

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**





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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                                        |                                                                    |                  |  |
|------------------------------------------------------------------------|--------------------------------------------------------------------|------------------|--|
| Grantor:                                                               | <u>MOUNTAINSTAR RESORT DEVELOPMENT, LLC</u>                        |                  |  |
| Grantee:                                                               | <u>PLATS OF MOUNTAINSTAR</u>                                       |                  |  |
| Legal Description (abbreviated):                                       | <u>Portion of Sections 19, 20, 28, 29 and 30, T20N, R15E, W.M.</u> |                  |  |
| <input checked="" type="checkbox"/> Complete legal on <u>EXHIBIT A</u> |                                                                    |                  |  |
| Assessor's Tax Parcel ID Nos.:                                         | 20-15-29000-0009                                                   | 20-15-19000-0008 |  |
|                                                                        | 20-15-30000-0020                                                   | 20-15-19000-0016 |  |
|                                                                        | 20-15-29000-0001                                                   | 20-15-20000-0010 |  |
|                                                                        |                                                                    | 20-15-20000-0015 |  |
| Reference Nos. of Documents Released or Assigned:                      | 20030821008                                                        |                  |  |
|                                                                        | 20030821009                                                        |                  |  |
|                                                                        | 200311180021                                                       |                  |  |
|                                                                        | 200401080028                                                       |                  |  |

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
SUNCADIA RESIDENTIAL AREAS**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("Declaration") is dated for reference purposes June 28, 2004, and is made by MOUNTAINSTAR RESORT DEVELOPMENT, LLC, a Delaware limited liability company, doing business as SUNCADIA DEVELOPMENT COMPANY ("Declarant").

This Declaration is made for the purpose of amending and restating in its entirety that certain Declaration of Covenants, Conditions, Restrictions and Easements for MountainStar Resort Residential Areas as recorded under Kittitas County Auditor's File No. 20030821008, and as subsequently amended by a First Supplemental Declaration recorded under Kittitas County Auditor's File No. 200308210009, a Second Supplemental Declaration recorded under Kittitas County Auditor's File No. 200311180021 and a Third Supplemental Declaration recorded under Kittitas County Auditor's File No. 200401080028 (collectively, the "Original Declaration"). The primary purpose for the recording of this Amended and Restated Declaration is to reflect the change in name of the planned development formerly known as "MountainStar Resort" to "Suncadia". In addition, the substantive provisions of the First Supplemental Declaration, the Second Supplemental Declaration and the Third Supplemental Declaration to the Original Declaration are incorporated herein.

This Declaration is made and recorded by Declarant pursuant to Section 14.4 of the Original Declaration.

**RECITALS**

A. Declarant owns certain real property in Kittitas County, Washington, which Declarant is developing as a planned development to be known as "Suncadia" pursuant to an MPR Project Development Permit issued by Kittitas County on October 10, 2000 together with a Development Agreement also dated October 10, 2000 and recorded October 24, 2000 in Kittitas County, Washington under Auditor's File No. 200010240006 ("Master Plan"). Declarant reserves the right to amend the Master Plan, subject to any approvals required by Kittitas County or any other applicable governmental authority.

B. A portion of Suncadia referred to herein as the "Residential Areas" will be developed for residential purposes pursuant to this Declaration. All owners, tenants, licensees, invitees and mortgagees of property within the Residential Areas of Suncadia

shall acquire their respective interests in such property subject to this Declaration, as the same may hereafter be amended. By adoption of this Declaration, Declarant is not committing itself to take any action for which it is not specifically obligated under the express terms of the Master Plan of this Declaration. Any Person who acquires a property interest in the Residential Areas of Suncadia shall have no legal right to insist that there be any particular development of Suncadia except as required by this Declaration, the Master Plan or any recorded instruments annexing areas to Suncadia.

C. Declarant anticipates that Suncadia will include a variety of uses. Such uses may include, without limitation, commercial, retail, residential, lodge, recreational, shared use, fractional fee interest, and other uses as Declarant may determine to be appropriate. Recreational facilities may include facilities for equestrian, golf, swimming, hiking, bicycling, and other uses that are commonly associated with a multi-purpose development such as Suncadia, but Declarant makes no assurances as to the construction or availability of any specific recreational facility. Some recreational facilities, including one or more golf courses, may be privately owned by Declarant or third parties and may be available for use by members only, by the public or both.

D. All property within Suncadia will be subject to the Amended and Restated Declaration of Covenants and Easements for Suncadia Community Improvements which will establish and provide for the use, maintenance and operation of those community improvements which are deemed to provide a community-wide benefit to all property and uses within Suncadia.

E. This Declaration establishes covenants, conditions, restrictions and easements for the benefit of the Residential Areas within Suncadia. The first such Residential Areas to be subject to this Declaration are described in the attached **EXHIBIT A**. Additional Property may be annexed to Suncadia in accordance with the provisions of this Declaration. Certain Residential Areas, but only if and when they are described herein or in a Supplemental Declaration, shall be within "Villages" which will either be discreet neighborhoods or share a common type of development.

NOW, THEREFORE, Declarant hereby declares that the Residential Areas described in **EXHIBIT A** attached hereto shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used subject to this Declaration, which will run with such property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of each owner thereof and their respective successors and assigns.

## **ARTICLE 1 DEFINITIONS**

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 "Additional Property" means any land described on the attached **EXHIBIT B**, whether or not owned by Declarant, which is made subject to this Declaration as provided in Section 2.2.

1.2 "Affiliate" means any entity which controls, is under the common control with or is controlled by Declarant.

1.3 "Articles" means the Articles of Incorporation of the Association.

1.4 "Assessments" means all assessments and other charges, fines and fees imposed by the Association on an Owner in accordance with this Declaration, including, without limitation, General Assessments, Village Assessments, Special Assessments, Limited Common Area Assessments and Individual Assessments as described in Article 11.

1.5 "Association" means the Suncadia Residential Owners Association, a Washington nonprofit corporation formed to serve as the owners' association as provided in Article 9, and its successors and assigns.

1.6 "Auditor" means the Auditor of Kittitas County, Washington, or such successor agency charged with maintaining the real estate records for property within the County.

1.7 "Board" means the Board of Directors of the Association.

1.8 "Bylaws" means the bylaws of the Association as adopted and amended by the Board from time to time.

1.9 "Common Areas" means all real and personal property, including easements, that the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, subject to use restrictions that may be described herein or in any Supplemental Declaration. Common Areas shall be designated as such in this Declaration, any Supplemental Declaration, any plat of the Residential Areas, or any conveyance from Declarant to the Association. Common Areas shall include any Improvements thereon, and may be further designated as Public Areas, Restricted Areas, Limited Common Areas, or Village Common Areas. Common Areas shall also include any Units converted to Common Areas as provided in Section 3.5.

1.10 "Community Council" means the Suncadia Community Council established pursuant to the Community Improvements Declaration.

1.11 "Common Expenses" shall mean all of the expenses incurred by or on behalf of the Association from time to time including such reserves as the Board may deem appropriate from time to time.

1.12 "Community Improvements" means those areas or facilities for which the Community Council has maintenance, insurance, operating, or other responsibility under the Community Improvements Declaration. The Community Improvements shall include, but need not be limited to, all real and personal property which the Community Council owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of all owners and occupants within Suncadia.

1.13 "Community Improvements Declaration" means the Amended and Restated Declaration of Covenants and Easements for Suncadia Community Improvements dated June 3, 2004 as recorded with the Kittitas County Auditor.

1.14 "Community-Wide Standard" means the standard of conduct, quality, maintenance and design generally prevalent in the Suncadia Residential Areas. Such standard shall be established initially by Declarant and may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and demands of Suncadia or the Residential Areas change.

1.15 "Condominium" means any property submitted to the Washington Condominium Act in the manner provided by RCW ch. 64.34, as amended.

1.16 "Declarant" means MountainStar Resort Development, LLC, a Delaware limited liability company, doing business as Suncadia Development Company, and its successors and assigns, if a recorded instrument executed by Declarant assigns to the transferee all of the rights reserved to Declarant under this Declaration with respect to all or any portion of the Residential Areas. MountainStar Resort Development, LLC is the successor in interest to Trendwest Investments, Inc. as confirmed in the Second Supplemental Declaration to the Original Declaration.

1.17 "Declaration" means this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

1.18 "Design Guidelines" shall have the meaning given that term in Section 8.3.

1.19 "Design Review Committee" means the committee appointed pursuant to Article 8.

1.20 "Development Period" means the period of time between the date this Declaration is recorded with the Auditor and the earliest of (a) when all of the property within the Master Plan has been developed and seventy-five percent (75%) of the Units in the last area to be annexed to this Declaration have been conveyed to Persons other than Declarant or an Affiliate; (b) when, in its discretion, Declarant so determines, as

evidenced by a document executed by Declarant to that effect and recorded with the Auditor; or (c) December 31, 2040.

1.21 "General Assessments" shall have the meaning given that term in Section 11.3.1.

1.22 "Golf Course" means any parcel of land adjacent to, in the vicinity of, or within Suncadia which is privately owned and operated as a golf course by Persons other than the Association, and related and supporting facilities and improvements operated and/or maintained in connection with or incidental to such golf course.

1.23 "Golf Course Owner" means the Person owning any Golf Course.

1.24 "Governing Documents" means the Master Plan, the Community Improvements Declaration, this Declaration, the Articles of Incorporation, the Bylaws, any Supplemental Declaration and any Policies and Procedures adopted by the Community Council or the Board.

1.25 "Governmental Authority" means the County of Kittitas, the State of Washington, the United States of America or other governmental entity or agency that has or acquires jurisdiction over the Residential Areas or any portion thereof, or over sales of the Residential Areas, from time to time.

1.26 "Improvement" means any structure or improvement of any kind, including but not limited to any building, fence, wall, driveway, swimming pool, storage shelter, signage, monumentation or other product of construction efforts on the Residential Areas.

1.27 "Individual Assessments" shall have the meaning given that term in Section 11.3.5.

1.28 "Initial Development" means the real property identified in Section 2.1.

1.29 "Limited Common Area Assessments" shall have the meaning given that term in Section 11.3.4.

1.30 "Limited Common Areas" means those Common Areas that are restricted to the exclusive use of the owners or occupants of certain Units as designated in this Declaration or a Supplemental Declaration.

1.31 "Master Plan" means the MPR Project Development Permit issued by Kittitas County on October 10, 2000, together with the Development Agreement also dated October 10, 2000 for MountainStar Resort (now known as "Suncadia"), as the same may hereafter be amended.

1.32 "Mortgage" means a mortgage, deed of trust or real estate installment sale contract.

1.33 "Mortgagee" means a mortgagee under a mortgage, a beneficiary under a deed of trust, or a seller under a real estate installment sale contract.

1.34 "Operations Fund" shall have the meaning given that term in Section 11.6.

