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

**FRANK'S LANDING
LOTS 3, 4, 5, AND 6**

DESCHUTES COUNTY, OREGON

January 14th, 2005
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Adopted January 14th, 2005
1477

**AMENDED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
FRANK'S LANDING
Lots 3, 4, 5, and 6**

This Amended Declaration is made this 14th day of January, 2005, by Concourse 97, a California limited partnership ("Declarant"), as owner of that certain real property in the City of Redmond, described as Lots 3, 4, 5, and 6, FRANK'S LANDING, Deschutes County, Oregon. This Declaration amends and replaces the Declaration of Covenants, Conditions and Restrictions for Frank's Landing Lots 3, 4, 5 and 6 as recorded at Book 2002, and Page 29711, as attached to a Warranty Deed and incorporated by reference. It does not amend the Declaration for Frank's Landing Lots 1 and 2.

The Property is being developed as a planned professional office, retail and tourism-oriented "Village" known as Frank's Landing Lots 3, 4, 5, and 6. It is the intention of Declarant to subject the Property to certain covenants, conditions and restrictions for the benefit of Declarant and the purchasers of Lots in the Property. Said covenants, conditions and restrictions are intended to be common to all Lots in the Property and are being established to:

insure orderly development in accordance with a plan for subdivision, improvement, maintenance and operation of the real property;

enhance and protect the value, desirability and attractiveness of the real property;

promote quality, compatibility and creativity in architectural and Site design;

preserve natural features of the environment where feasible;

set forth minimum standards for development, use, and maintenance; and

provide a formal mechanism for exercise of controls and enforcement.

In the event any development standard or use restriction of this Declaration should conflict with an applicable ordinance of the State of Oregon, Deschutes County, or City of Redmond, the more restrictive standard or requirement shall apply.

1. GENERAL DECLARATION

1.1 Declaration of Covenants, Conditions, and Restrictions. Declarant hereby declares that the Property shall be conveyed, built-upon, encumbered, leased, occupied, operated, and used solely in compliance with the conditions, covenants and restrictions (hereafter referred to as "CC&R's") set forth in this Declaration. These CC&R's shall apply to and bind all owners, lessees, licensees, occupants, and users of the Property, their heirs, successors and assigns in interest as set forth herein, and shall constitute covenants running with the land.

1.2 Additional Land. Declarant may add contiguous land now or hereafter owned by Declarant by recording in the county records a document describing the additional land and stating it is subject to these CC&R's. Upon recording, the additional land shall be a part of the Property as defined herein.

2. DEFINITIONS

2.1 Assessable Lot. A Lot shall become an "Assessable Lot" when (a) with respect to Lots owned by Declarant on the date a Building has been constructed on the Lot and is occupied and (b) with respect to all Lots owned by a Person other than Declarant, on the date when (i) a Building has been constructed and is occupied, or (ii) 180 days after such Person becomes the owner of the Lot, whichever date is earlier.

2.2 Assessments. "Assessments" means Regular Assessments, Special Assessments, Emergency Assessments, and Individual Assessments as defined in Sections 10.5, 10.6, 10.7, and 10.8.

2.3 Buildable Areas. "Buildable Areas" shall mean all those portions now or hereafter designated on the Site Plan for the location or future location of Buildings. Any or all of the Buildable Areas may be improved with Common Area Improvements.

2.4 Building. "Building" means the main structure that houses business functions, excluding exterior minor structures and enclosed areas such as decks, courtyards, and patios.

2.5 Common Area Costs. "Common Area Costs" shall mean the costs incurred by Declarant or the Operator in good faith in repairing, replacing, maintaining, providing security for, and insuring the Common Areas. Such costs shall include, without limitation, (i) the costs incurred in accordance with the terms of Section 4.2.1; (ii) capital costs; (iii) taxes of any kind levied or assessed on material, equipment, supplies, and services purchased for repair, maintenance, and replacement of the Common Area Improvements; (iv) the Maintenance Fee and amounts paid to employees and agents of the Operator for work performed at the Property in the repair or maintenance of the Common Areas; (v) fees for required licenses and permits to operate, maintain, repair, or replace the Common Areas in accordance with this Declaration; (vi) premiums for the insurance procured under Section 12.3 and any insurance carried by Declarant on Common Area Improvements; (vii) reasonable rental of equipment used in the operation, repair, and maintenance of the Common Area and the Common Area Improvements; (viii) the amount of any Defaulting Owner's Assessments not paid when due; (ix) amounts incurred under Sections 13.2(b) and 14.4(b); (x) the costs and expenses incurred to attempt to collect those unpaid amounts set forth in the preceding subparagraphs (viii) and (ix); and (xi) the amount spent to correct a former Operator's failure to maintain the Common Areas. There shall be credited towards the Common Area Costs all amounts later collected from a Defaulting Owner and previously included in Common Area Costs in accordance with subparagraphs (viii), (ix), and (x) of the preceding sentence. There shall be excluded from Common Area Costs (i) real property taxes, charges, and assessments, (ii) interest (provided, however, Common Area Costs shall include the accrued interest on the amount of any Defaulting Owner's Assessments, (iii) depreciation, (iv) amortization, and (v) except for the Maintenance

Fee, compensation of property managers and executives, overhead and profit and any and all management fees or administrative charges which compensate the Operator, its managerial employees or managerial agents engaged in the management of the Common Area.

2.6 Common Area Improvements. "Common Area Improvements" shall mean all improvements to be made to the Common Areas or easements serving the Property, including but not limited to the following: (i) storm water drains and retention facilities, drainage systems, and surface and subsurface drainage necessary to serve the Property; (ii) parking areas, sidewalks, and walkways; (iii) driveways and roadways providing access to, across, and around the parking areas; (iv) free-standing outdoor light fixtures; (v) traffic and directional signs and markings, and the striping of parking areas; (vi) sewer, gas, electrical, water, communication and other utilities mains, lines, and facilities, other than separate utility lines and facilities installed by an Owner to exclusively serve such owner's Lot; (vii) landscaping and retaining walls; (viii) improvements to or within the public streets adjacent to the Property except to the extent such improvements are maintained, repaired, and replaced by the City, other governmental agencies or public utility companies; (ix) the pylon sign and monument signs; and (x) any other improvements made to the Common Areas in accordance with this Declaration, provided that Common Area Improvements shall not include Drive-Throughs (along with related signs and monuments).

2.7 Common Areas. "Common Areas" shall mean all portions of the Property other than those portions of the Property upon which are located Buildings, truck wells, and Drive-Throughs. The Common Areas are intended for the non-exclusive use by Owners in common with other users, such as the parking areas, driveways, sidewalks, landscaping, service areas, and access roads as shown on the Site Plan.

2.8 Declarant. Concourse 97, a California limited partnership, and to the extent provided in Sections 8.2 and 8.5 of this Declaration, its successors and assigns.

2.9 Declaration. This Amended Declaration of Covenants, Conditions and Restrictions for Frank's Landing Lots 3, 4, 5 and 6, as may from time to time be amended or supplemented.

2.10 Defaulting Owner. "Defaulting Owner" shall mean any Owner who is in default of any of its obligations under this Declaration.

2.11 Drive-Through. "Drive-Through" shall mean a driving aisle intended exclusively for customers of a drive-up window (of a fast-food vendor or bank, for example).

2.12 Improvement(s). All buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, telephone and communications lines and facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas and all other structures, construction, installations, and landscaping of every type and kind (including water features), whether above or below the land surface.

