval. Approval shall be based upon final plans and specifications prepared by licensed architects, engineers or other qualified professionals. Two copies of the plans and specifications described below shall be submitted:

(a) A site plan showing the location, size, configuration and layout of any building, structure, facility and exterior lighting (or, where applicable, any alteration, addition, modification or destruction thereto) including appurtenant facilities for parking, tanks, storage, loading, deliveries, and vehicular and pedestrian traffic and circulation, and including the location of utility lines and storm and sanitary sewer lines.

(b) Architectural plans and drawings showing the nature, style and dimensions of any building, structure facility, fence, wall, barrier, deck and exterior lighting (or, where applicable any alteration, addition, modification or destruction thereof), including the exterior material types, colors, appearance, and the type of screening for roof-mounted fixtures and the type of screening for exterior equipment and for tanks and other exterior storage areas.

(c) A landscape plan showing the nature, type, size, location and layout of all landscaping, vegetation or ground cover proposed to be planted, installed (or, where applicable, removed or destroyed).

(d) A topographical plan showing the elevation, slope and grade of any site work (including the nature, location and utilization of any removal or filling of soil) proposed to be done in conjunction with any proposed improvement, development, modification or destruction of any building, structure, or facility or of any planting, installation or removal of any landscaping, vegetation or ground cover.

4.2 Time for Indicating Approval

Declarant shall have thirty (30) days after proper submission of all plans and specifications pursuant to Section 4.1 and payment of the review fee established pursuant to Section 4.6 within which to indicate approval or disapproval. If Declarant gives no written notice to the Owner indicating approval or disapproval within such thirty-day (30) period, then the plans shall be considered approved. Declarant shall state the reasons for any disapproval. If plans are revised and resubmitted following any disapproval, Declarant shall respond within twenty (20) days, and lack of such response shall be considered to be approval. Declarant may at any time obtain a reasonable extension of the time in which to exercise its approval right by giving notice to the applicant stating that such an extension is required and the length of the required extension.

4.3 Basis for Approval

In exercising its right of approval, Declarant shall consider the adequacy of the Site dimensions for the proposed improvement, the nature of improvements and uses upon neighboring Sites, the relationship of the proposed improvement to the topography of the Site and neighboring Sites, the effect of any proposed parking area or roadway on traffic within the Business Park, the adequacy of storm water retention and drainage to accommodate such water, and the conformity of the plans and specifications to the standards of Article 5 and to the purpose and general concept of the Business Park. Declarant shall not arbitrarily or unreasonably withhold its approval of plans and specifications.

4.4 Design Review by Governmental Authorities

Any plans or specifications submitted to governmental authorities for purposes of obtaining appropriate use approvals, design review approvals, or building permits shall bear the signature of Declarant approving said plans and specifications, and the date of approval.

4.5 Purpose and Effect of Approval

Declarant's review and approval or denial of plans and specifications are for Declarant's sole benefit and do not constitute a representation or warranty that such plans and specifications are or are not suitable for the purposes for which they are intended, or that they comply with any building or engineering standard, code or ordinance. Each Owner, upon submitting plans and specifications for approval, agrees to indemnify and hold Declarant, its agents, contractors, successors and assigns from and against any and all claims, damages, expenses, liabilities or losses arising out of or in any way connected with plans and specifications submitted for review in accordance with Section 4.1.

4.6 Design Review Fee

Declarant shall establish a fee for reviewing an Owner's plans and specifications submitted pursuant to Section 4.1. Said review fee shall reasonably approximate the cost incurred in connection with such review.

ARTICLE 5

DEVELOPMENT AND OPERATIONAL STANDARDS

5.1 Building to Land Ratio

The ratio of building coverage to Site area is subject to the approval of the Declarant, but in no instance may the ratio exceed fifty (50) percent.

5.2 Setbacks

All building setbacks shall comply with the applicable city or county zoning ordinance.

5.3 Parking

Each Site shall provide adequate employee and business parking, loading and delivery facilities to accommodate all operations or uses relating to the Site without requiring on-street parking. If parking requirements increase as a result of a change in use or expansion of an existing use, additional off-street parking shall be provided to satisfy the requirements of this section. All driveways and parking areas shall be paved and curbed in accordance with approved plans and specifications. Loading areas shall be located and screened to restrict to the greatest extent practicable their view from the street and neighborhood.

5.4 Landscaping

Each Site shall be landscaped in conformity with approved plans and specifications which shall include a detailed landscaping plan. In addition, each Owner shall landscape and maintain any unpaved areas between the street and the Site property line. Landscaping shall be installed and operable within sixty (60) days of issuance of a certificate of occupancy or completion of any improvements on the Site, whichever occurs first, or as soon thereafter as weather permits.