1.35 "Owner" means the Person, including Declarant, owning any Unit within the Residential Areas, but, except as otherwise provided below, does not include a tenant or holder of a leasehold interest or a Mortgagee or other Person holding only a security interest in a Unit. If a Unit is sold under a recorded real estate installment sale contract, the purchaser (rather than the seller) will be considered the Owner unless the contract specifically provides to the contrary. If a Unit is subject to a written lease with a term in excess of one year and the lease specifically so provides, then upon filing a copy of the lease with the Board, the lessee (rather than the fee owner) will be considered the Owner during the term of the lease for the purpose of exercising any rights related to such Unit under this Declaration. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Unit and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from its obligations incurred prior to termination.

1.36 "Person" means a human being, a corporation, partnership, limited liability company, trustee or other legal entity.

1.37 "Policies and Procedures" means those policies, procedures, rules and regulations adopted by the Association pursuant to the authority granted in this Declaration, as the same may be amended from time to time.

1.38 "Privately Owned Amenity" shall mean certain real property and any improvements and facilities thereon located within Suncadia, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise. The Privately Owned Amenities shall include, but need not be limited to, any Golf Course and may include other facilities.

1.39 "Public Areas" means any portion of the Common Areas made available for use on a general or conditional basis by members of the public in any conveyance thereof executed by Declarant, in any plat of the Residential Areas, in this Declaration or in any Supplemental Declaration.

1.40 "Reserve Fund" shall have the meaning given that term in Section 11.7.

1.41 "Residential Areas" means that real property described on the attached **EXHIBIT A** and any Additional Property annexed to this Declaration, and all existing and

future Improvements located thereon, but excluding any property withdrawn from the provisions of this Declaration.

1.42 "Restricted Areas" means portions of the Common Areas to which the Owners have limited or no access and which are so designated in any conveyance thereof executed by Declarant, in any plat of the Residential Areas, in this Declaration or any Supplemental Declaration, or by the Declarant or Board.

1.43 "Shared Use" shall mean any timeshare, vacation club, right to use, license, undivided or fractional fee interest or other means of acquiring ownership or access to a Unit for a specified period of time to the exclusion of other Persons holding comparable interests in or rights to the same portion of the Unit.

1.44 "Special Assessments" shall have the meaning given that term in Section 11.3.3.

1.45 "Suncadia" means all property now or hereafter made subject to the Community Improvements Declaration.

1.46 "Supplemental Declaration" means an instrument recorded pursuant to Section 2.2 which subjects Additional Property to this Declaration, designates Villages, and/or imposes, expressly or by reference, additional or different restrictions and obligations on the Additional Property described in such instrument. The term shall also refer to an instrument recorded by Declarant to establish Voting Groups.

1.47 "Unit" means a portion of the Residential Areas, whether improved or unimproved, which may be independently owned and is intended for development, use and occupancy as an attached or detached residence. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit. Prior to the recording of a subdivision plan, a parcel of vacant land, or land on which improvements are under construction, shall be deemed to contain the number of Units designated for residential use for such parcel by Declarant in a written notice to the Board and in conformance with the Master Plan.

1.48 "Village" means any area or areas designated by Declarant and comprised of discrete types of development, use or ownership within a portion of the Residential Areas, as established and restricted in this Declaration or a Supplemental Declaration.

1.49 "Village Assessments" means Assessments levied against Units in a specific Village to fund Village Expenses pursuant to Section 11.3.2.

1.50 "Village Association" means any association established for a specific Village pursuant to a Village Declaration.

1.51 "Village Committee" means a committee appointed or elected for a Village pursuant to Section 3.4.

1.52 "Village Common Area" means a portion of the Common Areas within a Village restricted in whole or in part to common use primarily by or for the benefit of the Owners owning Units within the Village and their families, tenants, employees, guests and invitees.

1.53 "Village Declaration" means a declaration of easements, covenants, conditions and restrictions and all amendments thereto recorded by an Owner with the Auditor establishing a plan of Condominium ownership, townhouse ownership, fractional ownership, shared use ownership, planned unit development, or otherwise imposing use restrictions on Units within a particular Village.

1.54 "Village Expenses" shall mean the portion of the costs and expenses incurred by the Association in connection with the ownership, administration, management, maintenance, repair, insurance and other activities for Village Common Areas.

1.55 "Voting Group" means one or more Voting Representatives who vote on a common slate for election of directors of the Board, as more particularly described in Section 9.8, or, if the context so indicates, the group of Owners whose Units are represented thereby.

1.56 "Voting Representative" means a person or persons elected to vote on behalf of Class A members in a particular Village or on behalf of Class A members who are not within a Village in accordance with the provisions of one or more Supplemental Declarations.

1.57 "Work" shall have the meaning given that term in Section 8.4.1.

## ARTICLE 2 RESIDENTIAL AREAS SUBJECT TO THIS DECLARATION

2.1 **Initial Development.** The portion of the Residential Areas initially made subject to this Declaration is described in the attached EXHIBIT A and may, but need not, include Villages, Common Areas, Limited Common Areas, Village Common Areas, Public Areas, or Restricted Areas.

2.2 **Annexation of Additional Property.** Declarant may from time to time and in its sole discretion annex Additional Property to the Residential Areas. The annexation of such Additional Property shall be accomplished as follows:

(a) Declarant and, if applicable, the owner or owners of such real property, shall execute and record with the Auditor a Supplemental Declaration and shall,

among other things, describe the real property to be annexed, designate the Village that such addition creates or of which it is a part, if any, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such Additional Property, and declare that such real property is held and shall be held, conveyed, hypothecated, encumbered, used, leased, occupied and improved subject to this Declaration.

(b) The Additional Property described in any such Supplemental Declaration shall thereby become a part of the Residential Areas, shall be subject to this Declaration, and the Association shall have and shall accept and exercise administration of this Declaration with respect to such Additional Property.

(c) Notwithstanding any provision apparently to the contrary, a Supplemental Declaration with respect to any Additional Property may:

(i) modify or exclude any then existing restrictions and establish such new limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of the Additional Property; and

(ii) with respect to existing land classifications, modify or exclude any then existing restrictions and establish additional or different limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of such Additional Property.

(d) There is no limitation on the number of Units which Declarant may create or annex to the Suncadia Residential Areas, except as may be established by a Governmental Authority or by any applicable agreement. Similarly, there is no limitation on the right of Declarant to annex Common Areas, except as may be established by a Governmental Authority.

(e) Upon annexation, the Owners of such additional Units shall be entitled to Association voting rights that are consistent with the voting rights of Owners of other portions of the Residential Areas.

(f) The formula to be used for reallocating the Common Expenses, shall be as set forth in Section 11.2.

**2.3 Withdrawal of Residential Areas.** Declarant may withdraw property from the Residential Areas by an amendment to this Declaration executed by Declarant and recorded with the Auditor. All voting rights otherwise allocated to Units being withdrawn shall be eliminated, and the Common Expenses shall be reallocated to the remaining Units as provided in Section 11.4. Such withdrawal may be accomplished without prior notice and without the consent of any Owner if such withdrawal (a) is of all or a portion of the Residential Areas initially subject to this Declaration or Additional



Property annexed pursuant to a Supplemental Declaration at any time prior to the first sale of a Unit in the Residential Areas initially subjected to this Declaration, or in the case of Additional Property, prior to the first sale of a Unit in such property so annexed or (b) if the property to be withdrawn was originally included in error or if the withdrawal is for the purpose of making minor adjustments to boundary lines which do not reduce the total number of Units. In addition, Declarant may withdraw any real property then owned by Declarant or any Common Areas if such withdrawal is a result of any changes in Declarant's plans for the Residential Areas, provided that such withdrawal is approved by a majority of the voting rights in the Association.

#### 2.4 **Annexations into Municipalities and Other Governmental Actions.**

Declarant reserves the right with respect to all or any portion of the Residential Areas then owned by Declarant, and from time to time, to petition for and obtain rezonings of such property; exchanges of properties; annexations to or incorporations within any boundary or jurisdiction of a Governmental Authority; inclusions within any urban growth area; amendments to the Master Plan; and such licenses, permits and approvals from any Governmental Authority as Declarant may deem to be appropriate from time to time in connection with the then or anticipated use of such portion of the Residential Areas.

2.5 **Dedications.** Declarant reserves the right to dedicate any portions of the Residential Areas then owned by Declarant to any Governmental Authority, quasi-governmental entity or entity qualifying under Section 501(c)(3) of the Internal Revenue Code or similar provisions, from time to time, for such purposes as Declarant may deem to be appropriate, including, without limitation, for utility stations, equipment, fixtures and lines; streets and roads; sidewalks; trails; open space for habitat, wildlife, waterfowl, fish, vegetation, wetlands or other preservation purposes; recreational facilities; schools; cemeteries; fire, police, security, medical and similar services; and such other purposes as Declarant and such Governmental Authority or quasi-governmental entity shall determine to be appropriate from time to time. Any consideration received by Declarant as a result of such dedication, by reason of any condemnation or any conveyance in lieu of condemnation, shall belong solely to Declarant.

### ARTICLE 3 VILLAGE DESIGNATION AND LAND CLASSIFICATIONS

3.1 **Creation of Villages.** The Residential Areas may contain one or more Villages, each of which may contain areas that have common uses, have access to certain Village Common Areas, are treated similarly for assessment or voting purposes, or share other common characteristics as determined by Declarant. Declarant reserves the right to designate which portions of the Residential Areas shall constitute a Village. Villages need not comprise the entirety of the Residential Areas, nor must all Units be part of a Village. A Village may be comprised of more than one housing type. Villages may include noncontiguous parcels of the Residential Areas.

**3.2 Supplemental Declarations.** Declarant reserves the right to record against each of the Villages, as the same may be from time to time delineated in this Declaration or a Supplemental Declaration, or amendments thereto, additional covenants, conditions, restrictions, and reservations governing, expanding or confining the use of any such Village, reserving additional easements therein, and imposing Village Assessments upon the Owners of Units in such Village for the ongoing operation, maintenance, and repair of Village Common Areas.

**3.3 Village Associations.** The establishment of a Village may be accompanied by the formation of a Village Association. Village Associations shall be nonprofit corporations with memberships comprised of the Owners of the Units within such Villages. Declarant or, subject to Declarant's approval pursuant to Section 14.2, any other Owner of all of the property comprising a Village may elect to cause any such Village Association to be formed for such purposes at any time after the Village Declaration is recorded and before any Units therein are conveyed to Owners. Following the Development Period, the Owners of Units within a Village, by majority vote and with the written consent of the Board, may elect to establish a Village Association. At the time a Village Association is formed, or at any time thereafter, Declarant or the Board may delegate to the Village Association certain of their respective rights and obligations with respect to the portion of the Residential Areas located within the Village and other Common Areas to which members of such Village have access. Such rights and duties may include, without limitation, the obligation to maintain Village Common Areas within the Village; establish and enforce rules and regulations; elect Voting Representatives; and hold title to and administer, manage, operate, and insure property and/or easements located within such Village. Certain obligations and rights with respect to matters affecting more than one Village may be delegated by Declarant or the Board to two or more of such Villages.