2.13 Interchange. Yew Avenue/Airport Way on- and off-ramps to Highway 97, which abut the subject property.

2.14 Lot. A lot within the Property legally created by partition or subdivision and suitable as a building site.

2.15 Maintenance Fee. "Maintenance Fee" shall mean a fee equal to 10% of Common Area Costs, other than capital improvements or replacements, and not to exceed five percent (5%) of all costs for capital improvements and replacements, at all times when Declarant is performing the maintenance and other obligations imposed on the Operator hereunder and at such times when an Operator is performing such obligations such amount as may be agreed to between Declarant and the Operator.

2.16 Non-Defaulting Owner. "Non-Defaulting Owner" shall mean any Owner who is not in default of any of its obligations under this Declaration.

2.17 Operator. A person or entity hired by Declarant to maintain all Common Areas and to take other actions authorized herein. If at any time no Operator is in place, Declarant may take all actions authorized herein to be taken by the Operator.

2.18 Owner. The holder of a fee simple interest in a Site, or the holder of a vendee's interest in a Site under a recorded installment contract of sale. The holder of only a leasehold interest in a Site, a building, or a portion of a building is not an Owner for purposes of this definition. If there are two or more co-owners of a Site, they shall collectively constitute only one Owner for purposes of these CC&R's, and shall have only one vote on any matter on which Owners may vote as provided in Section 8.3.

2.19 Owners' Committee. Committee of Owners formed pursuant to Article 8.

2.20 Person or Persons. "Person" or "Persons" means any entity, whether an individual, trustee, corporation, limited liability company, partnership, firm, association, joint stock company, joint ventures, business trust, unincorporated organization, bank, or any other form of business entity.

2.21 Property. Lots 3, 4, 5, and 6 FRANK'S LANDING, City of Redmond, County of Deschutes, State of Oregon, and all of the real property hereafter made subject to this Declaration.

2.22 Proportionate Share. "Proportionate Share" shall mean, with respect to each Assessable Lot, the percentage calculated by dividing (i) the number of square feet for that Assessable Lot by (ii) the sum of the total number of square feet in all Assessable Lots then in existence.

Lot 3: 55,688 sq. ft.
Lot 4: 37,739 sq. ft.
Lot 5: 29,076 sq. ft.
Lot 6: 17,611 sq. ft.
Total: 140,114 sq. ft.

2.23 Site. A contiguous area of land comprised of one or more Lots held by the same Owner for a single improvement or integrated separate improvements.

2.24 Site Plan. "Site Plan" shall mean the site plan attached as Exhibit A, which depicts (i) the Lots and (ii) the Common Areas and the Buildable Areas of the Property.

2.25 Streets. Any street, highway or other thoroughfare within or adjacent to the Property and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, land, circle or otherwise.

2.26 Village. A design concept focusing on discrete businesses located in close proximity to one another, facilitating easy pedestrian access from one location to another and presenting visually appealing style that is integrated without precise duplication.

3. REGULATION OF OPERATIONS AND USES

3.1 Permitted Uses. Any business or commercial operation and use consistent with the zoning ordinances of the City of Redmond and stated uses declared herein will be permitted provided Declarant consents thereto. Changes in use shall be approved, disapproved or conditionally approved after receipt of all information that would be reasonably required for a prudent business decision.

3.2 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 and sole discretion of Declarant, cause an undue fire or health hazard, be offensive or detrimental to any adjacent property or to its occupants, or which shall constitute a nuisance. Customary and ordinary construction activity performed in accordance with all applicable laws and without undue interference with neighboring properties shall not be considered a nuisance.

3.3 Condition of Property; Compliance with Laws and Regulations

(a) The Owner and its agents and assigns of each Site shall at all times keep it and the buildings, improvements and appurtenances thereon in a safe, clean, neat and sanitary condition and comply at its own expense, with all applicable governmental statutes, ordinances, regulations, requirements, and directives.

(b) In addition to the remedies set forth in Article 11, if an Owner fails to operate, repair, or maintain its Site and all Improvements thereon (except Common Area Improvements) in accordance with the standards set forth above, and any such failure continues for thirty (30) days after written notice from Declarant or the Operator setting forth the manner in which such Defaulting Owner's maintenance is in breach of this Declaration, then the Operator may, at its option, make necessary repairs, undertake necessary maintenance and supplement the services of the Defaulting Owner by employing such additional services as are necessary, in the reasonable discretion of Declarant or the Operator, to adequately operate, repair, or maintain the Defaulting Owner's Site. The Operator may seek reimbursement in accordance with this Declaration. The expenses of such maintenance by Declarant shall be reimbursed by the Owner, together with interest as provided in Section 11.5 below. Such charges shall be an Individual Assessment and lien on the Lot as provided in Sections 10.7 and 10.9 below.

3.4 Utilities and Public Improvements. Declarant reserves the sole right to consent to the construction and operation of utility mains and related infrastructure or systems. No Owner shall enter into any contract or agreement with any governmental body or utility agency with reference to the installation of public improvements without Declarant's consent.

3.5 Utility Service and Antennas. Sewer, water, drainage, lines, wires and other devices for the communication or transmission of electric current, including telephone, television, microwave or radio signals shall be contained in conduits or cables constructed, placed and maintained underground or concealed in or under buildings or other approved structures, provided that electrical transformers may be permitted if properly screened and approved by Declarant.

3.6 Excavation. No excavation of a Site shall be made except in connection with construction of an approved Improvement, and upon completion, exposed openings shall be backfilled and disturbed ground shall be graded, leveled, and restored to Declarant's satisfaction, or original condition in accordance with approved plans.

3.7 Partition, Subdivision and Lot-line Adjustments. No Lot shall be partitioned or subdivided, nor shall any Lot line be adjusted, without the prior approval of Declarant.

4. EASEMENTS AND COMMON AREA MAINTENANCE

4.1 Easements.

4.1.1 Easements for Vehicular Ingress, Egress, and Parking.

(a) Declarant hereby reserves over the Common Area easements for vehicular ingress and egress to, from, over and across any roads, streets, driveways, or parking areas located on any portion of the Property, and shared vehicular parking in any parking lot striped for parking that may from time to time be located in the Property, subject to: (i) any restrictions contained in the Permitted Uses (Section 3.1) and (ii) the obligation of each Owner to instruct its employees to park in parking spaces located on such Owner's Site. Such easements are for the benefit of Declarant and its agents, employees, successors and assigns, the Owners, and each of their respective agents, employees, tenants, guests and invitees. Until such time as Declarant designates an Operator for the Common Area, each Owner will maintain and pay the cost of maintenance of the driveways and parking areas located on such Owner's Site.

(b) All points of ingress/egress from public roads to the Property shall be installed as approved by the City of Redmond and Declarant, including modifications of same. Landscape strips located on Lot lines may be eliminated or modified to provide for shared parking and shared access as shown on the approved development plans.

4.1.2 Easements for Utilities and Related Miscellaneous Uses. Declarant hereby reserves access and maintenance easements on, across, over and under all Common Areas

to the extent reasonably necessary for the purpose of installing, replacing, repairing, and maintaining utilities (including water, sewer, telephone, gas, electricity, fiber optic lines, and cable television and internet lines), roads, walkways, bicycle pathways, trails, drainage systems, street lights, signage, cable television, telecommunication, security and similar systems, and facilities and equipment related to any of the aforementioned items.

