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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF FAIRWAY HEIGHTS

WHEREAS, the Declaration, Covenants, Conditions and Restrictions of Fairway Heights (the "Declaration") is made this 14 day of September, 1997 by THE RIVERHOUSE PARTNERSHIP, an Oregon partnership, as Declarant.

NOW, FURTHER THEREFORE, Declarant hereby declares that all the Properties described in Exhibit "A" and any additional property as may by subsequent amendment be added to and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

Section 1. "Additional Land" shall mean and refer to additional real property subject to Declarant's unilateral right of annexation as provided elsewhere in this Declaration, which property is more particularly described in Exhibit "B", attached hereto and incorporated throughout this Declaration by reference.

Section 2. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, within or upon a Lot, the maintenance, repair, or replacement of which is the responsibility of the Association.

Section 3. "Bylaws" shall refer to the Bylaws of RIVER'S EDGE HOMEOWNERS ASSOCIATION, INC.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration, the Bylaws, and the Articles of Incorporation of the Association.

Section 6. "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto and (a) such additions thereto as may be made

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INSURANCE COMPANY OF OREGON
P.O. BOX 323
BEND, OR 97709

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by Declarant (or its Mortgagee or transferee, as provided in the Declaration) by amendment or supplementary declaration; and (b) such additions thereto as may be made by the Association by amendment or supplementary declaration of other real property.

Section 7. "Eligible Mortgage Holder" shall mean a holder, insurer, or guarantor of a first mortgage on a Lot who has requested notice of certain matters from the Association as hereinafter and in the Association's By-laws provided.

Section 8. "Eligible Votes" shall mean those votes available to be cast on the issue at hand. A vote which is for any reason suspended is not available to be cast.

Section 9. "Lot" shall mean a portion of the Properties other than the Common Area intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the plats of survey filed with this Declaration or amendments thereto. Where the context indicates or requires, the term Lot includes any structure on the Lot.

Section 10. "Majority" means those eligible votes, Owners, or other groups as the context may indicate totalling more than fifty (50%) percent of the total eligible number.

Section 11. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 12. "Mortgage" means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 13. "Mortgagee" shall include a beneficiary or holder of a deed of trust, as well as a mortgagee.

Section 14. "Mortgagor" shall include the trustor of a deed of trust, as well as a mortgagor.

Section 15. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is part of the Properties, but excluding any party holding the fee simple title merely as security for the performance of an obligation. Owner shall include the Declarant.

Section 16. "Property or Properties" shall mean and refer to the real property described on Page one of this Declaration and such additional real property as may be added in accordance with Article V.

Section 17. "Subsequent Amendment" shall mean an amendment to this Declaration which adds additional property to that covered by this Declaration. Such Subsequent

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Amendment may, but is not required to impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Amendment to the provisions of this Declaration.

Section 18. "Private Way" means any private road or other area which is designated as such in the Plat of Fairway Heights or any plat filed in connection with the annexation of Additional Real Property, or in any Supplemental Declaration submitting property to this Declaration.

ARTICLE II: PROPERTY RIGHTS

Section 1. OWNER'S EASEMENT OF ENJOYMENT. Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use the facilities;

(b) The right of the Association to suspend an Owner's voting rights and the right to use any of the facilities for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for any infraction by an Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;

(c) The right of the Declarant, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the Common Area contained within the respective Properties to any public agency, authority, or utility for such purposes as benefits only the Properties or portions thereof and Owners or Lots contained therein;

(d) The right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the common Area, provided two-thirds (2/3) of each Class of members present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner, or the holder of any mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within Fairway Heights; and,

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(e) The right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved (i) by at least two-thirds (2/3) of the votes which those Class A members of the Association which are present or represented by proxy are entitled to cast at a meeting duly called for such purpose, and (ii) by the Class B members of the Association, so long as such membership shall exist.

(f) Declarant hereby reserves a non-exclusive easement over the Common Areas for signs, public utilities operations, maintenance, ingress and egress for the golf course, pipeline irrigation system and related uses of the Property, including the right of ingress and egress for golfing purposes. Declarant also reserves said non-exclusive easement over any Lot within Fairway Heights, as shall be designated on any official plat.