**3.4 Village Committees.** With respect to any Village within Suncadia Residential Areas that does not have a Village Association, the Board may appoint a Village Committee composed of three (3) to five (5) Owners of Units within such Village, which committee shall be responsible for recommending to the Board any Policies and Procedures pertaining to Village Common Areas, for decisions pertaining to the operation, use, maintenance, repair, replacement or improvement of such Village Common Areas, and for such other matters pertaining to the Village as the Board may elect to delegate to the Village Committee.

**3.5 Conversion of Units into Common Areas.** Declarant may elect to build common facilities on one or more Units and designate such Unit or Units as Common Areas by recording an amendment to this Declaration or by conveying such Units to the Association.

**3.6 Conversion to Different Uses.** Declarant reserves the right to withdraw portions of the Residential Areas from any Village and its related Supplemental

Declaration and may also include the portion so withdrawn in a different Village pursuant to the provisions of a different Supplemental Declaration. Such withdrawal shall be accomplished by and effective upon recording an amendment to the applicable Supplemental Declaration(s).

**3.7 Subdivisions.** Declarant reserves the right to subdivide any Units then owned by Declarant from time to time upon receiving all required approvals from any Governmental Authority. In the event any two or more Units are so subdivided, they shall be deemed separate Units for the purposes of allocating Assessments under this Declaration. No other Owner of any Unit in the Residential Areas may subdivide any Unit without the prior written approval of the Declarant during the Development Period and thereafter by the Design Review Committee, which consent may be granted or denied at the sole discretion of the Declarant or Design Review Committee, as applicable.

**3.8 Consolidations.** Declarant reserves the right to consolidate any two or more Units then owned by Declarant upon receipt of any required approvals from any applicable Governmental Authority and recording any necessary amendment to this Declaration or the applicable Supplemental Declaration. No other Owner may consolidate any Units without the prior written approval of the Declarant during the Development Period and thereafter by the Design Review Committee, which may be granted or denied at the sole discretion of the Declarant or Design Review Committee, as applicable. An approved consolidation shall be effected by the recording of a declaration in the real property records of Kittitas County stating that the affected Units are consolidated, which declaration shall be executed by the Owner(s) of the affected Units and by the president of the Association. Once so consolidated, the consolidated Unit may not thereafter be partitioned nor may the consolidation be revoked except as provided in Section 3.7 above. Any Units consolidated pursuant to this section shall be considered one Unit thereafter for the purposes of this Declaration, including voting rights and allocation of assessments.

**3.9 Condominium Conversions.** Declarant reserves the right to convert any Units then owned by Declarant into a condominium, cooperative, or other form of ownership in any manner permitted by Washington law and to otherwise create and terminate any condominium or cooperative containing Units owned solely by Declarant and other Owners who consent thereto.

## ARTICLE 4 UNITS

**4.1 Use and Occupancy.** The Owner of a Unit in the Residential Areas shall be entitled to the exclusive use and benefit of such Unit, except as otherwise expressly provided in this Declaration, but the Unit shall be bound by and the Owner shall comply with the restrictions made applicable to such Unit by this Declaration, any Supplemental Declaration or any applicable Village Declaration.

**4.2 Easements Reserved by Declarant.** In addition to any easements shown on recorded plats, Declarant hereby reserves or grants, as applicable, the following perpetual easements:

**4.2.1 Adjacent Common Areas.** The Owner of any Unit which adjoins any Common Areas shall, if the Association elects from time to time to so require, permit the Association to enter upon the Unit to perform the maintenance of such Common Areas.

**4.2.2 Utility Easements.** Easements for the benefit of Declarant, the Community Council and/or the Association for installation and maintenance of utilities and drainage facilities are reserved over portions of certain Units and Common Areas as shown on the recorded plat or as otherwise reserved in any recorded document. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage systems, or in drainage infiltration facilities.

**4.2.3 Utility Inspection and Repairs.** Each utility service provider and its agents or employees shall have authority to access all Units, but not Improvements constructed thereon, and the Common Areas, on which communication, power, gas, drainage, sewage or water facilities may be located for the purpose of installing, operating, maintaining, improving or constructing such facilities, reading meters, inspecting the condition of pipes and facilities, and completing repairs. The Owner of any such Unit will be given advance notice if possible. In the case of an emergency, as determined solely by the utility service provider, no prior notice will be required.

**4.2.4 Easements for Encroachments.** Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Areas and between adjacent Units due to the unintentional placement or settling or shifting of the Improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration and the Design Guidelines) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

**4.2.5 Easements for Maintenance, Emergency, and Enforcement.** Declarant grants to the Association easements over the Residential Areas as necessary to enable the Association to fulfill its maintenance responsibilities. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by

any member of the Board, any duly authorized agents and assignees of the Association, or any member or duly authorized representative of the Design Review Committee and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

#### 4.2.6 Easements for Stream and Pond Maintenance and Flood

**Water.** Declarant reserves for itself, and grants to the Association and its successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water, riparian corridors, and wetlands located within the Common Areas to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Common Areas; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any portion of the Residential Areas abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this section. Declarant further reserves for itself, the Association and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Areas and Units (but not the dwellings thereon) adjacent to or within 150 feet of bodies of water and wetlands within the Residential Areas, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Residential Areas; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Areas; and (c) maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing in this Declaration shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, or other natural occurrences.

#### 4.2.7 Rights to Storm Water Runoff and Water Reclamation.

Declarant reserves for itself, and its designees, which may include any Golf Course Owner, all rights to ground water, surface water, and storm water runoff within the Residential Areas, and each Owner agrees, by acceptance of a deed to a Unit, that Declarant shall have all such rights. Such rights shall include an easement over the Residential Areas for access, and for installation and maintenance of facilities and equipment to capture and transport such water and runoff.

**4.2.8 Future Easements.** Declarant reserves the non-exclusive right and power to grant and record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the development of any of the Residential Areas. The location of any such easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

## ARTICLE 5 COMMON AREAS

5.1 **Title to Common Areas.** Except for the portions thereof dedicated to the public or any Governmental Authority, title to the Common Areas shall be conveyed to and shall be accepted by the Association by Declarant free and clear of monetary liens (except for nondelinquent taxes and assessments) not later than the end of the Development Period.

5.2 **Use of Common Areas.** The Common Areas shall not be partitioned or otherwise divided into parcels for residential use, and no private structure of any type (except utility or similar facilities permitted by Declarant or the Association) shall be constructed on the Common Areas. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas. Nothing in this Declaration shall prevent the placing of a sign or signs upon the Common Areas by Declarant or the Association identifying the Residential Areas or any Village or identifying trails or identifying items of interest, including traffic and directional signs, provided such signs are approved by the Design Review Committee and comply with any applicable sign ordinances. The Board shall have authority to abate or enjoin any trespass or encroachment upon the Common Areas at any time, by any reasonable means and with or without having to bring legal proceedings. A Supplemental Declaration annexing Additional Property may provide that the Owners of such Additional Property do not have the right to use a particular Common Area or facility located on such Common Area, in which event the same shall automatically become Limited Common Areas assigned to the Units having access thereto as described in such Supplemental Declaration.

5.3 **Easements Retained by Declarant.** So long as Declarant owns any Unit, Declarant shall retain an easement over, under and across the Common Areas in order to carry out management, sales and rental activities necessary or convenient for the sale or rental of Units. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Residential Areas or other real property owned by Declarant or an Affiliate thereof; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to a Unit by the Owner thereof or such Owner's family, tenants, employees, guests or invitees.

5.4 **Easement to Serve Other Residential Areas.** Declarant reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, and the developers of Improvements in all future phases of Suncadia, a perpetual easement over the Common Areas for the purposes of enjoyment, use, access, and development of the property subject to the Master Plan, whether or not such property is made subject to this

Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction, utilities, water and sanitary sewer lines, communication lines, drainage facilities, irrigation systems, signs and ingress and egress for the benefit of other portions of Suncadia and any Additional Property that becomes subject to this Declaration or any property in the vicinity of the Residential Areas or additional property that is then owned by Declarant or an Affiliate thereof. Declarant agrees that such users shall be responsible for any damage caused to the Common Areas as a result of their actions in connection with development of such property. If the easement is exercised for permanent use by such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance of such facilities. The allocation of costs in any such agreement shall be based on the number of residential dwellings or commercial units on the property served by the easement and not subject to this Declaration as a proportion of the total number of residential dwellings and commercial units within Suncadia and on such benefited property.

**5.5 Owners' Easements.** Subject to provisions of this Article, and except for the Restricted Areas, every Owner and the Owner's tenants and guests shall have a right and easement in and to the Common Areas for the uses for which they are established, which easement shall be appurtenant to and shall pass with the title to every Unit. The use of Limited Common Areas, however, shall be limited to the Owners of the Units to which the Limited Common Areas are assigned in this Declaration or any applicable Supplemental Declaration and their respective tenants, invitees and licensees.

**5.6 Extent of Owners' Rights.** The rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

- (a) The Governing Documents;
- (b) Any restrictions or limitations contained in any deed or other instrument conveying such property to the Association;
- (c) Easements reserved to Declarant for itself and the Association for underground installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by or with the consent of Declarant or with the approval of the Board and any such easement shown on any plat of the Residential Areas and for construction, maintenance, repair and use of Common Areas and any Improvements thereon;
- (d) Easements granted by Declarant or the Association to Governmental Authorities or companies providing utility and communications services and to police, fire and other public officials and to employees of utility companies and communications companies serving the Residential Areas;

(e) The Board's right to:

(i) adopt Policies and Procedures regulating use and enjoyment of the Common Areas, including rules limiting the number of guests who may use the Common Areas;

(ii) suspend the right of an Owner to use recreational facilities within the Common Areas as provided in this Declaration;

(iii) dedicate or transfer all or any part of the Common Areas, subject to such approval requirements as may be set forth in this Declaration;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Areas;

(v) permit use of any recreational facilities situated on the Common Areas by persons other than Owners, their families, lessees, and guests with or without payment of use fees established by the Board;

(vi) designate areas and facilities of Common Areas as Public Areas or Restricted Areas; and

(vii) provide certain Owners the rights to the exclusive use of those portions of the Common Areas designated Limited Common Areas or Village Common Areas.

**5.7 Enjoyment of Owners' Rights.** Any Owner may extend the Owner's right of use and enjoyment of the Common Areas to the members of the Owner's family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases the Owner's Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

**5.8 Alienation of the Common Areas.** The Association may not encumber, sell or transfer title to the Common Areas owned directly or indirectly by the Association for the benefit of the Owners unless such encumbrance, sale or transfer has been approved by a majority of the voting rights in the Association.

**5.9 Community Improvements.** Portions of the Suncadia may be designated as Community Improvements. The use, maintenance and operation of the Community Improvements shall be governed by the Community Improvements Declaration.