5.5 Construction

Any building erected on a Site shall conform to the following construction practices:

(a) The lower four (4) feet or twenty percent (20%), whichever is greater, of exterior walls must be finished with architectural masonry units, concrete block, natural stone or

precast concrete, all as approved by Declarant. Such finish building materials shall be applied to all sides of a building which are visible to the general public, as well as from neighboring property and streets. Colors shall be harmonious and compatible with colors of the natural surroundings and other adjacent buildings. The Declarant shall have the sole right to approve or disapprove materials and colors.

(b) All eaves shall have a minimum overhang of two (2) feet, except in the cases of buildings with flat roofs or building walls located within two (2) feet of the property line.

(c) No temporary buildings or other temporary improvements, including trailers, tents or shacks shall be permitted on Site. Temporary improvements used solely in connection with the construction or sales of permanent approved improvements may be permitted provided they are located as inconspicuously as possible and are removed immediately after completion of such construction.

(d) No antenna for transmission or reception of television signals or any other form of electro-magnetic radiation shall be erected, used or maintained on the Site outside any building, whether attached to an improvement or otherwise, in such a manner as to be visible from any street.

(e) A standardized mailbox design and location conforming to the Declarant's specifications shall be used.

(f) No heating, air conditioning or ventilation equipment which is visible on the exterior of any improvement shall be permitted on the Site unless approved by the Declarant in writing. Approval shall be based upon appearance and adequacy of screening of such equipment.

5.6 Signs

All signs must conform to the requirements of the city or county having jurisdiction and be approved by the Declarant in writing before erection. Each building shall be identified by a number affixed in a location or locations on the building determined by the Declarant. All other signs, including, without limitation, business identification signs, building directories, "For Sale" and "For Lease" or similar signs advertising the availability of property on individual sites, shall conform to a sign policy, including a common sign and color scheme, established by the Declarant, as amended from time to time.

5.7 Storage Areas

(a) Garbage and refuse containers shall be concealed by means of a screening wall of material similar to and compatible with that of the building. These elements shall be integral with the concept of the building plan, be designed so as not to attract attention, and shall be located in the most inconspicuous manner possible.

(b) No materials, supplies or equipment shall be stored on the Site except inside a closed building, or behind a visual barrier screening such areas so that they are not visible from neighboring streets or property, unless approved by the Declarant in writing.

(c) No storage tanks shall be permitted on a Site without the prior written approval of Declarant and receipt of all necessary approvals and permits from any governmental agency having jurisdiction.

(d) No trailer shall be used for storage purposes on a Site.

5.8 Utility Service

No lines, wires, or other devices for the communication or transmission of electric current, including telephone, television and radio signals, shall be constructed, placed or maintained anywhere in or upon a Site unless the same shall be contained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or other approved improvements, provided that electrical transformers may be permitted if properly screened and approved by the Declarant. Temporary electric and telephone service incident to the construction of approved improvements is permitted although not in compliance with these requirements.

ARTICLE 6

CONSTRUCTION AND MAINTENANCE

6.1 Prosecution of Work

Following Declarant's approval of complete plans and specifications described in Section 4.1, the Owner receiving such approval shall promptly satisfy any conditions of the approval and diligently proceed with the prosecution of all approved landscaping, construction or alterations in strict conformity to the approved plans and specifications. If for any reason work has not commenced within one (1) year from the date of Declarant's approval, the approval shall cease to be effective.

6.2 Completion of Work

All construction, reconstruction, refinishing or alterations of any improvement including landscaping shall be completed within one (1) year from the commencement of the work, unless otherwise agreed by Declarant.

6.3 Inspections

Declarant shall have the right, upon reasonable prior notice to Owner, to inspect any work related to any building, structure or facility or any landscaping or other improvements within the

Business Park to determine its conformity with the approved plans and specifications. In the event Declarant determines in good faith that certain work is non-conforming, Declarant may issue a stop work notice, without the necessity of court order, which shall require the Owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of these Protective Covenants. Any inspection or correction conducted or instituted by Declarant shall have the same purpose and effect as Declarant's review and approval of plans and specifications, as set forth in Section 4.5.

6.4 Maintenance Requirements

Each Owner shall at all times keep the Site and the buildings, improvements, landscaping and other appurtenances thereon in a safe, clean, neat and sanitary condition and shall comply with all laws, ordinances and regulations pertaining to health and safety. Each Owner shall provide for the removal of trash and rubbish from the Site. During construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks and the like are kept in a neat and orderly manner. Prior to installation of approved landscaping, vegetation on any unimproved portion of a Site must be kept cut below eight inches (8") in height, excluding native shrubs and trees, unless otherwise approved by Declarant.