(g) Private Ways. Each owner shall have a non-exclusive easement for the use of Private Ways for the purposes of walking thereon or traveling thereon by appropriate means. Each owner may permit his guests and invitees to use the Private Ways for such purposes. The easement provided for herein shall be appurtenant to and assignable with the Lot with respect to which it is granted, but shall not be otherwise assignable. The use of Private Ways shall be subject to rules and regulations adopted by the Board of Directors of the Upper River's Edge Association, Inc. and said Board of Directors shall have the right to erect gates across Private Ways and bike paths and to regulate access through such gates. Declarant, its employees and invitees of its golf course, pro shop, and maintenance facilities shall at all times have reasonable access over and across Private Ways.

Article II, Section 1(c) may not be amended without the written consent of Declarant.

Section 2. AERIALS AND ANTENNAS. No radio or television or other aerial, antenna, dish, tower, or other transmitting or receiving structure, or support thereof, shall be erected, installed, placed, or maintained without the prior written approval of the New Construction Committee.

Section 3. EXTERIOR LIGHTING. No exterior lighting fixture (other than standard fixtures approved by the New Construction Committee or other Modifications Committee or installed by Declarant) shall be installed within or upon any Residential Lot without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of exterior lighting must be approved in writing by the Modifications Committee, in advance, as provided in Article XI, Section 2, of the Declaration.

Section 4. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-laws of the Association and subject to reasonable rules, regulations, and limitations as may

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be adopted in accordance therewith, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the occupants of any leased Lot.

Section. 5. OWNER'S RIGHT TO INGRESS, EGRESS, AND SUPPORT. Each Owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to his or her Lot and shall have the right to lateral support for his or her Lot, and such rights shall be appurtenant to and pass with the title to each Lot. Unless the homeowner's association approves, the community shall not be a gated community.

Section 6. USE OF LOTS. Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage; no trade or business of any kind may be conducted. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the By-laws, and the rules and regulations adopted hereunder.

Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or on the Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

Section 7. USE OF COMMON AREA. No planting or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon the Common Area or upon any Lot, except in accordance with the initial construction of the improvements located thereon or as approved by the Association's Board of Directors or their designated representatives. Except for the right of ingress and egress, the Owners of Lots may use the property outside their respective Lots only in accordance with reasonable regulations as may be adopted by the Association's Board of Directors or as is expressly provided herein. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners. Except for the entry area as shown on the plat adjacent to Lot 1, Declarant shall not be responsible for Common Area maintenance. The homeowner's association shall maintain all Common Areas.

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Section 8. SIGNS. Except as hereinafter provided for Declarant, no advertising signs (except one FOR RENT or FOR SALE sign per Lot of not more than one foot by two feet [1' x 2'] placed only on the Lot), billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Property subject to this Declaration.

Section 9. RULES AND REGULATIONS. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rules' effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, cancelled, or modified by the Board or the Association in a regular or special meeting by the vote of Class A members holding a majority of the total votes in the Association and by the vote of the Class B members, so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure as provided in Article X.

Section 10. DECLARANT'S RESERVED EASEMENT. Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to Fairway Heights for the benefit of Declarant, its successors, and assigns over, under, in, and/or on the Common Areas and Private Ways, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use, and enjoyment, and/or otherwise dealing with Fairway Heights and any other property now owned or which may in the future be owned by Declarant (such other property is hereinafter referred to as Additional Property). The reserved easement shall constitute a burden on the title to Fairway Heights and specifically includes, but is not limited to:

(a) The right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on or in Fairway Heights; and the right to tie into any portion of Fairway Heights with driveways, parking areas, and walkways; and the right to tie into Fairway Heights and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over Fairway Heights; and

(b) The right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient, or incidental to the construction and sale by Declarant of residences in Fairway Heights or in any portion of the Additional Property.

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(c) If these reserved easements are exercised without annexing any Additional Property to Fairway Heights, the owners of the affected Additional Property shall share the costs, if any, of using and maintaining utility and similar facilities, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities with the owners in Fairway Heights in the proportion that the number of completed dwellings on the affected Additional Property bears to the total number of completed dwellings upon the affected Additional Property and Fairway Heights. The costs of maintenance and repair of the private roads and driveways shall likewise be apportioned to the affected Additional Property if the only means of vehicular access to the affected Additional Property is across Fairway Heights. For the purposes of this provision, a dwelling on the affected Additional Property shall be considered completed when a certificate of occupancy has been granted. The allocation of expenses and the collection therefore may be done on a monthly, quarterly, or annual basis as may reasonably be determined by the Association in accordance with this Declaration. If any of the Additional Property is added to Fairway Heights from the time of the annexation, the sharing of costs and expenses and the use of any property so added shall be governed by this Declaration, rather than by these reserved easements.