**5.10 Public, Recreational or Service Areas.** Declarant, at the time Declarant designates Common Areas or conveys Common Areas to the Association, or thereafter the Association, may designate certain portions of such Common Areas as Public Areas

which may be used by members of the public on a free or on a fee-paying basis as set forth in such designation or conveyance or as determined by the Board. Such Public Areas may include, by way of example, greenbelts, trails and paths, roads, sidewalks and recreational or entertainment areas. Owners shall be permitted to use such Public Areas either on a free basis or for fees that are no higher than those charged to members of the public for an equivalent use or service, as determined solely by the Association. Any proceeds from such Public Areas shall be paid to the Association.

5.11 **Open Space Areas.** Any portion of the Residential Areas designated as open space on any plat or in this Declaration is reserved as open space which, except as otherwise shown on the Master Plan, shall be free of Improvements.

5.12 **Restricted Areas.** Declarant or the Association shall have the right from time to time to designate portions of the Common Areas that may not be entered or used by any of the Owners other than Declarant and the Association or such of their respective agents or representatives as may be reasonably required for their preservation, care, maintenance or renewal, to enforce these restrictions, or for such other limited purposes that are permitted by Declarant or the Board. Restricted Areas may include environmentally or historically sensitive areas, riparian corridors, wetlands, the Cle Elum River, riverbanks and other areas adjacent to the Cle Elum River, and other areas Declarant or Board desire to preserve in their natural state or otherwise preserve for the protection of wildlife, personal safety, security or other mutually beneficial purposes. The Restricted Areas may be removed, enlarged or reduced or other portions of the Residential Areas may be added to the Restricted Areas by Declarant or the Board from time to time to the extent reasonably necessary to achieve such purposes.

5.13 **Easements.** Easements may be reserved as part of the Common Areas for signage and visual landscape features, or as otherwise provided in the Supplemental Declaration or other instrument establishing the easement. Such easements are to be maintained by the Association and no changes in landscaping will be permitted without written authorization by the Design Review Committee. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon easements included in the Common Areas.

5.14 **Limited Common Areas.**

5.14.1 **Purpose.** Certain portions of the Common Areas may be designated by Declarant or the Association as Limited Common Areas and reserved for the exclusive use or primary benefit of Owners and occupants of specified Units. By way of illustration and not limitation, Limited Common Areas may include private access roads serving certain Units. All costs associated with maintenance, repair, replacement, and insurance of Limited Common Areas shall be allocated among the Owners of the Units to which the Limited Common Areas are assigned.



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**5.14.2 Initial Designation.** Limited Common Areas may be designated as such in the instrument by which they are conveyed to the Association or in any Supplemental Declaration annexing Additional Property to this Declaration, but any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Areas to additional Units.

**5.14.3 Subsequent Assignments.** Limited Common Areas may be converted to Common Areas and Limited Common Areas may be reassigned upon (i) approval by the Board and (ii) the vote of Voting Representatives representing two-thirds of the Units to whom any of such Limited Common Areas are then assigned. Any such conversion or reassignment shall also require Declarant's written consent if made during the Development Period.

**5.14.4 Use by Others.** Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit other Owners to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the expenses attributable to such Limited Common Area.

## **5.15 Village Common Areas.**

**5.15.1 Purpose.** Certain portions of the Common Areas may be designated by Declarant or the Association as Village Common Areas and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Village or Villages. By way of illustration and not limitation, Village Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, community gardens or open space. All costs associated with maintenance, repair, replacement, and insurance of Village Common Areas shall be a Village Expense allocated among the Owners in the Village(s) to which the Village Common Areas are assigned.

**5.15.2 Initial Designation.** Any Village Common Areas shall be designated as such in the instrument by which they are conveyed to the Association or in any applicable Supplemental Declaration but any such assignment shall not preclude Declarant from later assigning use of the same Village Common Areas to additional Villages.

**5.15.3 Subsequent Assignments.** A portion of the Common Areas may be assigned as Village Common Areas and Village Common Areas may be reassigned upon (i) approval by the Board, (ii) the vote of Voting Representatives representing a majority of the votes in the Village or Villages in which such Common Areas are and will be located, if any, and (iii) for reassignments of Village Common Areas or conversion of Village Common Areas to Common Areas, the vote of two-thirds of the Voting Representatives to whom any of such Village Common Areas are then assigned. Any

such assignment or reassignment shall also require Declarant's written consent if made during the Development Period.

5.15.4 **Use by Others.** Upon approval of the Voting Representatives representing a majority of Owners of Units within the Village to which any Village Common Areas is assigned, the Association may permit Owners of Units in other Villages to use all or a portion of such Village Common Areas upon payment of reasonable user fees, which fees shall be used to offset the Village Expenses attributable to such Village Common Areas.

## ARTICLE 6 PRIVATELY OWNED AMENITIES

6.1 **General.** Portions of Suncadia may be privately owned and used by their respective owners for commercial or other purposes, such as, without limitation, Golf Courses, equestrian areas and stables, sports or recreational facilities, and private clubs (a "Privately Owned Amenity"). Neither membership in the Association nor any Village Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Privately Owned Amenity. Rights to use the Privately Owned Amenities will be granted only to such Persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Privately Owned Amenities. The owners of the Privately Owned Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Privately Owned Amenities, including, without limitation, eligibility for and duration of use rights, categories of use, and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

6.2 **View Impairment.** Declarant, the Association, or the owner of any Privately Owned Amenity, does not guarantee or represent that any view over and across any Privately Owned Amenity from a Unit adjacent to the Privately Owned Amenity will be preserved without impairment. Owners of Privately Owned Amenities, if any, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Privately Owned Amenities from time to time. In addition, any Golf Course Owner, may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways, and greens from time to time. Any such additions or changes may diminish or obstruct any view from a Unit, and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

6.3 **Rights of Access and Parking.** There is hereby granted for the benefit of each Privately Owned Amenity and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the

Residential Areas reasonably necessary to travel between the entrance to the Residential Areas and the Privately Owned Amenity and over those portions of the Residential Areas (whether Common Areas or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Privately Owned Amenity. Without limiting the generality of the foregoing, members of the Privately Owned Amenity and guests and invitees of the Privately Owned Amenity shall have the right to park their vehicles on the roadways located within the Residential Areas at reasonable times before, during, and after golf tournaments and other special functions held by or at the Privately Owned Amenity to the extent that the Privately Owned Amenity has insufficient parking to accommodate such vehicles; provided, however, such roadways must be kept free and clear of all obstructions and in a safe condition for vehicular use at all times.

**6.4 Design Control.** Declarant, the Association, any Village Association, or any Design Review Committee, shall not approve any construction, addition, alteration, change, or installation on or to any portion of the Residential Areas which is adjacent to, or otherwise in the direct line of sight of, any Privately Owned Amenity without (i) giving the Owner of the Privately Owned Amenity at least fifteen (15) days prior written notice of its intent to approve the same, together with copies of the request and all other documents and information finally submitted in such regard and (ii) receiving approval from the Owner of the Privately Owned Amenity. The Owner of the Privately Owned Amenity shall then have fifteen (15) days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the Owner of the Privately Owned Amenity to respond to the notice within the fifteen (15) day period shall constitute a waiver of such Owner's right to object to the matter. This section shall also apply to any work on the Common Area or any Village Common Area, but shall not apply to any construction, addition, alteration, change or installation by Declarant. This section may not be amended in a manner which would adversely affect the rights of the Owner of any Privately Owned Amenity without such Owner's written consent.

**6.5 Limitation on Amendments.** In recognition of the fact that the provisions of this Article are for the benefit of the Privately Owned Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Privately Owned Amenity, may be made without the written approval of the affected Privately Owned Amenity. The foregoing shall not apply, however, to amendments made by Declarant in exercising any rights reserved under this Declaration.

**6.6 Ownership and Operation of Privately Owned Amenities.** All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant or any other Person with regard to the continuing existence, ownership or operation of any Privately Owned Amenity, including, without limitation, any Golf Course, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment to this Declaration executed

or joined into by Declarant. Further, the ownership and/or operation of any Privately Owned Amenity, if any, may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations of the Privately Owned Amenity by an independent entity or entities; (b) the creation or conversion of the ownership and/or operating structure of the Privately Owned Amenity to an "equity" club or similar arrangement whereby the Privately Owned Amenity or the rights to operate it are transferred to an entity which is owned or controlled by its members; or (c) the transfer of ownership or control of the Privately Owned Amenity to one or more affiliates, shareholders, employees, or independent contractors of Declarant. Declarant may cause any Privately Owned Amenity to initially be public or private, to convert any public Privately Owned Amenity to a private Privately Owned Amenity available to specified members only, and to convert any private Privately Owned Amenity to a public Privately Owned Amenity with the approval of the requisite number of the Privately Owned Amenity members pursuant to the Governing Documents for the Privately Owned Amenity. No consent of the Association or any Owner shall be required to effectuate such transfer or conversion.

**6.7 Additional Restrictions.** Declarant hereby reserves for itself and grants for the benefit of any Owner of any Privately Owned Amenity the easements set forth in this Article. Declarant reserves the right to impose such additional restrictions relating to such easements as may from time to time reasonably be required to effectuate the purposes of such easements.

**6.8 Jurisdiction and Cooperation.** It is Declarant's intention that the Association and any Golf Course Owner shall cooperate to the maximum extent possible in the operation of the Residential Areas. The Association shall have no power to promulgate rules and regulations that would materially and adversely affect the typical golfing activities on or use of any Golf Course.

**6.9 Golf Course Uses.** Any Golf Course is intended to be used for activities typically associated with the game of golf, and except for golf carts and vehicles used by the Golf Course Owner to improve, maintain and repair any Golf Course, no motorized vehicles, including snowmobiles, all terrain vehicles, dirt bikes and other vehicles designed primarily for off-road use shall be permitted on any Golf Course. Snowshoeing and cross-country skiing during appropriate periods will be allowed only with the Golf Course Owner's consent. Additionally, the following provisions relate to any Golf Course and to portions of the Residential Areas:

**6.9.1 Private Ways.** All Common Areas immediately adjacent to any Golf Course shall be subject to an easement for Golf Course purposes, including signs, cart paths, irrigation systems and the right of ingress and egress for making improvements and changes to any Golf Course, Golf Course management, Golf Course maintenance and repair, and for players during the regular course of play on any Golf Course.

**6.9.2 Golf Cart Path Easement.** Any easements for golf cart paths or trails designated as such on any plat of the Residential Areas or in any Supplemental Declaration annexing Additional Property or any pathway serving any Golf Course that is designated as a cart path by signage or by rules adopted by the Association shall be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and access to any Golf Course. Nothing shall be placed in or maintained on any golf cart path easement which shall interfere with utilization thereof for the purposes for which it was intended.

**6.9.3 Golf Course Easements over Adjoining Units.** Any Golf Course easements over adjoining Units designated as such on any Plat may be developed as part of any Golf Course and may be used as part of the Golf Course. No Owner may landscape or place any Improvement, fence, rope or barrier within a Golf Course easement without the prior written consent of the Golf Course Owner and the approval of the Design Review Committee. Nothing in this provision shall be construed as requiring the Golf Course Owner to water or landscape such easement areas.