6.5 Enforcement

The Declarant shall have the right to enter any Site for the purpose of determining compliance with these Protective Covenants. If a violation is discovered, the owner of the Parcel may be given written notice and a demand to cure the violation with a reasonable time stated in the notice. If the violation is not cured within the time stated, the Declarant may cause the violation to be cured at the owner's expense. The owner shall pay the expense of cure, including any legal and administrative expense incurred, within ten (10) days of billing. All amounts billed and unpaid within the time provided shall be both the personal obligation of the Owner and a lien on the Site in the same manner as is provided in Section 8.2, which lien shall be subject to the provisions of Article 9.

ARTICLE 7

OWNERS' COMMITTEE

7.1 Declarant's Right to Exercise Controls

(a) Declarant, as developer and original owner of all Sites in the Business Park, shall exclusively exercise all design, landscaping, sign and other controls as well as those other duties, obligations and rights prescribed under this Declaration until Declarant relinquishes the

exercise of control and the burden of such duties to the Owners' Committee as set forth in Section 7.2 below.

(b) When Declarant ceases to own land in the Business Park, as the same may be enlarged by the addition of land pursuant to Section 1.2, or at any earlier time after the sale of seventy-five percent (75%) of all Sites in the Business Park at Declarant's option, Declarant shall relinquish its exercise of such control and burdens of such duties and shall record in appropriate offices a declaration stating that Declarant no longer desires to exercise any further controls over development in the Business Park except to the degree it has such rights as an Owner or as a member of the Owners' Committee. Copies of such declaration shall be provided to each Owner within the Business Park contemporaneously with recordation of the declaration. Recordation of such a declaration shall formally terminate Declarant's rights and duties relating to design, landscaping, sign and other controls, as the case may be, as well as any other duties, rights and obligations of Declarant under these Protective Covenants, except to the degree it has such rights as an Owner or as a member of the Owners' Committee.

7.2 Formation of Owners' Committee

Upon Declarant's relinquishment of its control and duties, the Owners' Committee shall automatically come into existence. The Owners' Committee shall succeed to all duties, powers, responsibilities, rights and privileges of Declarant under these Protective Covenants.

7.3 Selection of the Owners' Committee

(a) Within thirty (30) days after the commencement date of the Owners' Committee, the initial members of the Owners' Committee shall be elected. Persons eligible for the Owners' Committee shall be limited to directors, officers, employees, agents, owners or partners of any corporation, partnership, joint venture or proprietorship owning any Site within the Business Park. Declarant shall solicit from and then circulate to all Owners, a list of nominees for the five (5) initial Committee positions within the 30-day organizational period. Declarant shall then conduct an election of the initial Committee. The five nominees obtaining the five highest vote totals shall constitute the initial Owners' Committee.

(b) Each Owner of a Site or Sites shall have the right to cast one vote for each Committee position per each Site consisting of one acre or less, and an additional vote for each acre and any fraction thereof in excess of one-half acre by which the Site exceeds one acre. If the Owner of a Site consists of more than one person or entity, they shall agree among themselves and designate in writing a single person who is entitled to cast the votes for the Site. If they do not agree and designate in writing the person entitled to cast the votes for the Site, that Site shall not be entitled to vote. The initial Owners' Committee shall meet within ten (10) days after the election and may at that time adopt any governing documents, including bylaws, guidelines, procedures, rules and regulations, relating to the Owners' Committee and the Business Park.

7.4 Declarant's Responsibilities

In the event Declarant is unsuccessful in organizing the Owners' Committee within the 30-day organizational period specified by paragraph 7.3 above, Declarant shall have no further responsibilities relating to the Owners' Committee and the Committee shall be organized exclusively by the Owners within the Business Park. Such failure of organization of the Owners Committee shall not affect the existence of the Owners' Committee or the effectiveness of the Protective Covenants.

7.5 Legal Form, Owners' Committee

The Owners' Committee shall determine the legal form of the Owners' Committee and any association of Owners.

ARTICLE 8

ASSESSMENTS

8.1 Purpose and Amount of Assessments

(a) Assessments may be made by Declarant to cover the cost of or to establish a reasonable reserve for providing any service or capital expense for the general benefit of the Business Park, and may include an administrative fee not to exceed ten percent (10%) of the assessment. Purposes for which assessments may be imposed shall include but not be limited to retaining professional assistance in the review of plans and specifications submitted by Owners for approval, performing maintenance upon the default of an Owner in its obligation under these Protective Covenants and other expenses of enforcement hereunder.