This Section may not be amended without the written consent of Declarant.

Section 11. STORAGE AND PARKING OF VEHICLES. There shall be no outside storage or parking upon any Lot or the Common Area of any automobile, commercial vehicle, truck, tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other transportation device of any kind, except for Owners within the parking spaces in the Owner's garage and designated parking spaces on a Lot, and for visitors temporarily parking in spaces and in accordance with rules and regulations designated and promulgated by the Board. No owners or tenants shall repair or restore any vehicle of any kind upon any Lot or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed.

Section 12. PETS. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Properties, except that no more than a total of four (4) dogs, cats, or other normal household pets may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose. More than four (4) birds may be kept in residences so long as they are kept exclusively indoors and are not bred for commercial purposes.

Section 13. RESIDENTIAL USE. Lots shall only be used for residential purposes. Except with the consent of the Board of Directors of the Association, and as allowed by applicable City of Bend ordinances, no trade, craft, business, profession, commercial or similar

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activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of Lots, (b) the right of Declarant or any contractor or home builder to construct living units on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any living unit as an office or model home for purposes of sales in Fairway Heights, and (c) the right of the Owner of a Lot to maintain his or her professional personal library, keep his or her personal business or professional records or accounts, handle his or her personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his or her living unit. The Board of Directors shall not approve commercial activities otherwise prohibited by this paragraph unless the Board of Directors determines that only normal residential activities would be observable outside of the living unit and that the activities would not be in violation of applicable Deschutes County ordinance.

Section 14. OFFENSIVE OR UNLAWFUL ACTIVITIES. No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common area which interferes with or jeopardizes the enjoyment of other Lots or the common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof, shall be observed. Without limiting the generality of the foregoing, no heat pump or other heating, ventilating or air conditioning equipment, the operation of which produces noise at a level higher than 80 decibels, as measures at the lot line, shall be allowed on any Lot or living unit.

Section 15. MAINTENANCE OF STRUCTURES AND GROUNDS. Each Owner shall maintain such Owner's Lot and improvements thereon in a clean and attractive condition, in good repair. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, walks and other exterior improvements and glass surfaces. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot properly cultivated and free of trash, excessive weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, vandalism, or other causes shall likewise be the responsibility of each Owner and shall be repaired within a reasonable period of time.

Section 16. RUBBISH AND TRASH. No Lot or part of the common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. Yard rakings, dirt and other material resulting from landscaping work shall not be dumped onto streets or Common Areas or on any Lots. All unimproved Lots shall be kept in a neat and orderly condition, free of vines, weeds and other debris, and grass thereon shall be cut or mowed at sufficient intervals to prevent creation of a nuisance or fire hazard. If any default under this Section exists for a period longer than ten days after written notice of such default is mailed to the responsible Owner by the

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Association, the Association shall have, in addition to any other rights under this Declaration, or at law or in equity, the remedies specified in this agreement.

Section 17. COMPLETION OF CONSTRUCTION. The construction of any building on any Lot, including painting and all exterior finish, shall be completed within 8 months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the NCC. The building area shall be kept reasonably clean and in workmanlike order during the construction period. The Association may enact restrictions and procedures to control access, parking and disruption of Fairway Heights and its environment during construction, including but not limited to restrictions on access, parking, pets, and noise and restriction of individuals working on construction from access to or use of other lots or common areas of Fairway Heights, except for purposes directly related to construction, as permitted in writing by the Association on that lot.

Section 18. LANDSCAPE COMPLETION. All landscaping must be completed within sixty (60) days from the date of occupancy of the living unit constructed thereon. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the NCC.

Section 19. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently.

Section 20. SERVICE YARDS. Service yards (garbage, fuel tanks, clotheslines, etc.) shall be completely screened so that the elements screened are not visible at any time from the street or any adjoining property. No plastic cover shall be used, for example, to protect wood or structures, unless they are brown or forest green in color, and are not visible at any time from the street or any adjoining property.