**6.9.4 Overspray.** Any portion of the Residential Areas immediately adjacent to any Golf Course is hereby burdened with a non-exclusive easement in favor of the adjacent Golf Course for overspray of water from the irrigation system serving such Golf Course to the extent reasonably required for the maintenance of such Golf Course. Under no circumstances shall the Association or the owner of such Golf Course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

**6.9.5 Irrigation System.** The Golf Course Owner, its respective agents, employees, and contractors, successors, and assigns, shall have a perpetual non-exclusive easement, to the extent reasonably necessary, over the Residential Areas, but not under or through any buildings, for the installation, operation, maintenance, repair, replacement, monitoring, and controlling of irrigation systems and equipment, including without limitation, well, pumps, and pipelines, serving all or portions of any Golf Course.

**6.9.6 Golf Course Utilities.** The Golf Course Owner, its respective agents, successors, and assigns, employees, and contractors shall have a perpetual, non-exclusive easement to the extent reasonably necessary, over the Residential Areas (but not under or through any buildings) for the installation, maintenance, repair, replacement, and monitoring of utility lines, wires, drainage swales, pipelines and structures serving all or portions of any Golf Course.

**6.9.7 Natural Water Runoff.** The Residential Areas are hereby burdened with easements in favor of any Golf Course for natural drainage of storm water runoff from such Golf Course.

**6.9.8 Golf Balls.** Each Unit, Common Area and Village Common Area adjoining or adjacent to any Golf Course shall be subject to an easement permitting

(i) golf balls to come onto such property, and (ii) except for any part of Improvements constructed on a Unit for golfers at reasonable times and in a reasonable manner to come upon such property to retrieve golf balls.

**6.9.9 Golf Tournaments.** Golf tournaments or similar functions may be held at any Golf Course from time to time to which members of the public will be invited as spectators or participants. Each Owner acknowledges that certain inconveniences to Owners may result from holding such tournaments. The types of inconveniences occurring during such tournaments may include, by way of example and not limitation, construction by Declarant, the Golf Course Owner, tournament operators or sponsors, of television towers or other structures on any Golf Course property which would be visible from a Unit and which may obstruct the view of such Golf Course from a Unit; noise associated with the construction and destruction of structures and equipment associated with such tournaments, encroachment on a Unit by spectators, and other inconveniences relating to or caused by spectators, golfers and others involved with the operation of tournaments. Each Owner, including Owners of Units adjacent to any Golf Course, further acknowledges that no representations are made by Declarant, the Association, the Golf Course Owner, or any other entity that Owners will be afforded any rights to view or attend such tournaments or functions other than such rights as are afforded members of the general public.

**6.10 Waiver and Indemnity.** In some cases, golf balls may have sufficient force and velocity to do serious harm to persons, pets, Improvements or personal property. Each Owner, for such Owner's family members, visitors, tenants, licensees, invitees and guests, assumes such risk and waives any right any such persons otherwise would have against Declarant, the Association, the Design Review Committee and the Golf Course Owner, operator and designer, to the fullest extent permissible by law, for each injury resulting from the design of any Golf Course, or the location of a Unit, Common Area or Village Common Area in relation to any Golf Course, and agrees to indemnify and hold Declarant, the Association, the Design Review Committee and the Golf Course Owner, operator, designer and contractor harmless from and against all claims and liability, including without limitation, legal fees and costs, in the event any person while on or in the vicinity of a Unit, Common Area or Village Common Area, receives any injury or suffers property damage and thereafter seeks to recover against such persons or entities for compensation for such injury or damage, whether directly or indirectly, or as a result of a third-party claim or cross claim. Each Owner and such Owner's family members, visitors, tenants, licensees, invitees and guests waives each and every claim or right they may have to claim that the normal and customary operation of any such Golf Course constitutes a nuisance, or that any aspect of any such Golf Course operation should be limited to any specific hours of the day or to any specific days of the week. Each such person assumes the risks which are associated with the game of golf and the flight of golf balls over and upon their Unit, the Common Areas and Limited Common Areas, including, without limitation, the possibility of

damage to their property, real or personal, and injury to themselves, their family, pets, friends, visitors, tenants, licensees, invitees, guests, or any other person.

## ARTICLE 7 RESIDENTIAL AREAS USE RESTRICTIONS

7.1 **Structures Permitted.** No structures shall be erected or permitted to remain on any Unit except structures containing residential dwellings and structures normally accessory thereto as approved by the Design Review Committee.

7.2 **Residential Use.** Units shall only be used for residential purposes. Except with the consent of the Board, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Unit, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Unit. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of Units, (b) the right of Declarant or any contractor or homebuilder to construct Improvements on any Unit, to store construction materials and equipment on such Units in the normal course of construction, and to use any Unit as a sales or rental office or model home or apartment for purposes of sales or rental in Suncadia, and (c) the right of the Owner of a Unit to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his Unit. The Board shall not approve commercial activities otherwise prohibited by this paragraph unless the Board determines that only normal residential activities would be observable outside of the Unit and that the activities would not be in violation of applicable governmental ordinances.

7.3 **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Unit, nor shall anything be done or placed on any Unit which interferes with or jeopardizes the enjoyment of other Units or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Unit nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

7.4 **Animals.** No animals of any kind shall be raised, bred or kept in or upon any Unit, except dogs, cats and such other household pets as may be approved by the Board, and then only provided they are not kept, bred or maintained for any commercial purposes or in unreasonable numbers and provided they are not prohibited by any Village Declaration or Supplemental Declaration annexing Additional Property to the Residential Areas; provided, however, that nothing herein shall prohibit horses to be kept on any Units as permitted by, and in conformance with, any Supplemental Declaration approving equestrian use of a Unit. The Association may adopt reasonable Policies and Procedures designed to minimize damage and disturbance to other Owners and occupants, including regulations requiring damage deposits, waste removal, leash controls, noise controls, occupancy limits based on size and facilities of the Unit and fair share use of the

Common Areas. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance.

**7.5 Wildlife Protection.** The capturing, trapping, injuring, or killing of wildlife within the Residential Areas is expressly prohibited, except when reasonably necessary to avoid an imminent threat of personal injury or death to any person or except when reasonably necessary to protect property from damage by rodents or other pests and then only to the extent permissible under applicable laws. The chasing, injuring and killing of wildlife within the Residential Areas by pets is also expressly forbidden.

**7.6 Prohibited Vehicles.** No mobile home, recreational vehicle (including campers), snowmobiles, all terrain vehicles, dirt bikes and other vehicles designed primarily for off-road use, commercial vehicles, any vehicles exceeding 9,000 pounds in gross vehicle weight, any trailer of any kind, any truck with a rated load capacity greater than one ton, or any boat, shall be kept, placed, maintained or parked for more than 48 hours or such other period as may be permitted pursuant to the Association Policies and Procedures on any Unit or Common Area except in enclosed garages approved by the Design Review Committee, areas designated by the Board, or screened from view in a manner approved by the Design Review Committee. No motor vehicle of any type may be constructed, reconstructed or repaired in such a manner as will be visible from neighboring property. No stripped down, partially wrecked, inoperative or junk motor vehicle, or sizeable part thereof, shall be permitted to be parked on any Unit or Common Area. Except to the extent specifically authorized in the Policies and Procedures, snowmobiles, golf carts and other off-road vehicles may not be operated within the Residential Areas. The Association Policies and Procedures may restrict the amount of noise vehicles may generate.

**7.7 Parking and Street Obstructions.** Parking of vehicles of any type whatsoever on any portion of the streets within the Residential Areas shall be permitted only as set forth in the Association Policies and Procedures. No Owner shall do anything which will in any manner prevent the streets within the Residential Areas from at all times being free and clear of all obstructions and in a safe condition for vehicular use.

**7.8 Boats and Other Watercraft.** Except as specifically allowed by the Community Council, Declarant or Association and subject to any and all laws, rules, regulations and agreements applicable to Suncadia, entrance into or use of the Cle Elum River within the boundaries of the Residential Areas for boating, swimming, tubing, rafting or other similar purposes is prohibited, and no boats, rafts, canoes or other watercraft may be launched into or withdrawn from the Cle Elum River within the Residential Areas.

**7.9 Grades, Slopes and Drainage.** Each Owner shall accept the burden of, and shall not in any manner alter, modify or interfere with, the established drainage pattern and grades, slopes and courses related thereto over any Unit or Common Area

without the express written permission of the Design Review Committee, and then only to the extent and in the manner specifically approved. Except with the express written permission of the Design Review Committee, no structure, plantings or other materials shall be placed or permitted to remain on or within any grades, slopes, or courses, nor shall any other activities be undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow, or obstruct or retard the flow of water through drainage and infiltration systems.

**7.10 Subsurface Sewage Disposal Systems and Wells.** Owners are required to hook into community water and sewer systems. No septic tanks or private wells shall be installed on any Unit, except for temporary systems utilized by Declarant or a builder, with Declarant's approval, during the Development Period.

**7.11 Signage.**

**7.11.1 General Prohibition; Exceptions.** No sign or billboard of any kind (including, but not limited to, commercial or political signs to the extent such prohibition is permitted by law) shall be displayed on any Unit to public view, except for:

(i) traffic and directional signs established by Declarant or the Board;

(ii) signs that are required for legal proceedings;

(iii) during the time of construction of any Improvement, one job identification sign, the size, color and design of which shall be subject to the approval of the Design Review Committee; and

(iv) signs, billboards or other advertising devices or structures used by Declarant or any builder authorized by Declarant in connection with the development, marketing, advertising, sale or rental of any interest in a Unit or other portion of the Residential Areas.

**7.11.2 Design Review Committee Regulation.** The size and design of any signs shall be in accordance with the Design Guidelines established by the Design Review Committee. Except as provided in Section 7.11.1(iv), signs advertising any interest in a Unit "for sale" or "for rent" shall be prohibited.

**7.12 Outside Storage.** Storage areas, machinery and equipment shall be prohibited upon any Unit, unless obscured from view of neighboring property and streets by an appropriate screen or enclosure approved by the Design Review Committee. Tarps and covers shall be prohibited except as otherwise provided in the Policies and Procedures and the Design Guidelines. Trash cans and other moveable rubbish containers shall be allowed to be visible from the street or adjacent Unit within the

Residential Areas only during the days on which rubbish is collected and after 9 p.m. of the preceding evening.

**7.13 Completion of Construction.** The construction of any building on any Unit, including painting and all exterior finish, shall be completed within twelve (12) months from the beginning of construction so as to present a finished appearance when viewed from any angle and the Unit shall not be occupied until so completed. In the event of undue hardship due to weather conditions or other causes beyond the reasonable control of the Owner, this time period may be extended for a reasonable length of time upon written approval from the Design Review Committee. The building area shall be kept reasonably clean and in workmanlike order during the construction period. All unimproved Units shall be kept in a neat and orderly condition, free of brush, 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 and to be in compliance with forest fuels management and fire prevention practices required by the applicable Governmental Authority.