4.1.3 Easements for Drainage. Declarant hereby reserves over every Lot and Common Area easements for natural drainage of storm water runoff from other portions of the Property. In addition, Declarant hereby reserves an easement to enter any portion of the Property in order to change, correct or modify the grade or drainage channels of the Property for the purpose of improving drainage from and across the Property; provided the holder of such easement shall use all reasonable efforts to conduct any such work in a manner which minimizes any disturbance to the uses of the subject Lots and their respective tenants, guests and licensees; shall undertake any such work expeditiously and restore to usable condition as soon as reasonably possible; and shall not alter the natural drainage so as to increase materially the drainage of storm water onto adjacent portions of the Property without the consent of the Owner of the affected Lot.

4.2 Common Areas.

4.2.1 Common Area Maintenance and Operation. The Operator shall maintain or cause to be maintained and operated the Common Areas and Common Area Improvements in a good, clean, and safe condition in a manner consistent with developments of a similar size and nature. Such maintenance shall include, but not be limited to, the following:

- (a) Maintenance, repair, and replacement of the pylon sign and monument signs;
- (b) Maintenance, repair, and replacement of all paved surfaces;
- (c) Maintenance, repair, and replacement of all curbs, curb-cuts, gutters, walkways, and retaining walls;
- (d) Painting and striping of all parking areas;
- (e) Placement, maintenance, repair, and replacement of all necessary appropriate directional signs, markers and lines, Common Area site furnishings (including but not limited to benches, trash cans, planters, etc.), holiday decoration;
- (f) Maintenance, repair, and replacement of all lighting facilities, including the replacement of fixtures and bulbs;
- (g) Maintenance, repair, and replacement of any and all storm drains, utility lines, sewers, and other utility systems located in the Common Areas (other than separate utility lines installed by an Owner to exclusively serve such Owner's

Lot, which lines shall be maintained by such Owner without cost to the other Owners of the Property);

(h) Utility service to the Common Areas and Common Area Improvements including installation, maintenance, and repair of electricity and water "house meters," which services with respect to the Common Areas shall be billed to the Operator for the benefit of the Property;

(i) Maintenance of all landscaped areas and replacement of shrubbery and planting, and flowers including weeding, pruning, and fertilizing, and repairing automatic sprinkler systems;

(j) Removal of all water, snow, ice, paper, debris, filth, refuse, and other obstructions, including sweeping in the Common Areas necessary to keep the Common Areas in a clean and orderly condition;

(k) Maintenance of liability insurance as required pursuant to Section 12.3 below;

(l) Compliance with all applicable requirements of governmental agencies pertaining to the Common Area and Common Area Improvements, including, without limitation, any alterations or additions required to be maintained in or about the Common Area under any laws, statutes, regulations, or requirements now or hereafter adopted and made applicable to the Common Areas;

(m) Provision of individuals to supervise traffic at entrances and exits to the Property as conditions reasonably require in order to maintain orderly and proper traffic flow in the Property;

(n) Subject to Section 4.2.2 below, provision of on-site security personnel;

(o) Repair and maintenance of and payment of any utilities, taxes, and insurance applicable to the pole sign and monument signs; and

(p) Collection of each Owner's Assessments, to the extent the Operator believes, in its good faith judgment, that the collection efforts are worthwhile.

4.2.2 Security. Declarant or the Operator may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Declarant and the Operator shall in no way be considered an insurer or guarantor of security within the Property, nor shall Declarant and the Operator be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system 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 that Declarant and the Operator is not an insurer and that each person using the Property assumes all risks for loss or damage to persons, to property and to the contents of Lots resulting from acts of third parties and releases such parties from any liability therefor.

4.2.3 Operator's Failure to Maintain Common Areas. If the Owners' Committee is, at any time, or from time to time, dissatisfied with the Operator's performance of its obligations or rights under this Declaration, then the Owners' Committee shall have the right to give the Operator written notice of such dissatisfaction, specifying the particulars in respect to which the Operator's performance is deemed by the Owners' Committee to be unsatisfactory. If thirty (30) days after the Operator receives such notice, the Operator's performance continues to be unsatisfactory to the Owners' Committee, then as its sole remedy, the Owners' Committee shall have (a) the right to remove the Operator effective on or after the first day of the next succeeding calendar month, (b) the right to make necessary repairs, undertake necessary maintenance and supplement the services and maintenance being performed by the Operator to such an extent as they deem necessary, in their reasonable discretion, for the proper maintenance and repair of the Common Area, or (c) both. The reasonable costs so incurred shall be included in the Common Area Costs payable by all Owners. The foregoing shall not limit Declarant's right to replace the Operator at will.

4.2.4 Replacement of Operator. The Operator may resign at any time, after not less than thirty (30) days' notice to the Owners of Record. Upon resignation or removal of the Operator ("Former Operator"), a majority of Owners shall select and engage a new operator ("New Operator"), who need not be an Owner. On the effective date of the resignation or removal, the Former Operator shall be released from all subsequent duties, obligations and responsibilities imposed upon the Operator by this Declaration, and the New Operator shall assume such duties, obligations and responsibilities as the Operator. Such takeover shall not relieve the Former Operator of any of its other duties, obligations or responsibilities as an Owner under this Declaration, if any.

5. DESIGN CONTROLS

5.1 Approval of Plans Required. All plans for Improvements shall be submitted by an Owner and approved by Declarant in writing. Approval shall be based upon final plans and specifications prepared by licensed architects, engineers or other qualified professionals. Plan submissions will also be required for significant revisions, alterations, additions, or changes of use for approved or existing improvements. Plans must be drawn to an easily-readable scale such as 1"=20' unless otherwise noted, and shall be submitted to Declarant prior to submittal to any governmental authority. Submittal shall consist of four (4) copies of the following:

- (a) Site plan;
- (b) Architectural plans, elevations, and sections;

- (c) Existing topographic and proposed grading plan;
- (d) Landscape plan; and
- (e) Description of proposed construction staging and access areas, and any temporary structures.

5.2 Basis for Approval. In exercising its right of approval, Declarant shall consider, among other things, the following:

- (a) Adequacy of Site dimensions for the proposed improvement;
- (b) Nature and location of improvements and uses upon neighboring sites;
- (c) Exterior appearance of architectural style, proportions, height, bulk, Color schemes, textures and materials;
- (d) Relationship to topography of Site and neighboring sites;
- (e) Compatibility and harmony of external design with neighboring structures;
- (f) Proper facing of building elevations with respect to nearby streets;
- (g) Design and effect of parking area or on site roadways on traffic within the Property;
- (h) Adequacy of storm water retention and drainage;
- (i) Adequacy of screening of equipment installations and service areas;
- (j) Compliance with the standards of Article 6 below; and
- (k) Conformity and appropriateness to the Property development concept and design guidelines, as referenced in 5.7 below.

5.3 Review Fee. Declarant may establish and assess a fee for reviewing an Owner's plans and specifications submitted pursuant to Section 5.1. Said review fee shall reasonably approximate the cost incurred in connection with such review.

5.4 Review Procedure. If Declarant fails either to approve or disapprove properly-submitted plans and specifications within fifteen (15) business days after receipt of all submittals required by Section 5.1, it shall be conclusively presumed that Declarant has approved said plans and specifications; provided, however, that if, within the fifteen (15) business-day period, Declarant gives written notice of the fact that more time is required for the review of such plans and specifications, there shall be no presumption that the same are approved until the expiration of such reasonable period of time as is set forth in the notice. Declarant shall not arbitrarily or unreasonably withhold its approval of plans and specifications.