Section 21. SETBACK, MAXIMUM HEIGHT AND MINIMUM YARD REQUIREMENTS. Each Lot shall be subject to the setback, maximum height, and minimum yard requirements shown on the recorded plat on which such Lot is included, or which are established by the City of Bend or other governmental entity with jurisdiction over each such Lot and to any land use review procedure established by the City of Bend or other government entity with jurisdiction over such Lot for review and approval of variance from such requirements. Setbacks may vary from one lot to the next, depending upon location, view and building envelopes, as shown in the recorded plat. In addition, all Lots are subject to more restrictive view easements, setbacks, maximum heights or minimum yard requirements as are established from time to time by the NCC. The City of Bend has established certain maximum height and minimum yard requirements as a condition of approval of the Initial Development. No improvement shall be constructed or maintained in violation of any setback, maximum height or minimum yard requirement, except as provided within the recorded plat on which such lot is

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included or as allowed with the written consent of the NCC and any applicable City of Bend approval.

Section 22. TRANSIENT RENTAL USE. No Owner or Owners of any Lot within Fairway Heights shall be permitted to rent their Lot or living unit to any person or persons for transient occupancy which shall be for a period of 30 days or less. A rental shall be defined as the use or possession or the right to use or possess for lodging or sleeping purposes any Lot or living unit in Fairway Heights and rent shall mean the consideration charged whether or not received by the Owner for the occupancy of the Lot or living unit any money, goods, labor, credits, property or other consideration valued in money without any deduction. Transient use shall not include a rental of any Lot or living unit for a period of in excess of 30 consecutive calendar days. Owner and transient occupants shall be responsible for compliance with all provisions of the Declarations, Restrictions, Protective Covenants and Conditions of this document, and any and all rules and regulations promulgated by the Association to protect the natural environment, quiet enjoyment and quality of life of Fairway Heights.

Section 23. GOLF COURSE EASEMENT. The Declarant hereby reserves an easement for himself, his heirs, successors and assigns, including the owner and operator of the golf course adjacent to all lots within Fairway Heights, an easement 25 feet wide along all property lines that are adjacent to and front the golf course, or from the building line to the golf course, as shown on the recorded plat on which a Lot is included, whichever is greater. The easement is for the purpose of the operation and maintenance of the golf course, which includes the right of the owner and operator of the golf course to enter the easement, provided that the entry is limited to golf course purposes. This easement does give the right to the golf course owner and operator to landscape the area. No structure of any kind shall be permitted within the golf course easement.

Section 24. FUTURE COMMERCIAL DEVELOPMENT. The Declarant reserves the right to develop commercial areas and multiple family dwellings on the Additional Land. Owners agree not to oppose commercial development by the Declarant on such Property or Properties.

Section 25. GOLF COURSE RISK. Owner acknowledges that he is purchasing Lots adjacent to or near a golf course and driving range. Declarant is not responsible for any injury or damages that may be caused by golf balls or golfers. Although there are lot lines and a building line, it is not a guarantee that Owner's property will not be damaged. Owner does hereby release Declarant from all liability for any injury or damage as a result of golfing activities. Owner shall have no cause of action against the River's Edge Golf Course for nuisance, including but not limited to nuisance caused by golf course maintenance, early or late starting times, or noise of golfers.

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ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

Section 1. MEMBERSHIP. Every person or entity who is the record owner of a fee or undivided fee interest in any Residential Lot that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one (1) membership per Residential Lot owned. In the event the Owner of a Residential Lot is more than one person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote for each class of membership applicable to a particular Residential Lot be cast for each Residential Lot.

Section 2. VOTING RIGHTS. Voting rights within the Association shall be allocated as follows:

(a) Residential Lots and Commercial Lots. Residential Lots shall be allocated one vote per Lot, except that any Residential Lot containing a multi-family structure shall be allocated the greater of one vote or one vote for every ten (10) Living Units located on such Lot. Condominium units shall be entitled to one vote for each Condominium unit. Each Commercial Lot and each other Lot not falling into a Residential or Commercial Lot classification shall be entitled to the number of votes set forth in the declaration annexing such Lots to Fairway Heights.

(b) Classes of Voting Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership and thereafter, Class A members shall be all Owners including the Declarant). Class A members shall be entitled to voting rights for each Lot owned computed in accordance with Section 1 above. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more votes be cast with respect to any Lot than is determined as set forth in Section 1 above.

Class B. The Class B member shall be Declarant and shall be entitled to three times the voting rights computed under Section 1 for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

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(i) When seventy-five percent (75%) of the Lots in the final phase of development of Fairway Heights have been sold and conveyed to Owners other than Declarant; or

(ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

Section 3. POWERS AND OBLIGATIONS. The Association shall have, exercise and perform all of the following powers, duties and obligations:

(a) Declaration. The powers, duties and obligations granted to the Association by this Declaration.