**7.14 Landscape.** Landscaping plans for each Unit shall be submitted to the Design Review Committee and shall be in compliance with sod and planting limitations and tree preservation guidelines as may be established by such Committee or the Association from time to time. Further, landscaping plans for each Unit shall be in compliance with forest fuels management and fire prevention practices required by the applicable Governmental Authority. Such landscaping must be completed within ten (10) months from the date occupancy of the Unit constructed thereon is approved by the applicable Governmental Authority. 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 Design Review Committee.

**7.15 Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings nor any uncompleted building shall be used on any Unit at any time as a residence either temporarily or permanently.

**7.16 Antennas and Satellite Dishes.** Over-the-air reception devices are not permitted within the Residential Areas except standard TV antennas and satellite dishes are permitted so long as they comply with the Design Guidelines and any other applicable restrictions adopted by Declarant, the Design Review Committee, the Board, or the Association, pertaining to the size, means, method and location of their installation.

**7.17 Limitations on Open Fires.** No incinerators or other open fires shall be kept or maintained on any Unit; provided, however, that the foregoing restrictions shall not apply to outdoor cooking facilities such as propane or natural gas grills or portable barbeque units or to burning in connection with certain construction and other activities as permitted by that certain Settlement Agreement regarding MountainStar Master Planned Resort, Cle Elum Urban Growth Area and Supporting Infrastructure and Services dated September 2001.

7.18 **Pest Control.** No Owner shall permit any thing or condition to exist upon any Unit which shall induce, breed or harbor infectious plant diseases or noxious insects or vermin.

7.19 **Exterior Lighting.** All exterior lighting shall be subject to approval of the Design Review Committee.

7.20 **Paths and Trails.** No Owner, other than Declarant or the Association, may create any paths or trails within the Residential Areas without the prior written approval of the Design Review Committee.

7.21 **Wood-Burning Fireplaces and Stoves.** Wood-burning fireplaces and stoves are prohibited within all Units in the Residential Areas. This restriction may not be modified or repealed without the prior written approval of the State of Washington Department of Ecology or any successor Governmental Authority.

7.22 **Fire Sprinklers.** Any structure within Units in the Residential Areas intended for use and occupancy as an attached or detached residence must have automatic fire sprinkler systems installed, tested and maintained in accordance with codes and standards of the applicable Governmental Authority.

7.23 **Drainage.** Design and construction of drainage facilities for each Unit shall conform to the requirements of the Design Guidelines. The Design Guidelines generally require disposal of stormwater by infiltration and/or dispersion on each Unit.

7.24 **Landscape Irrigation.** Design, construction and operation of landscape irrigation systems shall conform to the requirements of the Design Guidelines and the adopted Water Conservation Plan of the water utility serving the Residential Areas. The area irrigated on each Unit shall not exceed the maximum area set forth in the Design Guidelines. The irrigation system and controls installed on each Unit shall be capable of meeting, and be operated to meet, the irrigation efficiency and water conservation goals of the water utility.

7.25 **Solid Waste.** Disposal of solid waste, including normal household waste, yard waste and household hazardous waste from each Unit, shall conform to the requirements and procedures set forth by the Association.

7.26 **Association Policies and Procedures.** In addition to the restrictions in this Declaration, the Association from time to time may adopt, modify or revoke such Policies and Procedures governing the conduct of Persons and the operation and use of Units and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Residential Areas. A copy of the Policies and Procedures, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be furnished by the Association Board to each Owner and shall

be binding upon all Owners and occupants of all Units. The method of adoption of such Policies and Procedures shall be as provided in the Bylaws.

**7.27 Application to Additional Property.** The Supplemental Declaration subjecting Additional Property to this Declaration may establish additional or different restrictions governing the use of such Additional Property.

**7.28 Right to Approve Changes in the Standards Within the Community.** No amendment to or modification of any use restrictions contained in this Declaration or any Supplemental Declaration shall be effective without the prior notice to and the written consent of Declarant so long as Declarant owns property subject to this Declaration or prior to the expiration of the Development Period.

**7.29 Additional Restrictions—Division 1A.** The First Supplemental Declaration to the Original Declaration recorded under Kittitas County Auditor's File No. 200308210009 imposes certain additional restrictions on Division 1A of MountainStar (now known as "Suncadia"). For convenience, such additional restrictions are incorporated into this Amended and Restated Declaration as set forth on the attached **EXHIBIT C**.

**7.30 Additional Restrictions—Phase 1, Division 2.** The Third Supplemental Declaration to the Original Declaration recorded under Kittitas County Auditor's File No. 200401080028 imposes certain additional restrictions on Phase 1, Division 2 of MountainStar (now known as "Suncadia"). For convenience, such additional restrictions are incorporated into this Amended and Restated Declaration as set forth on the attached **EXHIBIT D**.

## **ARTICLE 8 DESIGN REVIEW COMMITTEE**

**8.1 Design Review Requirements.** Except for Units owned by Declarant, no Improvement shall be commenced, erected, placed or altered on any Unit until the construction plans and specifications showing the nature, shape, heights, materials, colors and proposed location of the Improvement have been submitted to and approved in writing by the Design Review Committee. It is the intent and purpose of this Declaration to assure quality of workmanship and materials and to assure harmony of external design with the then existing Improvements and as to location with respect to topography and finished grade elevations. The procedure and specific requirements for review and approval of construction shall be set forth in Design Guidelines adopted from time to time by the Design Review Committee.

**8.2 Membership: Appointment and Removal.** The Design Review Committee shall consist of as many persons, but not less than three, as Declarant may from time to time appoint. Declarant may remove any member of the Design Review Committee at its discretion at any time and may appoint new or additional members at

any time. The members of the Design Review Committee need not be Owners or representatives of Owners, and may, but need not, include architects, engineers, or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Design Review Committee may be broken into or may form subcommittees to preside over particular areas of review (e.g., a new construction subcommittee and a modifications subcommittee). Any reference in this Declaration to the Design Review Committee should be deemed to include a reference to any such subcommittee. The Association shall keep on file at its principal office a list of the names and addresses of the members of the Design Review Committee. Declarant may at any time, and shall when Declarant no longer owns any property within the Residential Areas or which may be annexed to the Residential Areas, delegate to the Board the right to appoint or remove members of the Design Review Committee. In such event, or in the event Declarant fails to appoint a Design Review Committee, the Board shall assume responsibility for appointment and removal of members of the Design Review Committee, or if it fails to do so, the Board shall serve as the Design Review Committee.

### **8.3 Design Guidelines.**

**8.3.1 Adoption of Design Guidelines.** Declarant or the Design Review Committee shall prepare Design Guidelines, which may contain general provisions applicable to all of the Residential Areas as well as specific provisions which vary from Village to Village or any portions of a Village or Villages or types of use or Improvements. The Design Guidelines may establish building envelopes for each Unit and will require compliance with forest fuels management and fire prevention practices required by the applicable Governmental Authority. The Design Guidelines are not the exclusive basis for decisions of the Design Review Committee and compliance with the Design Guidelines does not guarantee approval of any application.

**8.3.2 Publication of Design Guidelines.** The Design Review Committee shall make the Design Guidelines available to Owners who seek to engage in development or construction within the Residential Areas. In Declarant's discretion, the Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

**8.3.3 Amendment of Design Guidelines.** Declarant shall have sole and full authority to amend the Design Guidelines during the Development Period notwithstanding a delegation of reviewing authority to the Design Review Committee unless Declarant also delegates the power to amend to the Design Review Committee. Upon termination or delegation of Declarant's right to amend, the Design Review Committee shall have the authority to amend the Design Guidelines with the consent of the Board. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation

on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

#### 8.4 Approval Procedures.

8.4.1 **Applications.** Except as otherwise stated in this Article, Owners desiring to construct, alter, repair or replace any Improvements shall apply for an approval therefor from the Design Review Committee. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction (the "Work"), as applicable. The Design Guidelines or the Design Review Committee may require the submission of such additional information as may be reasonably necessary to consider any application.

8.4.2 **Committee Discretion.** The Design Review Committee may, at its sole discretion, withhold consent to any proposed Work if the Design Review Committee finds the proposed Work would be inappropriate for the particular Unit or incompatible with the Design Guidelines. In reviewing each submission, the Design Review Committee may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. Considerations such as siting, shape, size, color, design, height, solar access, impairment of the view from other Units within Suncadia or other effect on the enjoyment of other Common Areas, disturbance of existing terrain and vegetation, impervious surface and private open space considerations, wildlife protection and any other factors which the Design Review Committee reasonably believes to be relevant, may be taken into account by the Design Review Committee in determining whether or not to consent to any proposed Work. In the case of any Unit adjoining, adjacent to or otherwise in a direct line of sight of any Privately Owned Amenity, the Design Review Committee shall forward the plans and specifications for the proposed Work to the Owner of the Privately Owned Amenity for review and approval in accordance with Section 6.4 of this Declaration.

8.4.3 **Committee Decision.** The Design Review Committee shall render its decision with respect to the construction proposal within thirty (30) working days after it has received all materials required by it with respect to the application. The response may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Design Review Committee may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient

and shall be deemed to have been given at the time of delivery to the applicant. In the event the Design Review Committee fails to render its approval or disapproval within forty-five (45) working days after the Design Review Committee has received all materials required by it with respect to the proposal, or if no written notice of noncompliance has been given to the Owner within two (2) years after the completion thereof is readily apparent, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with; provided that the Owner must first issue a written notice to the Design Review Committee of the Owner's intent to proceed without such approval and no response from the Design Review Committee is forthcoming within ten (10) days after such notice is given.

**8.4.4 Majority Action.** Except as otherwise provided in this Declaration, a majority of the members of the Design Review Committee shall have the power to act on behalf of the Design Review Committee, without the necessity of a meeting and without the necessity of consulting the remaining members of the Design Review Committee. The Design Review Committee may render its decision only by written instrument setting forth the action taken by the consenting members.

**8.4.5 Design Review Committee Fees; Assistance.** The Design Review Committee may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Compliance fees and deposits may also be required. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

**8.4.6 Appeal.** At any time after Declarant has delegated appointment of the members of the Design Review Committee to the Board pursuant to Section 8.2, any Owner adversely affected by action of the Design Review Committee may appeal such action to the Board. Appeals shall be made in writing within ten (10) days of the Design Review Committee's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Board within thirty (30) working days after receipt of such notification.

**8.4.7 Effective Period of Consent.** The Design Review Committee's consent to any proposed Work shall automatically be revoked one year after issuance unless construction of the Work has been commenced or the Owner has applied for and received an extension of time from the Design Review Committee.

**8.4.8 Notice to Declarant.** In the event Declarant delegates the right to appoint or remove members of the Design Review Committee to the Board prior to expiration of the Development Period, then until expiration of the Development Period, the Design Review Committee shall notify Declarant in writing within three (3) business

days after the Design Review Committee has approved any application relating to proposed Work within the scope of matters delegated to the Design Review Committee by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have five (5) business days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the Design Review Committee and the applicant.