5.5 Approval. Declarant may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same, subject to specific conditions.

5.6 Design Review by Governmental Authorities. Any plans or specifications submitted to governmental authorities shall be provided to and approved by Declarant prior to commencement of construction.

5.7 Design Guidelines. The development concept for the Property shall be determined by Declarant in its sole discretion. Declarant shall have the right to alter, rescind or amend any published guidelines without prior notice to any party; provided however, that once approval has been given pursuant to Section 5.5 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such guidelines shall be in general conformity with this Declaration.

5.8 Special Architectural and Site Design Considerations. Building programs shall incorporate the following:

- (a) Distinct architectural style, materials and finishes which are identifiably contemporary or historically reminiscent in design, concept and quality;
- (b) Methods that reduce the large-scale visual impact of building mass and provide relief from large wall expanses;
- (c) Preservation of existing terrain, rock outcroppings and mature trees, and optimization of view corridors, wherever possible; and
- (d) The use of window patterns, roof forms, indirect accent lighting and other features which enhance individual buildings while retaining a consistency of basic architectural elements among other buildings in the Property.

5.9 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 5.1.

5.10 Declarant Not Liable. Declarant shall not be liable for any damage, loss, or prejudice suffered or claimed by any person by:

- (a) The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective;
- (b) The construction of any improvement, or performance of any work, whether or not pursuant to approved plans and specifications; or

- (c) The development of any Site within the Property.

6. DEVELOPMENT STANDARDS

6.1 Buildable Areas; Site Coverage. Except for the Common Area Improvements and the signs permitted by Section 6.12, no building, wall, structure, or other Improvements shall be erected, placed, or permitted to remain on any Lot unless such building, wall, structure, or other Improvement is erected entirely within the Buildable Area for that Lot. The ratio of building coverage to Site area is subject to the approval of Declarant, but in no instance may the ratio exceed fifty percent (50%), or the maximum allowed under applicable law, whichever is less.

6.2 Minimum Setback. Except as otherwise provided in Section 6.3 and except as expressly permitted by the City of Redmond, no improvements of any kind shall be placed on a Site closer to a property line than herein provided:

- (a) Fifty (50) feet from any property line abutting the Airport Way right-of-way or the Interchange right-of-way;
- (b) Ten (10) feet from any property line abutting the SW 21st Street right-of-way; and
- (c) Ten (10) feet from any property line that does not abut a public street.

6.3 Exceptions to Setback Requirements. The following improvements, or portions thereof, are specifically excluded from the setback requirements set forth in Section 6.2 subject to applicable law:

- (a) Unsupported roof overhang, subject to approval by Declarant;
- (b) Steps and walkways;
- (c) Paving and associated curbing, except that no vehicle parking shall be permitted in front or side yard setbacks unless approved by Declarant;
- (d) Landscaping and irrigation systems;
- (e) Architectural fences, walls, and sign elements except that Declarant's specific approval is required when placed within a front yard setback; and
- (f) Underground utility facilities and their above-ground appurtenances.

6.4 Landscaping. Each Site shall be landscaped in accordance with the approved plans and specifications, and the Maintenance Agreement attached hereto and incorporated by reference, subject to Declarant's approval, and in conformity with the criteria and requirements set forth below:

(a) Site Landscaping. A minimum of fifteen percent (15%) of the area within the Property lines of a Site shall be devoted to landscaping, and existing mature trees are to be preserved wherever possible, in accordance with any landscaping guidelines which Declarant may establish, and in compliance with applicable law. A minimum of seven percent (7%) of area within parking areas shall be devoted to Landscaping. Landscaping shall be installed and operable within sixty (60) days of issuance of a certificate of occupancy or completion of construction, whichever first occurs, or as soon thereafter as weather permits.

(b) Right-of-Way Landscaping. An Owner shall also be responsible for landscaping and maintaining any right-of-way as follows, and subject to applicable law:

(i) Street tree variety to be specified by Declarant and installed by Owner in 10' public right-of-way, 25' on center, 3" caliper.

(ii) If street trees are installed in paved surfaces, decorative concrete pavers to be specified by Declarant are to be installed by Owner around the trees in four foot square areas.

(iii) Live plant material shall cover at least 50% of all Owner right-of-way, subject to Declarant Site-specific approval.

(c) Parking Area Lighting. Parking area lighting fixtures to be specified by Declarant, installed by Owner, no other fixtures permitted.

(d) Buffers. Plant and natural material buffers shall be installed by owner in accordance with Declarant aesthetic standards in specified areas, including but not limited to the Interchange right-of-way adjacency. Owner shall be responsible for keeping buffer clean and free of debris at all times.

6.5 Sidewalks. On-site pedestrian circulation systems shall be provided to meet the needs of on-Site users in a safe manner and using all-weather-efficient materials.

6.6 Parking, Loading and Service Areas. Each Site shall provide adequate employee and business parking, loading and delivery facilities to accommodate all operations or uses without requiring on-street parking or maneuvering. If parking requirements increase as a result of change in approved use or expansion of an existing use, additional off-street parking shall be provided to satisfy the requirements of this section. All parking areas shall conform to the following standards, and in addition shall comply with applicable law:

(a) Parking areas shall be paved, curbed and striped in accordance with approved plans and specification, and shall provide, in addition to parking spaces, adequate driveways and space for movement of vehicles.

(b) No parking spaces shall be located on or permitted within front or side yard setback areas unless previously approved in writing by Declarant.

(c) Parking areas shall be planned to accommodate snow removal.

(d) Loading docks, delivery and service areas shall be located and screened to restrict to the greatest extent practicable their view from adjacent streets and neighboring Sites.

6.7 Building Height. The maximum height of all structures within the Property shall be thirty-five (35) feet, subject to applicable law. Greater heights may be allowed by Declarant on a case-by-case basis, subject to jurisdictional approval.

6.8 Exterior Building Materials and Colors. Exterior walls must be finished with building materials of a texture, character and color compatible with the surrounding natural elements. Consideration should be given to ease of maintenance. Declarant shall have the sole right to approve or disapprove materials and colors. Selection shall conform to the following:

(a) Materials which convey permanence and substance are preferred. Such materials include architectural masonry units, concrete block, brick, natural stone, precast concrete, stucco, glass, wood logs, or their equivalent.

(b) Primary wall surface colors shall be subdued in tone and hue. Complimentary accent colors are encouraged in moderation and may be used in conjunction with accent materials or to express corporate identity.

(c) Roof treatments may be of any traditional roof material that has a non-glare surface and is of a harmonious color to other surfaces, as approved by Declarant.

6.9 Mechanical and Electrical Equipment. Exterior components of plumbing, processing, heating, cooling and ventilating systems shall be screened from public view to the greatest extent practicable. Screening devices shall appear as integrated parts of the architectural design. Ground-level or other exterior equipment including electrical transformers shall be adequately screened with either plantings or durable enclosures so as to blend with the visual background. In areas where noise is generated by mechanical systems, insulation may be required to reduce the impact on neighboring properties, subject to Declarants discretion dependent upon particular acoustical environments.

6.10 Fences and Walls. Fences and walls shall be designed to coordinate with and be appropriate to the overall building style and Site design. Fencing layouts and designs are subject to Declarant's approval and will be considered based upon specific Site and use conditions. Perimeter fencing defining all property lines is prohibited.

6.11 Lighting. All lighting is to be shielded downward, bulbs not visible, and confined within property lines, and shall conform to any lighting guidelines which may be set forth by Declarant, and in compliance with applicable law.