(b) Statutory Powers. The powers, duties and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon and of a homeowners association of a planned community pursuant to the Oregon Planned Community Act, as either or both may be amended from time to time.

(c) General. Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within Fairway Heights.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

Section 4. LIABILITY. Neither the Association nor any officer or member of its Board of Directors shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of its Board of Directors, provided only that the officer or Board member has acted in good faith in accordance with the actual knowledge possessed by him.

Section 5. INTERIM BOARD; TURNOVER MEETING. Declarant shall have the right to appoint an interim board of three directors or more, who shall serve as the Board of Directors of the Association until replaced by Declarant or their successors have been elected by the Owners at the turnover meeting described in this Article. Declaration shall call a meeting by giving notice to each owner as provided in the Bylaws of the Association for the purpose of turning over administrative responsibility for Fairway Heights to the Association not later than one hundred twenty (120) days after Lots representing seventy-five percent (75%) of the votes in all phases of Fairway Heights computed in accordance with Section 1 above have been sold and conveyed to Owners than that Declarant. If the Declarant does not call a meeting required by

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this Section within the required time, the Transitional Advisory Committee described below or any Owner may calla meeting and give notice as required in this Section. At the turnover meeting, the interim directors shall resign and their successors shall be elected by the Owners and Declarant as provided in this Declaration and the Bylaws of the Association.

Section 6. TRANSITIONAL ADVISORY COMMITTEE. The Declarant or Owners shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by the Declarant of Fairway Heights to administrative responsibility by the Association. Not later than the sixtieth (60th) day after the Declarant has conveyed to Owners other than Declarant Lots represents fifty percent (50%) of the votes of all phases in Fairway Heights computed in accordance with Section 1 above, the Declarant shall call a meeting of Owners for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of three or more members. The Owners, other than the Declarant, shall select two or more members. The Transitional Advisory Committee shall have reasonable access to all information and documents which the Declarant is required to turn over to the Association under ORS 94.616.

(a) Declarant Failure to Call Meeting. An Owner may call a meeting of Owners to select the Transitional Advisory Committee if the Declarant fails to do so as provided above.

(b) Owners' Failure to Select Members. Notwithstanding the foregoing, if the Owners do not select members for the Transitional Advisory Committee as described above, Declarant shall have no further obligation to form the Transitional Advisory Committee.

(c) Turnover Meeting. The requirement for formation of a Transitional Advisory Committee shall not apply once the turnover meeting specified in Section 5 above has been held.

Section 7. DECLARANT CONTROL AFTER TURNOVER. After the turnover meeting described in Section 5 above, Declarant shall continue to have the voting rights described in Section 1 above. In addition, a majority of the Board of Directors of the Association shall be elected by Declarant, as Class B members, with the balance of the Board of Directors elected by the Class A members. After termination of Class B membership, all directors shall be elected by the Class A members.

Section 8. SUBASSOCIATIONS. Nothing in this Declaration shall be construed as prohibiting the formation of subassociations within Fairway Heights, including without limitation, Condominium associations, neighborhood associations, or associations of commercial owners.

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ARTICLE IV. MAINTENANCE

Section 1. ASSOCIATION'S RESPONSIBILITY: The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided, except for roadways to be maintained by Upper River's Edge Association, Inc. This maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon the Area of Common Responsibility.

The Association may, in the discretion of its Board, assume the maintenance responsibilities set out in any Declaration subsequently recorded which creates any residential association (including, but not limited to, condominium associations) upon all or any portion of the Properties. In such event, all costs of such maintenance shall be assessed only against those Members residing in the association to which the services are provided. The assumption of this responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the standards of Fairway Heights. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Section 2. OWNER'S RESPONSIBILITY: Except as provided in Section 1 of this Article, all maintenance of the Lot and all part of the residence thereon shall be the responsibility of the Owner, and each Owner shall maintain and keep in good repair such property and improvements.

ARTICLE V. INSURANCE

Section 1. INSURANCE: The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area and may, but shall not be obligated to, by written agreement with any Parcel Committee (as defined in the By-laws of the Association) in the Properties subject to this Declaration, assume the insurance responsibility for the Properties subject to this Declaration against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a $500,000 single person limit as respects bodily injury and property damage, a $1,000,000 limit per occurrence, and a $250,000 minimum property damage limit. Premiums for all insurance on the Common Area shall be common expenses of the Association; premiums for insurance provided to other associations or Parcels shall be charged to those associations or Parcels. The policy may contain a reasonable deductible, and the amount thereof shall be

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added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 2. INDIVIDUAL INSURANCE. By virtue of taking title to a Residential Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association to carry blanket all-risk casualty insurance on the Residential Lots and structures constructed thereon. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Residential Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

Section 3. DISBURSEMENT OF PROCEEDS: Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Residential Lot and may be enforced by such mortgagee.

