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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF UPPER RIVER'S EDGE

WHEREAS, the Declaration, Covenants, Conditions and Restrictions of Upper River's Edge (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 Private Ways common to all owners of property subject to this Declaration, together with those areas, if any, within the Private Ways, 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.

1 - Declaration (RSL:RIVERSEDG.073)

FIRST AMERICAN TITLE INSURANCE COMPANY (EGU)

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 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 unit 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, including condominium or other multiple family dwellings, 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.

2 - Declaration (RSL:RIVERSEDG.073)

Section 17. "Subsequent Amendment" shall mean an amendment to this Declaration which adds additional property to that covered by this Declaration. Such Subsequent 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 roads or other area which is designated as such in the Plat of River's Edge Phase V, or any plat filed in connection with the annexation of Additional Real Property, or in any Supplemental Declaration submitting real property to the terms and conditions of this Declaration.

Section 19. "Commercial Areas" means areas designed for commercial, office, retail, privately owned recreational or other non-residential uses on the Additional Land described on Exhibit "B". By accepting a deed or lease to a commercial area within the Additional Land, the grantee shall be deemed to have covenanted that he will use and permit the use of the property only in accordance with, and that he will abide by and cause all those who come upon his premises to abide by the restrictions, covenants and conditions contained in this Declaration and in the Rules and Regulations promulgated thereunder, and that he will pay to the Declarant of River's Edge all amounts provided for in this Declaration and/or in such other agreement entered into for reimbursement for consumer services. He further agrees that his property will be subject to a lien or liens provided in this instrument. The Declarant of River's Edge will be responsible for the enforcement of such restrictions, covenants, conditions, rules and regulations.

ARTICLE II: PROPERTY RIGHTS

Section 1. 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 Association. The 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. The Board of Directors shall be responsible for providing reasonably convenient means by which Declarant, its employees and invitees, shall have access through any gates. Gates across Private Ways shall be placed in such a manner as to minimize passage by Declarant, its employees or invitees. The Board of Directors, in its discretion, may dedicate Private Ways to the public. The Board of Directors shall grant free access on Private Ways to police, fire and other public officials, to employees of utility companies serving Upper River's Edge, and to such others to whom the Board believes access should be given for the benefit of owners. Declarant may use Private Ways for its own purposes and for the purpose of location of utilities. There shall be no implied dedication of Private Ways.

3 - Declaration (RSL:RIVERSEDG.073)

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

Section 2. 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 be adopted in accordance therewith, his or her right of enjoyment to the Private Ways to the members of his or her family, tenants, and invitees and shall be deemed to have made a delegation of all such rights to the occupants of any leased Lot.

Section. 3. 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.

Section 4. RULES AND REGULATIONS. The Board of Directors may establish reasonable rules and regulations concerning the use of the Private Ways and facilities located thereon. 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 5. 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 Upper River's Edge 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 ingress, egress, construction, installation, relocation, development, sale, maintenance, repair, replacement, use, and enjoyment, and/or otherwise dealing with Upper River's Edge 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 Upper River's Edge 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 Upper River's Edge; and the right to tie into any portion of Upper River's Edge with driveways, parking areas, and walkways; and the right to tie into Upper River's Edge 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

4 - Declaration (RSL:RIVERSEDG.073)

drainage lines and facilities constructed or installed in, on, under, and/or over Upper River's Edge; 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 Upper River's Edge or in any portion of the Additional Property.

(c) If these reserved easements are exercised without annexing any Additional Property to Upper River's Edge, 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 Upper River's Edge 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 Upper River's Edge. 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 Upper River's Edge. 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 Upper River's Edge 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.

(d) Declarant hereby reserves a non-exclusive easement over the Private Ways for the maintenance, ingress, egress, irrigation system and related uses for the River's Edge Golf Course.

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

Section 6. 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 7. 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

5 - Declaration (RSL:RIVERSEDG.073)

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.

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 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 Lot owned. In the event the Owner of a 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 Lot be cast for each 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 Upper River's Edge.

(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

6 - Declaration (RSL:RIVERSEDG.073)

membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) When seventy-five percent (75%) of the Lots in the final phase of development of Upper River's Edge 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 Upper River's Edge.

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 Upper River's Edge 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 Upper River's Edge 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 this Section within the required time, the Transitional Advisory Committee described below or any Owner may call a 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 Upper River's Edge 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 Upper River's Edge 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 Upper River's Edge, including without limitation, Condominium associations, neighborhood associations, or associations of commercial owners.