(b) The amount of assessments shall be determined by the Declarant after preparation of an annual budget giving due consideration to the current and future costs of implementing those Protective Covenants. Such assessment shall not exceed \$200 per Site per year through the first full calendar year after these Protective Covenants are recorded, and shall be increased by no more than five percent (5%) each calendar year thereafter. The Declarant shall fix the amount of assessment against each Site for each calendar year at least thirty (30) days in advance of such year and shall send written notice of the assessment to each Owner at least fifteen (15) days in advance. If Declarant does not send a notice within such time, assessments shall continue at the same level as for the previous year. The assessments shall be paid on a monthly basis. In the event the amount to be assessed for any period exceeds or is less than anticipated actual expenses, Declarant in its discretion may, by resolution, appropriately adjust the amount of the assessments. Each Owner shall be entitled to a copy of the current annual budget and a statement of actual expenses for the preceding calendar year upon request.

8.2 Creation of the Lien and Personal Obligation of Assessments

The Declarant, for each Site owned by it, hereby covenants and agrees to pay, and each Owner of any Site by acceptance of a deed of that Site, whether or not it shall be so expressed in any such deed, is deemed to covenant and agree to pay to the Declarant assessments to be fixed, established and collected from time to time as herein provided. The assessments, together with interest thereon and costs of collection, shall be a charge on the land and shall be a continuing lien upon the Site against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Site at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

8.3 Uniform Rate of Assessment

Assessments shall be spread to all Sites in proportion to the square footage of such Site to the square footage of all Sites in the Business Park.

8.4 Assessment of Sites Owned by Declarant

Without exception, each Site owned by Declarant shall be subject to assessment in the same manner as any other Site owned by any other Owner.

ARTICLE 9

NONPAYMENT OF ASSESSMENTS

9.1 Delinquency

Any assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the then legal rate. In addition to all legal and equitable rights or remedies, the Declarant may, at its option, bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Site. All remedies shall be considered cumulative and pursuit of one remedy shall not bar pursuit of another. In the event a judgment is obtained, such judgment shall include interest on the assessment, late charges and a reasonable attorneys' fee, together with the costs of action.

9.2 Notice of Lien

No action shall be brought to foreclose an assessment lien until at least thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Site, and a copy thereof is recorded by the Declarant in the office of the County Recorder in the County in which the Business Park is located. The notice of

claim of lien must recite a good and sufficient legal description of the Site, the record owner or reputed owner thereof, the amount claimed (which may at the Declarant's option include interest on the unpaid assessment at the legal rate, plus reasonable attorney fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

9.3 Curing of Default

Upon the timely curing of any default for which a notice of claim of lien was filed by the Declarant, the Declarant shall file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee determined by the Declarant to be adequate to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

9.4 Subordination of Assessment Liens

If any Site subject to a monetary lien created by any provision hereof shall be subject to the lien of a mortgage or deed of trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage or deed of trust; and (2) the foreclosure of the lien of a mortgage or deed of trust, the sale of the property pursuant to the mortgage or deed of trust or the acceptance of a deed in lieu of foreclosure shall not operate to affect or impair the lien hereof, except that the lien hereof for said charges as shall have accrued up to the foreclosure, sale or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage or deed of trust with the foreclosure-purchaser or deed-in-lieu-grantee taking title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure, sale or deed given in lieu of foreclosure, but subject to the lien hereof for all such charges that shall accrue subsequent to the foreclosure, sale or deed given in lieu of foreclosure.

ARTICLE 10

ENFORCEMENT

10.1 Inspection

Declarant or any of its agents or designees may from time to time at any reasonable hour and upon reasonable prior notice, except in case of an emergency, enter upon and inspect any property subject to these Protective Covenants to ascertain compliance.

10.2 Abatement of Violations

Failure to comply with any term or provision of these Protective Covenants shall give to Declarant or any other Owner the right, following five (5) days' written notice addressed to the Owner upon whose Site a violation occurs, to abate, remove or cure such violation at the expense of the noncomplying Owner.

10.3 Violation a Nuisance

Any activity or use conducted on the Business Park in violation of these Protective Covenants is hereby declared to be a public nuisance as to residents of the surrounding area and a private nuisance as to other Owners in the Business Park. All legal and equitable relief available for the abatement of such nuisances shall be available to restrain and enjoin such nuisances and to recover resulting damages.