**8.5 Variances.** The Design Review Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Design Review Committee from denying a variance in other circumstances.

**8.6 Approval Exceptions.** No approval shall be required to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of the Owner's Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure and modifications to enclose garages as living space shall be subject to approval. Any request to enclose a garage must include plans for a replacement garage on the Unit. If approval of a garage enclosure is granted by the Design Review Committee such approval may be conditional on the construction of a replacement garage.

**8.7 Approval Exemptions.** This Article shall not apply to Declarant's activities during the Development Period. Municipal, state, federal and other governmental or quasi-governmental buildings and facilities, including post offices, are subject to architectural review under this Article. However, such review shall be binding upon any Governmental Authority only to the extent permitted by law.

**8.8 No Waiver of Future Approvals.** Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Design Review Committee may refuse to approve similar proposals in the future. Approval of applications or plans and specifications for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans and specifications, or other matters subsequently or additionally submitted for approval.

8.9 **Estoppel Certificate.** Within fifteen (15) business days after written request is delivered to the Design Review Committee by any Owner, and upon payment to the Design Review Committee of a reasonable fee fixed by the Design Review Committee to cover costs, the Design Review Committee shall provide such Owner with an estoppel certificate executed by a member of the Design Review Committee and acknowledged, certifying with respect to any Unit owned by the Owner, that as of the date of the certificate, either: (a) all Improvements made or done upon or within such Unit by the Owner comply with this Declaration, or (b) such Improvements do not so comply, in which event the certificate shall also identify the noncomplying Improvements and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any mortgagee or other encumbrancer, shall be entitled to rely on such certificate with respect to the matters set forth in the certificate, such matters being conclusive as between Declarant, the Design Review Committee, the Association and all Owners, and such purchaser or mortgagee.

8.10 **Limitation of Liability.** Neither the Design Review Committee nor any member of the Design Review Committee 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 Design Review Committee or a member of the Design Review Committee, provided only that the Design Review Committee or the member has, in accordance with the actual knowledge possessed by the Committee or Member, acted in good faith. Any such damages or expenses for which the Committee or any Member is liable and to which any Owner becomes entitled shall be a Common Expense. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Residential Areas; they do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Design Review Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value, or size, or of similar design. Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work, any defects in plans revised or approved hereunder, or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

## **ARTICLE 9. OWNERS ASSOCIATION**

Declarant shall organize the Association as the association of all of the Owners within the Residential Areas. Such Association, its successors and assigns shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Residential Areas and all Owners of property located therein.

9.1 **Organization.** Declarant shall, before the first Unit is conveyed to an Owner, organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Washington. The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated Association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated Association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated Association.

9.2 **Membership.** Every Owner of one or more Units within the Residential Areas shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Units within the Residential Areas, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

9.3 **Voting Rights.** Voting rights within the Association shall be allocated as follows:

9.3.1 **Allocation.** Subject to Declarant's right to designate the number of Units attributable to any vacant land prior to its development in accordance with the Master Plan, each Unit shall be allocated one vote.

9.3.2 **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 Class B member and shall be entitled to voting rights for each Unit owned computed in accordance with Section 9.3.1 above. When more than one Person holds an interest in any Unit, all such Persons shall be members. Except as may otherwise be specified in the Supplemental Declaration annexing such Unit to the Residential Areas, the vote for such Unit shall be exercised as they among themselves determine. In no event, however, shall more voting rights be cast with respect to any Unit than as set forth in Section 9.3.1 above.

**Class B.** The Class B member shall be the Declarant and shall be entitled to three times the voting rights computed under Section 9.3.1 for each Unit 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:

- (i) Expiration of the Development Period; or
- (ii) At such earlier time as Declarant may elect in writing to terminate Class B membership.

9.4 **Voting Representatives.** After at least two Villages have been created within the Residential Areas, the Class A members within each Village shall elect a Voting Representative who, as proxy for such Class A members, shall be responsible for casting all voting rights attributable to Units owned by Class A members within the Village on all Association matters requiring a membership vote and on all other matters under this Declaration or the Bylaws requiring a vote or approval of Owners, except as may otherwise be specified in this Declaration or the Bylaws. In addition, the Class A members within each Village shall elect an alternate Voting Representative who shall be responsible for casting such votes in the absence of the Voting Representative. If there are any Units that are not within a Village, then all Class A members that are not within a Village shall elect their own Voting Representative and alternate Voting Representative. Voting Representatives shall be elected as provided in the Bylaws. Until such time as the Board first calls for election of a Voting Representative for any Village, the Class A members within such Village shall be entitled personally to cast the voting rights attributable to their Units on any issue requiring a membership or Owner's vote under the Governing Documents.

9.5 **General Powers and Obligations.** The Association shall have, exercise and perform all of the following powers, duties and obligations:

- (a) The powers, duties and obligations granted to the Association by this Declaration.
- (b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Washington.
- (c) The powers, duties and obligations of a homeowners' association pursuant to RCW ch. 64.38, as such chapter may be amended from time to time.
- (d) 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 the Residential Areas.

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 in this Declaration, accompanied by any required changes in the Articles of Incorporation or Bylaws made in accordance with such instruments and with the nonprofit corporation laws of the State of Washington.

9.6 **Specific Powers and Duties.** The powers and duties of the Association shall include, without limitation, the following:

9.6.1 **Maintenance.** The Association shall provide maintenance for portions of the Residential Areas as provided in Article 10 and other provisions of this Declaration.

9.6.2 **Insurance.** The Association shall obtain and maintain in force certain policies of insurance as determined by the Board.

9.6.3 **Restoring Damaged Improvements.** In the event of damage to or destruction of Common Areas or other property which the Association insures, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. If insurance proceeds are insufficient to cover the costs of reconstruction, the Board may levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of all or some of the Owners, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

9.6.4 **Rulemaking.** The Association shall make, establish, promulgate, amend and repeal Policies and Procedures as provided in Section 7.26.

9.6.5 **Assessments.** The Association shall adopt budgets and impose and collect certain Assessments as provided in Article 11.

9.6.6 **Community-Wide Standards.** The Association shall have the authority to establish a minimum Community-Wide Standard of maintenance and aesthetic appearance for the Residential Areas, including, without limitation, Units, Common Areas and Village Common Areas. The Association shall have the authority to enforce such standards including, without limitation, the right to levy fines which if unpaid shall constitute an Individual Assessment and a lien on the violator's property as set forth in this Declaration. The Association also shall have the right of self-help to abate any violations or nonconforming use or activity, which shall not be deemed a trespass, and the costs of which shall be recovered by Individual Assessments. The Association shall have the right, but not the obligation, to enforce any provision of this Declaration or the governing documents of a Village Association if it fails or refuses to do so, provided

that the Village Association shall be the primary entity responsible for enforcing its own Village Declaration and rules and regulations.

**9.6.7 Enforcement.** The Association may perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Policies and Procedures adopted by the Association, including, without limitation, enforcement of the decisions of the Design Review Committee.

**9.6.8 Employment of Agents, Advisers and Contractors.** The Association may employ the services of any Person as managers, hire employees to manage, conduct and perform the business, obligations and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, recreational experts, architects, planners, attorneys and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Residential Areas.

**9.6.9 Borrow Money.** The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas and, subject to Section 5.8, encumber the Common Areas as security for the repayment of such borrowed money.

**9.6.10 Hold Title and Make Conveyances.** The Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of the Common Area, and shall accept any real or personal property, leasehold or other property interests within the Residential Areas conveyed to the Association by Declarant.

**9.6.11 Transfer, Dedication and Encumbrance of Common Areas.** Except as otherwise provided in Section 5.8, the Association may sell, transfer or encumber all or any portion of the Common Areas to which it then holds title of record to a person, firm or entity, whether public or private, and dedicate or transfer all or any portion of the Common Areas to any public agency, authority, or utility for public purposes.

**9.6.12 Expansion by the Association.** The Association may subject Additional Property to the provisions of this Declaration by recording a Supplemental Declaration describing the Additional Property. During the Development Period, any such amendment shall require Declarant's consent. The Supplemental Declaration shall be signed by an officer of the Association, by the owner of the Additional Property and by Declarant, if Declarant's consent is necessary.

**9.6.13 Create Classes of Service and Make Appropriate Charges.** The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefor to the users of such services, including but not limited to reasonable admission and other fees for the use of any and all recreational facilities situated on the Common Areas, without being required to render such services to those who do not assent to such charges and to such other Policies and Procedures as the Board deems proper. In addition, the Board shall have the right to discontinue any service upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain.

**9.6.14 Joint Use Agreements.** The Association may enter into joint use agreements with other associations, entities or persons relating to the joint use of recreational or other facilities, including the joint use of the Common Areas. The Association may enter into agreements with one or more Village Associations or other Persons within Suncadia to provide joint use, management, and administrative services, and to perform such other community related activities as may be agreed upon by the Association and such Village Association(s) or Persons. Without limitation, the Association may enter into agreements with the Community Council for the disposal of snow from roads within Suncadia on designated Common Areas. The expense of providing such services by the Association shall be allocated by agreement between the parties.

**9.6.15 Administration of Particular Areas Within Residential Areas.** In addition to its other powers and obligations, the Association may be obligated by Declarant or agreement to provide maintenance, architectural review, assessment collection, rules enforcement, or other services to, and levy assessments against, Owners within particular areas of the Residential Areas (e.g., one or more Villages). In such event, the Association shall provide such services in the manner prescribed, and the expenses of such services shall be allocated and assessed as provided in the covenants, easements, or agreement obligating the Association. In the event of a conflict between such other covenants, easements, or agreements and this Declaration, this Declaration shall control.

**9.6.16 Additional Services.** Any Village, acting either through a Village Committee or through a Village Association, if any, may request that the Association provide a higher level of service than that which the Association generally provides to all Villages, or may request that the Association provide special services for the benefit of Units in such Village. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the voting rights within the Village, the Association may provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Villages receiving the same service), shall be assessed against the Units within such Village as a Village Assessment.

9.6.17 **Assumption of Other's Maintenance Responsibility.** The Association may, but shall not be obligated to, assume maintenance responsibility for property which is the responsibility of another Person (e.g., a Village Association or any local or state governmental authority) if, in the discretion of the Board, the maintenance of such property provides a benefit to the Suncadia Residential Areas and/or such property is not otherwise being maintained in accordance with the Community-Wide Standard. The cost of maintenance assumed in accordance with this section may be a Common Expense to be allocated among all Owners or may be Village or Individual Assessments levied only against the benefited parties.