6.12 Signs. All signs, whether permanent or temporary, business identification, directional, or street number, are subject to review and approval by Declarant and shall conform to sign criteria which may be established by Declarant, as amended from time to time, and shall comply with applicable law, subject to jurisdictional review.

7. CONSTRUCTION

7.1 Prosecution of Work. Upon approval from Declarant pursuant to Section 5.5, the Owner receiving such approval shall promptly satisfy any conditions of such approval and shall diligently proceed with the prosecution of all approved excavation, construction or alterations, and landscaping 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, approval shall expire.

7.2 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 previously agreed by Declarant in writing.

7.3 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 Property to determine its conformity with 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 CC&R's. 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 5.9.

7.4 Maintenance During Construction. It shall be the responsibility of each Owner to insure construction Sites are kept free of unsightly, unhealthy, or hazardous conditions, including dust.

7.5 Temporary Structures. No temporary buildings or other temporary improvements, including trailers, tents or shacks shall be permitted on Site unless expressly approved in writing prior to entry by Declarant.

8. OWNERS' COMMITTEE

8.1 Declarant's Right to Exercise Controls Under this Declaration.

(a) Declarant, as developer and original owner of the Property, may 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 below.

(b) All rights and responsibilities of Declarant under this Declaration shall transfer to the Owner's Committee with the other rights and responsibilities relinquished by Declarant at the same time as such transfer referenced in Section 8.2 below.

(c) When Declarant ceases to own land in the Property, as the same may be enlarged by the addition of land pursuant to Section 1.2, or at any earlier time at Declarant's option, Declarant shall relinquish its exercise of such rights and responsibilities and shall record in appropriate offices a declaration stating that Declarant no longer desires to exercise further controls over development in the Property 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 Property 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 well as any other duties, rights and obligations of Declarant under these CC&R's, except to the degree it has such rights as an Owner or as a member of the Owner's Committee.

8.2 Formation of Owners' Committee. Upon Declarant's relinquishment of its control and duties, the Owners' Committee shall form by incorporation in compliance with applicable Oregon Law, and the Owners shall be responsible for compliance. The Owner's Committee shall succeed to all duties, powers, responsibilities, rights and privileges of Declarant under these CC&R's.

8.3 Members.

(a) All Owners are members of the Owners' Committee, and each Lot represents one (1) vote. Within thirty (30) days after the commencement date of the Owners' Committee, the initial members of the Owners' Committee shall convene. Persons eligible for Owners' Committee officership, shall be limited to an individual Owner or directors, officers, employees, agents, owners or partners of any corporation, partnership, joint venture or proprietorship owning any Site within the Property. Declarant shall solicit from and then circulate to all Owners, a list of nominees for the three (3) initial officer positions within the 30-day organizational period. Declarant shall then conduct an election of the initial officers. The three nominees obtaining the three highest vote totals shall constitute the initial Owners' Committee officers: President, Vice President, and Secretary/Treasurer.

(b) Each Owner of a Lot or Lots throughout the Property shall have the right to cast one vote for each Owners' Committee officer per each Site. 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 Property.

8.4 Declarant's Responsibilities. In the event Declarant is unsuccessful in organizing the Owners' Committee within the 30-day organizational period specified by Section 8.3 above, Declarant shall have no further responsibilities relating to the Owners' Committee, and the Owners' Committee shall be organized exclusively by the Owners within the

Property. Such failure of organization of the Owners' Committee shall not affect the existence of the Owners' Committee or the effectiveness of the CC&R's.

8.5 Operator Designation. Upon formation of the Owners' Committee, this entity shall renew or contract with the Operator to continue maintenance responsibilities without interruption of services.

9. DURATION AND MODIFICATION

9.1 Duration. Unless sooner terminated or modified according to the procedures provided in Section 9.2 below, these CC&R's shall remain in effect for a period expiring on the thirtieth (30th) anniversary date of the execution of this Declaration and shall be automatically renewed for an unlimited number of successive ten-year periods unless repealed as provided below.

9.2 Modification and Repeal. This Declaration may be terminated or extended or any covenant, condition or restriction herein may be modified or amended as to all or any portion of the Property pursuant to the following procedures:

(a) Except as otherwise provided in (b) below, with the written consent of Declarant and of the Owners of fifty-one percent (51%) of the Owners of Sites within the Property. The consent of Declarant shall not be required after Declarant ceases to be an Owner of any Site.

(b) Until such time as Declarant no longer owns any interest in the Property or relinquishes control pursuant to Section 8.1 herein, Declarant acting alone may modify or amend the provisions of Articles 4, 5, 6, and 7; provided, however, that (i) any such modification or amendment must be within the spirit and overall intention of the development as set forth herein; (ii) prior to any such modification or amendment, Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary; and (iii) any modification or amendment shall not provide for any type of Improvements or use not presently permitted by this Declaration.

(c) No termination, extension or modification or other amendment shall become effective until a proper instrument has been recorded in the deed records of Deschutes County and such change is made in compliance with applicable law. No material 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.

9.3 Replat. Declarant reserves the right to replat all or any portion of the Property, before or after the sale of any Lots, provided that no changes are made to the plat of any Lot that is not owned by Declarant without the consent of the Owner of such Lot.

10. ASSESSMENTS

10.1 Purpose of Assessments. The Assessments levied by Declarant shall be used exclusively to promote the health, safety, and welfare of the Owners and occupants of the Property and for the payment of the Common Area Costs.

10.2 Types of Assessments. Declarant or the Operator may levy Regular Assessments, Special Assessments, Emergency Assessments, and Individual Assessments, all as more particularly described below.

10.3 Apportionment of Assessments. The Owners of each Assessable Lot shall pay the Proportionate Share of the Assessments for such Lot, commencing upon the date such Lot becomes an Assessable Lot, as such term is defined herein.

10.4 Regular Assessments. Declarant or the Operator shall from time to time and at least annually by no later than each March 31 prepare an operating budget, taking into account the current Common Area Costs and services and future needs and any previous over assessment. The budget shall take into account the numbers of Assessable Lots as of the first day of the year for which the budget is prepared and the number of Lots reasonably anticipated to become Assessable Lots during the year. The budget shall provide for such reserve or contingency funds as Declarant or the Operator deems necessary. Assessments for such operating expenses and reserves ("Regular Assessments") shall then be apportioned among the Assessable Lots as provided in Section 10.3 above. Regular Assessments shall be due and payable, in advance, on the first of each month and shall be equal to the product of (x) as designated by Declarant or Operator, either (i) during any period when a budget has not been prepared, 105% of the actual Common Area Costs incurred for the same month of the previous year, as such appears on the Annual Statement (defined below) for that year, or (ii) during any period when a budget has been prepared, anticipated Common Area Costs based upon the budget multiplied by (y) such Owner's Proportionate Share. Ninety (90) days after the expiration of each calendar year, Operator shall furnish to each Owner a statement (an "Annual Statement") in reasonable detail setting forth the aggregate Common Area Costs actually incurred through the end of that calendar year, prepared in accordance with generally accepted accounting principles, and each Owner's Proportionate Share thereof. The Annual Statement shall include a recomputation of each Owner's Proportionate Share based on any increase in the number of Assessable Lots during the year. If an Annual Statement shows that an Owner has overpaid, such Owner may deduct the amount of its overpayment from the next payment due. If an Annual Statement shows that additional sums are due, each Owner shall pay such sums within thirty (30) days after the Annual Statement was mailed.