10.4 Cumulative Remedies; Nonwaiver

The remedies listed above for violation of the Protective Covenants shall not be mutually exclusive nor exclude any other remedy available under applicable law. Failure by Declarant or by any other person entitled to enforce these Protective Covenants as to any given breach shall not be considered a waiver of the right to enforce these Protective Covenants as to any future breaches.

10.5 Attorney Fees

In any legal or equitable proceedings to enforce or restrain violation of these Protective Covenants or to collect the costs of abatement as provided in Section 10.2, the losing party or parties shall pay the attorney fees of the prevailing party or parties in such amount as may be fixed by the court at trial or on any appeal

10.6 No Liability

Neither Declarant nor its successors or assigns shall be liable to anyone seeking approval pursuant to these Protective Covenants nor to any other Owner for granting approval or disapproval, or taking or failing to take action.

ARTICLE 11

DURATION

11.1 Duration

Unless sooner terminated or modified according to the procedure provided in Section 11.2 below, these Protective Covenants shall remain in effect for a period expiring on the fortieth anniversary date of the execution of this Declaration, which is _____, 2037 and shall be automatically renewed for an unlimited number of successive ten-year periods.

11.2 Amendment and Repeal

This Declaration may be terminated or extended or any of the Protective Covenants herein may be modified or amended as to all or any portion of the Business Park with the written consent

of the Declarant and of the Owners of seventy-five percent (75%) of the land area of Sites within the Business Park. Such termination, extension or modification shall become effective upon the recording of the proper instrument in the deed records of the county where this declaration is filed. The consent of the Declarant shall not be required after the Declarant ceases to be an Owner of any Site. No amendment of this Declaration shall affect the rights of a mortgagee under a mortgage or a trustee or beneficiary under a trust deed constituting a lien on any Site unless such person consents in writing to the amendment.

ARTICLE 12

MISCELLANEOUS

12.1 Constructive Notice and Acceptance

Every person who now owns or in the future acquires any right, title, estate or interest in or to the Business Park shall be bound by the terms of these Protective Covenants whether or not any reference to the Protective Covenants is contained in the instrument by which such person acquires an interest in the Business Park.

12.2 Delegation and Assignment of Declarant's Rights and Duties

The Declarant may from time to time delegate any or all of its rights, powers, discretion and duties as Declarant hereunder to such agent or agents as it may designate. As long as Declarant owns more than twenty-five percent (25%) of the Sites in the Business Park, Declarant may permanently assign all of its rights, powers, discretion and duties as Declarant hereunder to any successor in interest to all of Declarant's interest in the Business Park, which assignment shall be effective upon such Owner evidencing its consent in writing to the assignment and recording the assignment and in the county deed records where the Declaration is recorded. Upon such recording, the assigning Declarant shall be released from all duties and responsibilities as Declarant under those Protective Covenants. Once Declarant owns twenty-five percent (25%) of the Sites or less, Declarant may only permanently assign all of its rights, powers, discretion and duties as Declarant to the Owners' Committee as provided in Article 7.

12.3 Notices

All notices to be given pursuant to this Declaration shall be in writing. If given to the Declarant, notice is effective only upon receipt. If given to an Owner, notice is effective two (2) days after mailing by United States certified or registered mail, postage prepaid, addressed to the Owner of a Site at the address shown on the then current property tax roll for the county in which the Site is located.

12.4 Effect of Invalidation

If any term or provision of these Protective Covenants is held to be invalid by any court, such invalidity shall not affect in any way the validity of the remaining Protective Covenants.

IN WITNESS WHEREOF, the undersigned Declarant has caused the execution of this Declaration on the date first above written.

DECLARANT:

JERIKO DEVELOPMENT, L.L.C.

By: *[Signature]*
Member

STATE OF OREGON, COUNTY OF DESCHUTES) ss.

The foregoing instrument was acknowledged before me this 28th day of May, 1997, by Jerry Steund, a member of Jeriko Development, L.L.C.

Tamara L. Horn
Notary Public for Oregon
My Commission expires: 2/1/00



DECLARATION OF COVENANTS AND RESTRICTIONS

FOR NORTH BRINSON BUSINESS PARK

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STATE OF OREGON)
 COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
 RECORDER OF CONVEYANCES, IN AND FOR SAID
 COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
 INSTRUMENT WAS RECORDED THIS DAY:

97 MAY 29 AM 10:19

MARY SUE PENHOLLOW
 COUNTY CLERK

BY J. S. Grawski DEPUTY
 NO. 97-18283 FEE 90-
 DESCHUTES COUNTY OFFICIAL RECORDS