(b) If it is determined, as provided for in Section 3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 3(a) of this Article V.

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ARTICLE VI. NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of any Lot or of the Common Area or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 3 of Article V in the case of damage or destruction, or unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII. CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation of the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Class A Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII. ANNEXATION OF ADDITIONAL PROPERTY

Section 1. ANNEXATION WITHOUT APPROVAL OF CLASS A MEMBERSHIP. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until December 31, 2025, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the improved and unimproved real property described in Exhibit "A" attached hereto and by reference made a part hereof by filing in the Official Records of Deschutes County, Oregon, records, an amendment annexing such property. Such amendment to this Declaration shall not require the vote of Class A members. Any such annexation shall be effective upon the filing for record of such amendment unless

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otherwise provided therein.

Declarant shall have the unilateral right to transfer to any other person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit "A", attached hereto, which, at the time of such transfer and assignment (or contemporaneously therewith), is subjected to the provisions of this Declaration.

Section 2. The rights reserved unto Declarant to subject additional land to the Declaration shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association nor any obligation, if subjected, to build housing of the same type, design, or materials. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land, nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 3. ANNEXATION WITH APPROVAL OF CLASS A MEMBERSHIP. Subject to the consent of the owner thereof, upon the written consent or affirmative vote of a majority of the Class A Members other than Declarant of the Association present or represented by proxy at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject in accordance with Section 1 of this Article, the Association may annex real property other than that shown on Exhibit "B", and following the expiration of the right in Section 1, the properties shown on Exhibit "B" to the provisions of this Declaration and the jurisdiction of the Association by filing of record in the Official Records of the County of Deschutes, Oregon, a Subsequent Amendment in respect to the Properties being annexed.

Any such Subsequent Amendment shall be signed by the President and the Secretary of the Association, and the owner of the properties being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Class A Members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-laws of the Association for regular or special meetings, as the case may be.

Section 4. ACQUISITION OF ADDITIONAL COMMON AREA. Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B" which upon conveyance or dedication shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

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Section 5. AMENDMENT. This Article shall not be amended without the written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B".

ARTICLE IX. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. COMMON AREA. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements therein (including furnishings and equipment related thereto, if any), and shall keep it in good, clean, attractive, sanitary condition, order, and repair, pursuant to the terms and conditions of this Declaration and the Bylaws.

Section 2. SERVICES. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, and other common services to each Lot.

Section 3. PERSONAL PROPERTY AND REAL PROPERTY FOR COMMON USE. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests located within the properties described in Exhibit "A" or "B" conveyed to it by the Declarant.

Section 4. IMPLIED RIGHTS. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. SELF-HELP. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common property to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the By-laws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

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Section 6. RIGHT OF ENTRY. The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter into Lots for emergency, security, or safety purposes, which right may be exercised by the association's Board of Directors, officers, agents, employees, managers and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the owner or occupant of the Lot.

ARTICLE X. ASSESSMENTS

Section 1. PURPOSE OF ASSESSMENT. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. CREATION OF ASSESSMENTS. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association; (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest, not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

Section 3. COMPUTATION OF ASSESSMENT. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessments to be levied against each Lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a Majority of the Owners. Notwithstanding the foregoing, however, in the event the membership disapproved the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 4. SPECIAL ASSESSMENTS. In addition to the other assessments authorized herein, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable to each Lot does not exceed Five Hundred Dollars ($500) in any one fiscal year, the Board may impose the special assessment. Any special assessment

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which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a Majority of the Class A members. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. LIEN FOR ASSESSMENTS. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the land records of Deschutes County, Oregon, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 6. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot. No Owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot.

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All payments shall be applied first to costs and attorneys' fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming due.

Section 7. CAPITAL BUDGET AND CONTRIBUTION. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessments, as provided in Section 3 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

Section 8. SUBORDINATION OF THE LIEN TO FIRST DEEDS OF TRUST AND FIRST MORTGAGES. The lien of the assessments, including interest, late charges, costs (including attorneys' fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Lot obtains title, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all the Lots, including such acquirer, his or her successors and assigns.