10.5 Special Assessments. In addition to the Regular Assessment authorized above, Declarant or Operator may levy during any year a Special Assessment ("Special Assessment") for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Regular Assessments, together with any Maintenance Fee attributable thereto. Special Assessments shall be apportioned as provided in Section 10.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by Declarant. Each Owner of an

Assessable Lot shall pay its Proportionate Share of Special Assessments within ten (10) days after Operator furnishes a statement in reasonable detail itemizing the estimated cost of the work necessitating the Special Assessment (the "Special Assessment Work"). Upon substantial completion of the Special Assessment Work, Operator shall provide a statement (the "Special Assessment Statement") to each Owner setting forth in reasonable detail the actual cost of the Special Assessment Work (the "Actual Special Assessment"). Operator may revise the Special Assessment Statement from time to time as may be necessary to accurately reflect the Actual Special Assessment. If the Special Assessment Statement shows additional amounts due Operator, each Owner of an Assessable Lot shall pay its Proportionate Share within thirty (30) days after the Special Assessment Statement was mailed. If the Special Assessment Statement shows the Owner has overpaid, such Owner may deduct the amount of any overpayment from any payment next due. There shall also be included in the Actual Special Assessments (i) the amount of any Owner's Special Assessment not paid when due and (ii) the costs and expenses incurred to collect those unpaid amounts. There shall be credited towards the amount of the Actual Special Assessments all amounts later collected from a Defaulting Owner and previously included in the Actual Special Assessments in accordance with clauses (i) and (ii) of this paragraph.

10.6 Emergency Assessments. If the Regular Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's assessments on a current basis, Declarant or the Operator shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment").

10.7 Individual Assessments. Any Common Area Cost or any part of a Common Area Cost benefiting fewer than all of the Assessable Lots may be assessed exclusively against the Assessable Lots benefited ("Individual Assessment"). Individual Assessments shall also include assessments levied against any Defaulting Owner to reimburse Declarant or the Operator for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration and for fines or other charges imposed pursuant to this Declaration for violation thereof. Individual Assessments shall be due 30 days after Declarant or the Operator has given written notice thereof to the Owner subject to the Individual Assessments.

10.8 Operations Fund. Declarant or the Operator shall keep all funds received by it as Assessments in a separate reserve account, separate and apart from its other funds, to be known as the "Operations Fund." Declarant or the Operator shall use such fund exclusively for the purpose of promoting the health, safety and welfare of the Owners and occupants and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots, including but not limited to payment of the Common Area Costs.

10.9 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Assessable Lot owned by it, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay all Assessments or other charges as may be fixed, established and collected from time to time, without offset or deduction, in the manner provided in this

Declaration. Such Assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 11.5, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Such Assessments, charges and other costs shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 11 below.

10.10 Maintenance of Records. The Operator or its designees shall keep and maintain complete, accurate and customary records and books of account of the Common Area Costs for two (2) years after the end of the calendar year to which such records and books of account pertain. The Operator may destroy any records after two years, unless there is an active dispute over Common Area Costs for the year that would then be subject to destruction. Any Owner shall be entitled at all reasonable times during business hours and upon at least ten (10) business days notice to inspect and make copies of any and all such records and books of account and to cause an audit to be made thereof. If any such inspection or audit discloses that the costs of operating and maintaining the Common Areas were overstated by the Operator, the difference between the actual Common Area Costs and the amount paid by any Owner shall be returned to the Owners without interest within ten (10) days.

11. ENFORCEMENT

11.1 Right of Entry. Declarant shall have the right, but not the obligation, to enter upon any portion of the Property for emergency, security, or safety reasons (including the correction of any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by Declarant), and to perform construction, maintenance and repair pursuant to this Declaration.

11.2 Default in Payment of Assessments; Enforcement of Lien. If any Assessment or other charge levied under this Declaration is not paid within 30 days of its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event Declarant may exercise any or all of the following remedies:

(a) Declarant may suspend such Owner's voting rights and right to use the Common Areas until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any Annual Assessment immediately due and payable. In no event, however, shall Declarant deprive any Owner of access to and from his Lot.

(b) Declarant shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration against the Owner of the Lot from the date of recording of a notice of lien in the county real property records. The lien may be foreclosed in accordance with the provisions regarding the foreclosure of liens under Oregon law. Declarant may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

(c) Declarant may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) Declarant shall have any other remedy available to it by law or in equity.

11.3 Notification of First Mortgage. If requested, Declarant shall notify any first mortgagee of any individual Lot of any default in performance of this Declaration by such Lot Owner which is not cured within 60 days after notice of default to such Owner.

11.4 Subordination of Lien to Mortgages. The lien of the Assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the Assessment lien; provided, however, that with respect to any lender who has requested the same in writing, Declarant may agree that the sale or transfer of any Lot subject to such lender's mortgage or deed of trust pursuant to a decree of foreclosure thereunder or any deed or proceeding, deed, or assignment in lieu of foreclosure shall extinguish any lien of an Assessment notice of which was recorded after the recording of the mortgage or trust deed. Such sale or transfer, however, shall not release the Lot from liability for any Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

11.5 Interest, Expenses, and Attorneys' Fees. Any amount not paid to Declarant when due in accordance with this Declaration shall bear interest from the due date at 12 percent per annum. A late charge may be charged for each delinquent Assessment in an amount established from time to time by Declarant not to exceed 30 percent of such Assessment. In the event Declarant shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of Declarant. In the event Declarant shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Defaulting Owner shall pay to Declarant all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy remedies.

11.6 Nonexclusiveness and Accumulation of Remedies. An election by Declarant to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted under this Declaration. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to Declarant. In addition, any aggrieved Owner may bring an action against another Owner to recover damages or to enjoin, abate, or remedy any violation of this Declaration by appropriate legal proceedings.

11.7 Default and Remedies. In the event of any breach, violation, or failure to perform or satisfy any covenant, condition, or restriction which has not been cured within the time set forth in a written notice to do so, Declarant at its sole option and discretion may enforce any one or more of the following remedies or any other rights or remedies to which Declarant may be entitled by law or equity, whether or not set forth herein. All remedies provided herein or by law or equity shall be cumulative and not mutually exclusive; damages or declaratory relief; specific performance or injunction; abatement of nuisance without further legal action, including costs, notice of claim of lien to Deschutes County in accordance with applicable law.

11.8 Waiver. No waiver by Declarant of a breach of any of these restrictions, and no delay or failure to enforce any of these restrictions, shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other of these CC&R's.

12. INSURANCE

12.1 Liability Insurance. At its own expense, each Owner shall maintain or cause to be maintained in full force and effect a policy or policies of comprehensive general liability insurance against claims and liability on account of personal injury, death and property damage incurred upon or about the building and improvements located on such Owner's Lot. Such insurance shall have a combined-single limit of not less than Two Million Dollars (\$2,000,000.00) with a commercially reasonable deductible. Declarant may elect to from time to time to increase the limits of such insurance.

12.2 Hazard Insurance. Each Owner shall maintain in effect a policy or policies insuring it against loss, damage and destruction of all Improvements and Common Area Improvements on its Lot by fire and all hazards covered by the standard form of extended coverage endorsement. Such insurance shall be in the amount elected by each Owner, but in any event, in at least the minimum amount necessary to avoid the effect of any co-insurance provision of such policies. No Owner shall have any interest in the insurance proceeds that may be due another Owner in the event of damage to the Improvements or Common Area Improvements on that Owner's Lot(s), although all Owners have the right to require insurance proceeds attributable to damage to Common Area Improvements to be applied by the insured Owner in accordance with Section 13.2. If necessary, all Owners shall cooperate in connection with the collection of any insurance monies that may be due any Owner in the event of damage to the Improvements or the Common Area Improvements on that Owner's Site.