8 - Declaration (RSL:RIVERSEDG.073)

ARTICLE IV. MAINTENANCE

Section 1. ASSOCIATION'S RESPONSIBILITY: The Association shall maintain and keep in good repair the Private Ways and entrance ways common to all owners of land subject to this Declaration, such maintenance to be funded as hereinafter provided. The Private Ways are generally the loop road from Fairway Heights Drive to Pro Shop Drive, and the principal cul-de-sacs and access roads accessing this loop system. 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 any Private Way, and shall include the entrance way landscaping at Mt. Washington and Pro Shop Drive, and Fairway Heights and Mt. Washington Drive, and the land along these roads, 40 feet on each side, to the point that the maintenance of any common areas outside of the private ways shall become the sole responsibility of any subassociation as described above.

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 Private Ways 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 Private Ways, 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 Private Ways 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 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 Unit subject to the terms of this Declaration, each Owner covenants and agrees to carry blanket all-risk casualty insurance on their Lot or 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 Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

ARTICLE VI. NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Private Ways 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 Private Ways 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 Private Ways 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 Private Ways to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If the taking does not involve any improvements on the Private Ways, 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

10 - Declaration (RSL:RIVERSEDG.073)

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 "B" 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 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 "B", 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 PRIVATE WAYS. 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.

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. POWER OF ASSOCIATION. 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 Private Ways and all improvements therein, 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, and shall have the powers set forth in ORS 94.630.

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 or other residential units, 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 or other residential unit, 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 Unit 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 Unit 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.

Each owner of any commercial area or multi-family dwelling development not providing for the individual ownership of units shall pay an assessment determined by dividing the true cash value of any structure or structures and the land necessary and appurtenant to that structure or structures by the true cash value of all property in Upper River's Edge, as determined by the Deschutes County Tax Assessor, to determine the percentage of the total true cash value. That percentage of the total annual budget multiplied by that percentage of assessed valuation shall be the assessment payable for the following year unless otherwise mutually agreed upon by the Association and the affected owner. In the event the taxing authorities do not or no longer appraise real property on the basis of its full fair market value, then the true cash value for purposes of this paragraph shall be determined by an independent qualified appraiser retained by the Association.

The Association shall reimburse Declarant for its proportionate share of any maintenance or repair of any Common Area or Private Way performed by Declarant, which properties are used and enjoyed by Association members. These properties include the entry ways at Mt. Washington Drive and Pro Shop Drive and Fairway Heights Drive and Mt. Washington Drive. The proportionate share shall be determined by the formula set forth in the preceding paragraph.

All golf course property described shall be exempt from assessment. Declarant shall also not be responsible for any pro rata share of any maintenance of any of the private ways past the entry point of River's Edge Pro Shop on Pro Shop Drive and the southern lot line of common area running east and west adjacent to Lot 1, River's Edge Village Phase V, City of Bend, Deschutes County, Oregon.

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 Unit does not exceed Five Hundred Dollars (\$500) in any one fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Unit 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.

13 - Declaration (RSL:RIVERSEDG.073)

Section 5. LIEN FOR ASSESSMENTS. All sums assessed against any Unit 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 Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit, 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 Unit 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 Unit at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Unit. 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 Unit.

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

14 - Declaration (RSL:RIVERSEDG.073)

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 or other residential units or commercial areas 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 or other residential or commercial area becomes subject to assessment hereunder shall be the date on which the later of the following occurs:

(a) The Property 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 Unit is substantially complete and available for 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 XII. GOLF COURSE

Upper River's Edge, and subsequent phases of River's Edge are constructed around a public golf course. No owner within Upper River's Edge 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 Upper River's Edge, is not intended to be part of Upper River's Edge, 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.

ARTICLE XIII. 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 Units 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 Units 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 Units subject to this Declaration, provided, however, any such amendment shall not adversely affect the title to any Owner's Unit, Owner shall consent thereto in writing. 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 Unit Owner hereunder, nor shall it adversely affect title to any Unit without the consent of the affected Unit 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 a majority 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 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 Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Private Ways 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 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.

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

RIVERHOUSE PARTNERSHIP

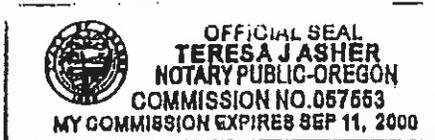
By: Wayne Purcell

By: Mary Lou Purcell

By: Clyde 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, Mary Lou Purcell and Clyde Purcell, known to me to be the Declarant of River's Edge, and executed the within instrument and acknowledged to me that they are authorized to execute the foregoing instrument.



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

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: 28

MARY SUE PENHOLLOW
COUNTY CLERK

BY. *J. Snow* DEPUTY

NO. 97-33596 FEE 105

DESCHUTES COUNTY OFFICIAL RECORDS