Section 9. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. The annual assessments provided for herein shall commence as to all Lots then existing and subject to assessment under the Declaration on the first day of the month following the conveyance of the first Lot by the Declarant to a Class A member and shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. The date any Lot becomes subject to assessment hereunder shall be the date on which the later of the following occurs:

(a) The Lot becomes subject to the Declaration; or

(b) The appropriate official of Deschutes County, Oregon, issues a certificate of occupancy or its equivalent stating that the Lot is substantially complete and available for

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occupancy.

Section 10. ASSESSMENTS BY DECLARANT.

(a) After the commencement of assessment payments as to any Lot, Declarant, if any, covenants and agrees to pay fifty percent (50%) of the annual assessment for each occupied Lot it owns; notwithstanding anything contained herein to the contrary, the Declarant shall not pay any assessment on vacant Lots.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

ARTICLE XI. ARCHITECTURAL STANDARDS

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdictions decisions of either Committee established in subsections 1 and 2 of this Article XI. This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Section, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained.

Section 1. NEW CONSTRUCTION COMMITTEE. The New Construction Committee (NCC) shall have exclusive jurisdiction over all original construction on any portion of the Properties. The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners, builders, and developers

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who seek to engage in development of or construction upon all or any portion of the Properties and who shall conduct their operations strictly in accordance therewith. The Declarant to submit such properties expires, the Declarant retains the right to appoint all members of the NCC, which shall consist of at least three (3), but no more than five (5), persons until Declarant elects to surrender that right to the Board of Directors. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the surrender of such right, the Board of Directors shall appoint the members in the same manner as provided in subsection 2 for the Modifications Committee.

Section 2. MODIFICATIONS COMMITTEE. The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors. At the time of Turnover as designated in Article III above, the MC shall be turned over to Fairway Heights Owners Association, Inc. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Lots or structures containing on the Lots and the open space, if any, appurtenant thereto; provided, however, the MC may delegate this authority to the appropriate board or committee of any residential association subsequently created or subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice.

The MC shall promulgate detailed Standards and Procedure governing its area of responsibility and practice. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his or her residence, or to paint the interior of his or her residence any color desired. In the event the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

Section 3. LIABILITY. The scope of the NCC's review is not intended to include any review or analysis of structural, geophysical, engineering or other similar considerations. Neither the NCC, nor any member thereof, shall be liable to any Owner, occupant, builder or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the NCC or a member thereof, provided only that the NCC has, or the member has, in accordance with the actual knowledge possessed by the NCC or by such member, acted in good faith.

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Section 4. NONWAIVER. Consent by the NCC to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

Section 5. EFFECTIVE PERIOD OF CONSENT. The NCC's consent to any proposed Improvement shall automatically be revoked one year after issuance unless construction of the Improvement has been commenced or the Owner has applied for and received an extension of time from the Committee.

Section 6. CONSTRUCTION BY DECLARANT. Improvements constructed by Declarant on any property owned by Declarant, are not subject to the requirements of this Article XI.

Section 7. ENFORCEMENT PROCEDURES. In the event that any owner constructs or permits to be constructed on said owner's property an improvement contrary to the provisions of the Fairway Heights Declaration or of the New Construction Committee Rules and Guidelines, or in the event that an owner maintains or permits any improvement, condition or other thing on his or her property contrary to the provisions of the Fairway Heights Declaration or the New Construction Committee Rules and Guidelines, the Fairway Heights Owners Association, Inc. and/or the NCC may, no sooner than sixty (60) days after delivery to such owner of written notice of the violation, order the owner to cease and desist all work, construction, repair, alteration, landscaping and excavation of any kind, until such breach is remedied, and certified in writing by the NCC. The stop work order shall continue until the violation has been corrected as authorized by the Committee, as certified in writing by the Committee. If the owner/contractor/subcontractor refuses to stop work, a certified letter shall be sent to the property owner who is in violation. The letter shall describe what the violation is and require that all work be discontinued until the problem is rectified. A limit shall be placed on the amount of time allowed to correct the problem. In most cases, the time limit will be set at either twenty-four (24) or forty-eight (48) hours. In the event the written notice is ineffective or is breached, the Fairway Heights Owners Association, Inc. may seek an injunction to force compliance. A fine may also be levied in conjunction with the stop work order, in conjunction with a schedule of fines reviewed and approved on an annual basis by Committee, and subject to the oversight and approval of the Fairway Heights Owners Association, Inc.