12.3 Operator's Common Area Liability Insurance. The Operator shall maintain at all times a policy or policies of general liability insurance against claims and liability on account of personal injury, death and property damage incurred upon or about the Common Areas. Such insurance shall name each Owner and each tenant as an additional insured thereunder and shall have limits of not less than Five Million Dollars (\$5,000,000.00) for personal injury or death in any one accident or occurrence, and Five Hundred Thousand Dollars (\$500,000.00) in respect of destruction of or damage to property. Upon the written instructions of the Owners' Committee, the Operator shall increase the limits of such insurance and shall add to the policy or policies such special endorsements and riders as may be instructed. At the request of any Owner, the Operator shall furnish such Owner with either (i) a copy of the policy or policies required by this Section 12.3 or (ii) a certificate evidencing same.

12.4 Policy Requirements. The insurance required under Section 12.3 of this Declaration shall: (i) be carried by companies licensed in the State of Oregon and having a policyholder's rating of A or better and a service rating of X or better by Alfred M. Best's Key Rating Guide ("Rating Guide"), or if the Rating Guide ceases to be published, such company must have an equivalent rating by a successor insurance company rating service; (ii) be primary insurance which will not call upon for defense, contribution or payment, any other insurance procured by any Owner; (iii) be nonassessable and contain language, to the extent obtainable, to the effect that the loss shall be payable notwithstanding any act or negligence of the insured that might otherwise result in forfeiture of the insurance; (iv) provide that the insurer waives the right of subrogation against all Owners and tenants and their agents and representatives; and (v) contain an agreement by the insurer, to the extent obtainable, that such policy shall not be canceled without at least thirty (30) days' prior written notice to all Persons insured under the policy. The Owners and the Operator may bring the insurance required by this Declaration within the coverage of any so-called blanket policy or policies of insurance.

12.5 Indemnification. Each Owner shall indemnify, defend and save each other Owner and the Operator harmless from any and all liability, damage, expense, cause of action, suit, claims, or judgments arising from injury or death to person or damage to property that occurs on the indemnifying Owner's Site and is occasioned wholly or in part by any act or omission by such owner, its tenants, subtenants, employees, concessionaires, licensees, customers, or business invitees; provided, however, such obligation shall not (i) relieve the Operator or the Owners from the obligation to maintain general liability insurance with respect to the Common Areas pursuant to Section 12.3 or (ii) affect the waiver of subrogation required by subsection (iv) of Section 12.4(a) or Section 12.6. If any loss, damage or expense is suffered by any Owner on account of an accident or occurrence in the Common Area located on such Owner's Site and if such loss, damage or expense is the type insured against or required to be insured against by the Operator, then the Operator shall promptly assist such Owner to make and pursue a claim against the insurer on account of such loss, damage or expense.

12.6 Waiver of Subrogation. To the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, the Operator and each Owner each waive any right to recover against all others for (a) damages for injury to or death of persons, (b) damages to property, (c) damage to the Property, or any part thereof, and (d) claims arising by reason of any of the foregoing, but only to the extent that any of the foregoing damages and/or claims are covered (then only to the extent of such coverage) by insurance actually carried, or required by this Declaration to be carried, by either Operator or each other such Owner. This provision is intended to waive fully, and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation in any insurer. Each party shall cause each insurance policy obtained by it to permit such waiver of subrogation or to provide that the insurer waives all right of recovery by way of subrogation against either party in connection with any damage covered by such policy. If any insurance policy cannot be obtained permitting or providing for a waiver of subrogation, or is obtainable only by the payment of an additional premium charge above that charged by insurers issuing policies not permitting or providing for a waiver of subrogation, the party undertaking to obtain such insurance shall notify the other parties in writing of this fact. The other parties shall have a period of fifteen (15) days after receiving the notice either to place the insurance with an insurer that is reasonably satisfactory to the other parties and that will carry the insurance permitting or

providing for a waiver of subrogation, or to agree to pay the additional premium if such a policy is obtainable at additional cost. If such insurance cannot be obtained or the party in whose favor a waiver of subrogation is desired refuses to pay the additional premium charged, the other party shall be relieved of the obligation to obtain a waiver of subrogation rights with respect to the particular insurance involved during the policy period of such insurance, but such obligation shall revive (subject to the provisions of this Section 12.6) upon the expiration of such policy period.

13. DAMAGE OR DESTRUCTION OF IMPROVEMENTS

13.1 Buildings.

(a) If any Buildings or other Improvements (other than Common Area Improvements) are damaged or destroyed by fire or other hazard for which insurance is normally provided under an extended coverage fire insurance policy and if such damage or destruction occurs within five (5) years of the date of this Declaration, then the Owner of the Lot on which such Improvement is located shall, as soon as reasonably possible, rebuild and restore the Improvement on such Owner's Lot to a condition comparable to such Improvements as they existed prior to such damage or destruction.

(b) If the Owner of any Lot on which an Improvement is damaged or destroyed is not required pursuant to the provisions of Section 13.1(a) to rebuild, restore and replace, as specified therein, then the Owner of the Lot on which such Improvement is located shall, as soon as reasonably possible, rebuild and restore the Improvement on such Owner's Lot with an Improvement permitted by and subject to all of the terms and conditions of this Declaration.

13.2 Common Area Improvements.

(a) If any of the Common Area Improvements are damaged or destroyed by fire or other hazard for which insurance is normally provided under an extended coverage fire insurance policy, then the Owner of the Lot on which such Common Area Improvements are located shall promptly restore, repair, rebuild, or replace the damaged or destroyed improvements to a condition substantially comparable to their condition immediately prior to such damage or destruction. Each Owner shall have the obligation set forth in this Section 13.2 regardless of the policy limits of the insurance the Owner elects to carry under Section 12.2.

(b) If an Owner does not perform its obligations under Section 13.2, the Operator shall restore, repair, rebuild or replace the damaged or destroyed improvements in accordance with Section 4.2.1. The Operator shall use reasonable and diligent efforts to collect from the Defaulting Owner the costs of such restoration, repair, rebuilding and replacement; the net amount so collected (after all expenses of such collection) shall be credited to Common Area Costs or Special Assessments, as appropriate.

(c) If any of the Common Area Improvements are damaged or destroyed by fire or other hazard for which insurance is not normally provided under an extended

coverage policy, then the Operator shall promptly restore, repair or rebuild the damaged or destroyed improvement in accordance with Section 4.2.1.

14. CONDEMNATION

14.1 Takings and Awards. Any award of compensation or damages, whether the same be obtained by agreement or by judgment, verdict or order in a legal proceeding resulting from a taking of any Lot, or any portion thereof, by exercise of right of condemnation or eminent domain or resulting from a requisitioning of any Lot, or a portion thereof, by military or other public authority for any purpose arising out of a temporary emergency or other temporary circumstance, shall be paid in accordance with the terms of this Declaration. In the event of any sale of any Lot or any portion thereof under threat of condemnation or eminent domain, such Lot or portion thereof shall for all purposes be deemed to have been "taken" as that term is used in this Article 14, and the compensation received by the Owner of the Lot taken shall be deemed to constitute an "award" as that term is used in this Article 14.