ARTICLE XII. GOLF COURSE

Fairway Heights, and subsequent phases of River's Edge are constructed around a public golf course. No owner within Fairway Heights shall have any rights or privileges to use the public golf course, except as may be extended by membership privileges granted to such owners. The golf course is not part of Fairway Heights, is not intended to be part of Fairway Heights, but does have certain easements in favor of the golf course to permit the continued operation and maintenance of the golf course in harmony with River's Edge.

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ARTICLE XIV. GENERAL PROVISIONS

Section 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 2. AMENDMENT. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on Lots subject to this Declaration, provided, however, any such amendment shall not adversely affect the title to any Owner's Lot. Further, so long as the Class B membership exists, Declarant may unilaterally amend this Declaration for any other purposes; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least seventy-five percent (75%) of the Class A members and the consent of the Declarant, so long as Declarant has an unexpired option to subject property to this Declaration. Amendments to this Declaration shall become effective upon recordation in the Deschutes County, Oregon records, unless a later effective date is specified therein.

Section 3. INDEMNIFICATION. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or

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otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or directors, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. EASEMENTS FOR UTILITIES. There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water sanitary sewer, telephone, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wire, conduits, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 5. CONSTRUCTION AND SALE. Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Residential Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area or property owned by Declarant, such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, model units, and sale offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant and the clubhouse complex, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section 5 shall terminate upon the earlier of (a) twenty-five (25) years from the date this Declaration is recorded, or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

Section 6. ENFORCEMENT; ATTORNEYS' FEES. The Association and the Owners within the Property of any mortgagee on any Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter

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imposed by any of the provisions of this Declaration as may pertain specifically to such parties or owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter.

In the event suit or action is commenced to enforce the terms and provisions of this Declaration, the Bylaws, or any Rule or Regulation, the prevailing party shall be entitled to its attorney fees and costs in such suit or action to be fixed by the trial court, and in the event of an appeal or review, the cost of the appeal or review, together with reasonable attorney fees, to be set by the appellate court. In addition thereto, the Association shall be entitled to its reasonable attorney fees incurred in any enforcement activity taken to collect delinquent assessments, whether or not suit or action is filed.

Section 7. GENDER AND GRAMMAR. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 8. SEVERABILITY. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 9. CAPTIONS. The captions of each Article and Section hereof, as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 10. PERPETUITIES. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, Queen of England.

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IN WITNESS WHEREOF, the undersigned Declaration has been executed this 15th day of September, 1997

RIVERHOUSE PARTNERSHIP

By: Wayne Purcell

By: Clyde Purcell

By: Mary Lou Purcell

STATE OF OREGON, County of Deschutes) ss.

On 9/15, 1997 the undersigned, a Notary Public in and for said County and State, personally appeared Wayne Purcell, Clyde Purcell and Mary Lou Purcell, known to me to be the Declarant of Fairway Heights, and executed the within instrument and acknowledged to me that they are authorized to execute the foregoing instrument.

Teresa J Asher

Notary Public for Oregon
My Commission Expires: 9/11/00

OFFICIAL SEAL
TERESA J ASHER
NOTARY PUBLIC-OREGON
COMMISSION NO.057553
MY COMMISSION EXPIRES SEP 11, 2000

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Addendum "A"
Fairway Heights CC&R's

The following is here to made a part of the Declaration of Covenants, Conditions and Restrictions of fairway Heights:

The lot owners of lots 1 through 11, agree to and will be responsible for maintaining the bank area between the golf course and the building line in wildflowers of the type previously planted by the Declarant.

Declarant makes no representations as to Fairway Heights being a gated community.

Declarant makes no representations as to landscaping of any areas within Rivers Edge including but not limited to Fairway Heights and or any common areas.

EXHIBIT "A"

River's Edge Phase V, located in the NW1/4 Section 29, and the SW1/4 of Section 20, T17S, R12E, W.M., City of Bend, Deschutes County, Oregon.

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EXHIBIT "B"

All real property owned by Declarant located north and east of Mt. Washington Drive and west of the Tumalo Irrigation canal located in Sections 19, 20, 29 and 30, T12, R12, E.W.M., City of Bend, Deschutes County, Oregon.

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 SEP 17 AM 9:25

MARY SUE PENHOLLOW
COUNTY CLERK

BY. Gnowski ____ DEPUTY

NO. 97-33595 FEE 155—

DESCHUTES COUNTY OFFICIAL RECORDS

Bryant Lovlien Jarvis
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