14.2 Interests Affected. Each and every Owner acknowledges that this Declaration creates reciprocal easements and mutual equitable servitudes upon each Lot in favor of every other Lot, that such servitudes are interests in land and are compensable in the event of a taking of any portion of the Common Area. However, no Owner shall share in any award made to any other owner whose Lot is taken, except to the extent, if at all, an award is separately made for the interests of other Owners created by this Declaration ("Others' Interests") in the Lot taken over and above the value of that Lot computed as though the Others' Interests did not exist. Each Owner of a Lot other than one that is taken ("Appurtenant Owner") shall be entitled to an award for the taking of the Appurtenant Owner's interests arising out of this Declaration in the Lot taken, but only to the extent, if at all, an award is separately made for the interests of the Appurtenant Owner over and above the value of the Lot taken computed as though the Others' Interests did not exist. Each Appurtenant Owner shall also be entitled to recover an award in its own name for all damages to and diminution in value of, that Owners' Appurtenant Lot caused by the taking of that Owner's easements and rights arising out of this Declaration in the Lot that was taken.

14.3 Allocations By Mortgages and Leases. Section 14.2 shall not in any way affect or alter the disposition of an Owner's award as required in any lease as between the Owner and the tenant or tenants of the Lot taken or in any mortgage as between the Owner and the mortgagee of the Lot taken.

14.4 Restoration.

(a) If any of the Common Area Improvements or a Building or other Improvement is damaged by the taking of a portion of a Lot, then the Owner of that Lot:

(i) To the extent practicable and to the extent of that portion of the award attributable to the taking or damage of the Common Area Improvements within that Lot, shall promptly restore, repair, rebuild and replace the damaged Common Area Improvements to a condition substantially comparable to their condition immediately prior to such damage; and

(ii) Shall either (A) rebuild, restore or replace the Building or other Improvement or (B) demolish and raze the damaged Building or other Improvement, fill in all excavations, plant grass and perform such other work as may be necessary to leave the area on which such damaged building was located in a clean, sightly and safe condition, and thereafter maintain such area in a clean, sightly and safe condition.

(b) If an Owner does not perform its obligations under Section 14.4(a) with respect to the Common Area Improvements on that Owner's Lot, the Operator shall repair, restore, rebuild or replace the damaged improvements in accordance with Section 4.2.1. The Operator shall use reasonable and diligent efforts to collect from the Defaulting Owner the costs of such restoration, repair, rebuilding and replacement; the net amount so collected (after all expenses of such collection) shall be credited to Common Area Costs.

15. TAXES; CONSTRUCTION LIENS

15.1 Separate Assessment and Taxes. Each Lot shall be separately assessed by all taxing authorities for real estate tax purposes.

15.2 Payment of Taxes. Prior to delinquency, each Owner shall pay all taxes and governmental assessments Impositions levied or assessed against its Lot and the improvements thereon. If an Owner fails to make a payment of an Imposition, and such failure could result in a lien on any land or improvement in the Property or adversely affect any right of an Owner under this Declaration, the Operator may make such payment on account of the Defaulting Owner and use any remedy in accordance with Section 11.

15.3 Tax Consents. If any Owner shall deem the taxes or governmental assessments Impositions, or any part thereof to be paid by such Owner to be excessive or illegal, such Owner shall have the right to contest the same at its own cost and expense, and shall have the further right to defer payment thereof so long as the validity or the amount thereof is contested in good faith; provided, however, that if at any time payment of the whole or any part thereof shall be necessary in order to prevent the sale or loss of the property because of the nonpayment thereof, then the contesting party shall pay or cause to be paid the same in time to prevent such sale. Any such payment may be made under protest.

15.4 Constructions Liens. In the event any construction lien is filed against any Lot, the Owner or the Operator who ordered or contracted for the work or materials on account of which the lien was filed agrees to either pay the same and have it discharged of record promptly or to take such action as may be required to reasonably and legally object to such lien, or to have the lien removed from such Lot, and in all events agrees to have such lien discharged prior to the sale or loss in connection with such lien of all or part of the Lot. If necessary in order to prevent a sale or loss in connection with such lien of all or a part of the Lot, which sale or loss is likely to adversely affect the possessory rights of any Owner, such Owner whose rights under this Declaration are likely to be adversely affected may pay and cause to have discharged any mechanic's liens or material men's liens filed against the Lot of any other Owner and shall

have the right to reimbursement from such other Owner or Operator of any amounts so advanced plus interest at twelve percent (12%) per annum.

16. MISCELLANEOUS

16.1 Constructive Notice and Acceptance. Every person or entity who now or hereafter owns, occupies, or acquires any right, title, or interest in or to any portion of The Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in The Property.

16.2 Delegation and Assignment of Declarant's Rights and Duties. 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. Declarant may permanently assign any and all of its rights, powers, discretion and duties as Declarant hereunder to any person, corporation or association which will assume the duties of Declarant. Such assignment shall become effective upon recordation with the Deschutes County Recorder. If at any time Declarant ceases to exist and has not made such assignment, a successor Declarant may be appointed only with the written consent of fifty-one percent (51%) of the Owners within The Property.

16.3 No Liability. Neither Declarant nor its successors or assigns shall be liable to any Owner or occupant of the Property by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction or for the enforcement or failure to enforce any provision of this Declaration. Every Owner or occupant of any of the Property by acquiring its interest therein agrees that it will not bring any action or suit against Declarant to recover any such damages or to seek equitable relief attributable to or caused by same.

16.4 Notices. All notices to be given pursuant to this Declaration shall be in writing. If given to Declarant, notice is effective only upon receipt. If given to an Owner, notice is effective: (i) 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 Deschutes County; or (ii) upon receipt in the case of messenger, overnight courier, or facsimile. Notices to Declarant shall be delivered to: Lary J. Mielke, 600 S. Lake Ave., Suite 502, Pasadena, CA 91106 (Fax 626/564-0232); with a copy to: Jean Wood, 405 SW 8th St., Redmond, OR 97756 (Fax 541/504-7774).

16.5 Declarant's Approval or Consent. Any provision of these CC&R's whereby Declarant's approval or consent is required, said approval or consent must be in writing to be valid and shall be the responsibility of Owner to obtain. Notwithstanding the foregoing, Declarant may delegate certain review and approval rights to an agent, and may do so without express notice to Owners.

16.6 Captions. The captions of articles and sections herein are used for convenience only and not intended to be part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

16.7 Effect of Invalidation. If any term or provision of these CC&R's is held to be invalid by any court, such invalidity shall not affect in any way the validity of the remaining CC&R's.

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

DECLARANT:

CONCOURSE 97

a California Limited Partnership

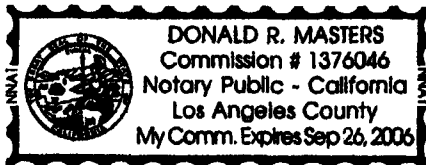
By: Village Court Associates, a California General Partnership

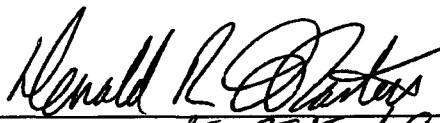
By: Redmond Holdings, Inc., an Oregon Corporation, General Partner


Lary J. Mielke, President

STATE OF California)
COUNTY OF Los Angeles) SS

The foregoing instrument was acknowledged before me this 14th day of January, 2004, by LARY J. MIELKE, on behalf of Concourse 97, a California limited partnership. 2005




Notary Public for the State of California