9.6.18 **Security.** The Association may, but shall not be obligated to, maintain or support certain activities within Suncadia Residential Areas designed to make the Residential Areas more enjoyable or safer than it otherwise might be. **Neither the Association, Declarant nor any managing agent shall be considered insurers or guarantors of security or safety within the Residential Areas nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security or safety measures undertaken. No representation or warranty is made that any system or measure, including any mechanism or system for limiting access to the Residential Areas, cannot be compromised or circumvented, nor that any such system or measure undertaken will in all cases prevent loss or provide the detection or protection for which it is designed or intended. Each Owner acknowledges and agrees that the Association, the Board and any managing agent are not insurers and that each person using the Residential Areas assumes all risks for personal injury and loss or damage to property resulting from acts of third parties.**

9.6.19 **Municipal Services.** In addition to any obligations it may have under this Declaration to share costs, the Association may, but is not obligated by this Declaration to, contribute funds to any Governmental Authority for the purpose of increasing its capacity to provide services, such as, but not limited to, maintenance of roads, storm drainage facilities, sidewalks, lighting, trails and roadside landscaping, and police and fire protection services within the Residential Areas.

9.6.20 **Other Services.** The Association may provide or contract for such services as the Board may reasonably deem to be of benefit to the Residential Areas, including, without limitation, garbage and trash removal.

9.6.21 **Relations with Other Property.** The Association may enter into contractual agreements or covenants to share costs with other property or facilities or for maintaining and/or operating shared or mutually beneficial property or facilities. Each Owner acknowledges and agrees that the Association is or shall be obligated under such covenants to contribute funds for, among other things, Community Improvements within Suncadia or other shared or mutually beneficial property or services.



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**9.6.22 Implied Rights and Obligations.** The Association may exercise any other right or privilege reasonably to be implied from the existence of any right or privilege expressly given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege.

**9.7 Board of Directors.** The powers and duties of the Association and the affairs of the Association shall be conducted by its Board of Directors duly appointed or elected as provided in this section, except to the extent that a vote of the members is required by this Declaration or the Bylaws.

**9.7.1 Initial Board.** Upon incorporation of the Association and until the first annual meeting after twenty-five percent (25%) of the Units authorized by the Master Plan have been sold and conveyed to individual residential purchasers (as opposed to builders), the Board shall be composed of three directors, all of whom shall be appointed by Declarant.

**9.7.2 When Twenty-Five Percent (25%) of the Units Have Been Sold.** Commencing on the first annual meeting after twenty-five percent (25%) of the Units authorized by the Master Plan have been sold and conveyed to ultimate purchasers and until the first annual meeting after fifty percent (50%) of such Units have been conveyed, the Board shall be composed of three members, two of whom shall be appointed by Declarant and one of whom shall be elected by the Class A Voting Representatives.

**9.7.3 When Fifty Percent (50%) of the Units Have Sold.** Commencing on the first annual meeting after fifty percent (50%) of the Units authorized by the Master Plan have been sold and conveyed to ultimate purchasers and until the first annual meeting after ninety percent (90%) of the Units have been conveyed, the Board shall be composed of five directors, three of whom shall be appointed by Declarant and two of whom shall be elected by the Class A Voting Representatives.

**9.7.4 When Ninety Percent (90%) of the Units Have Been Sold.** Commencing on the first annual meeting after ninety percent (90%) of the Units authorized by the Master Plan have been sold and conveyed to ultimate purchasers and until the first annual meeting after expiration of the Development Period, the Board shall be composed of five directors, two of whom shall be appointed by Declarant and three of whom shall be elected by the Class A Voting Representatives.

**9.7.5 After Termination of Class B Membership.** Commencing on the first annual meeting after termination of the Class B membership, the Board shall be composed of seven directors, all of whom shall be elected by the Voting Representatives. The method of election, terms of office and method of removal and filling of vacancies shall be governed by the Bylaws.

**9.8 Voting Groups.** In connection with the election of those directors to be elected by the Class A Voting Representatives, Declarant may, from time to time, in its discretion, designate Voting Groups consisting of one or more Villages (or the Units outside any Village) for the purpose of electing directors to the Board, in addition to any at-large directors elected by all Class A Voting Representatives. Voting Groups may be designated to ensure groups with dissimilar interests are represented on the Board and to avoid allowing Voting Representatives representing similar Villages to elect the entire Board, due to the number of Units in such Villages, excluding the representation of others. The number of Voting Groups within the Residential Areas shall not exceed the total number of directors to be elected by the Class A Voting Representatives. The Voting Representatives representing the Villages within each Voting Group shall vote on a separate slate of candidates for election to the Board. Declarant shall establish Voting Groups, if at all, not later than the termination of Class B membership by filing with the Association and recording with the Auditor a supplemental declaration identifying each Voting Group by legal description or other means such that the Units within each Voting Group can easily be determined. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to termination of the Class B membership. After termination of the Class B membership, the Board shall have the right to record with the Auditor a supplemental declaration changing the Voting Groups upon the vote of a majority of the total number of directors and approval of Voting Representatives representing a majority of the voting rights in the Association. Neither recordation nor amendment of such supplemental declaration by Declarant shall constitute an amendment to this Declaration and no consent or approval of the Owners shall be required, except as stated in this section. Until such time as Voting Groups are established, all of the members shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been recorded with the Auditor, any and all portions of the Residential Areas which are not assigned to a specific Voting Group shall constitute a single Voting Group.

**9.9 Liability.** A member of the Board or an officer, employee, agent or committee member of the Association shall not be liable to the Association or any member of the Association for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional wrongful acts. In the event any member of the Board or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

**9.10 Village Associations.** The Board may assist the Village Associations in the performance of their duties and obligations under their respective Village Declarations, and the Association shall cooperate with each Village Association so that each of those entities can most efficiently and economically provide their respective services to Owners. The Association or a Village Association may use the services of the



other in the furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation. The payment for such contract services or a variance in services provided may be reflected in an increased Assessment by the Association for the particular Village or by an item in the Village Association's budget which shall be collected through Village Assessments and remitted to the Association. If a Village Association fails or is unable to perform a duty or obligation required by its Village Declaration, then the Association may, after reasonable notice and an opportunity to cure given to the Village Association, perform such duties or obligations until such time as the Village Association is able to resume such functions, and the Association may charge the Village Association a reasonable fee for the performance of such functions.

**9.11 Powers of the Association Relating to Villages.** Each Village Committee shall be a committee of the Association. The Board shall have all of the power and control over any Village Committee that it has under applicable law over other committees of the Association. The Association shall have the power to veto any action taken or contemplated to be taken by any Village Committee or Village Association which the Board reasonably determines to be adverse to the interests of the Association or the Owners or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Village Association in connection with its obligations and responsibilities, such as requiring maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor. A Village Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Village Association fails to comply, the Association shall have the right to effect such action on behalf of the Village Association and levy Village or Individual Assessments to cover the costs, as well as an administrative charge and sanctions.

## **ARTICLE 10 MAINTENANCE**

**10.1 Maintenance of Units.** Each Owner shall maintain the Owner's Unit and Improvements thereon in a clean and attractive condition, in good repair and in such fashion as not to create a fire or other hazard and to be in compliance with forest fuels management and fire prevention practices required by the applicable Governmental Authority. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downpours, exterior building surfaces, walks and other exterior improvements and glass surfaces. All repainting or re-staining and exterior remodeling shall be subject to prior review and approval by the Design Review Committee. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on the Owner's Unit neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner and

shall be restored within such period of time as may be specified in the Design Guidelines, or if no such period is specified, within a reasonable period of time.

**10.2 Maintenance of Common Areas.** The Association shall be responsible for exterior lighting for and perform all maintenance upon the Common Areas and Limited Common Areas within or immediately adjoining rights of way, including but not limited to grass, trees, walks, private roads, entrance gates, street lighting and signs, parking areas, walkways and trails, unless the maintenance thereof is assumed by a public body. Such areas shall be maintained in a good and workmanlike manner such as to carry out the purpose for which such areas are intended.

**10.3 Maintenance of Utilities.** The Association shall perform or contract to perform maintenance of all private utilities within Common Areas, such as sanitary sewer service lines, domestic water service lines and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. Each Owner shall be responsible for the cost of maintaining utility lines within his or her Unit.

**10.4 Corrective Maintenance.** The Association may assume the maintenance responsibilities set out in this Declaration or any Village Declaration for any Village or Owner, after giving the responsible Village Association or Owner reasonable notice and an opportunity to correct its deficient maintenance. In such event, all costs of such maintenance shall be assessed only against those Owners to which the services are provided and shall be Village Assessments or Individual Assessments as determined by the Board. 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 Community-Wide Standard.

## **ARTICLE 11 ASSESSMENTS**

**11.1 Power to Assess.** The Association may levy Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners and occupants of the Residential Areas and for the improvement, operation and maintenance of the Common Areas.

**11.2 Apportionment of Assessments.** All Units, other than Units exempted from assessment pursuant to Section 11.5, shall pay a pro rata share of the General Assessments, Village Assessments, Special Assessments, and Limited Common Area Assessments commencing upon the date such Units are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such Assessment divided by the total number of Units subject to such Assessment. Notwithstanding the provisions of this section, however, an amendment to this Declaration may specify a special allocation of assessing the costs of operating and maintaining the facility on a Common Area in order to more fairly allocate such cost, taking into the account the extent of use or other factors.

### 11.3 Types of Assessments.

**11.3.1 General Assessments.** The Association is hereby authorized to levy General Assessments against all Units subject to Assessments to fund the Common Expenses. The amount of the General Assessment allocated to each Unit shall be determined in the manner described in Section 11.2. In determining the General Assessments, the Board may consider any Assessment income expected to be generated from any additional Units or changes in the status of the then-existing Units anticipated during the fiscal year. The Board shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous over Assessment and any common profits of the Association. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the reserves required by Section 11.7. The Board may revise the budget and adjust the General Assessment from time to time during the year. Within 30 days after the adoption of a final budget by the Board, the Board shall send to each Owner a copy of the final budget, notice of the amount of the General Assessment to be levied pursuant to such budget, and notice of a meeting to consider ratification of the budget. Such meeting shall be held not less than 14 nor more than 60 days from the mailing of such materials. The budget and assessment shall be ratified unless disapproved at a meeting by Voting Representatives representing at least 67% of the total Class A voting rights in the Association and by the Class B member, if such exists. Such ratification shall be effective whether or not a quorum is present.

**11.3.2 Village Assessments.** The Association or, after Declarant or the Board delegate the same thereto, a Village Association, is authorized to levy Village Assessments against all of the Units within such Village to fund Village Common Expenses. The determination of the allocation of Village Common Expenses may be undertaken in the same manner applicable to the Association with respect to allocating General Assessments or Special Assessments, as applicable, unless otherwise provided in the Village Declaration.

**11.3.3 Special Assessments.** Subject to the ratification procedure described in Section 11.3.1, the Board may levy during any fiscal year a Special Assessment, applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of General Assessments. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to thirty percent (30%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by a majority of the voting rights, together with the written consent of the Class B member, if any. Special Assessments shall be apportioned as provided in Section 11.2 and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board.

**11.3.4 Limited Common Area Assessments.** General Assessments and Special Assessments relating to maintenance, upkeep, repair, replacement or improvements to Limited Common Areas shall be assessed exclusively to the Units having the right to use such Limited Common Areas.

**11.3.5 Individual Assessments.** Any Common Expense or any part of a Common Expense benefiting fewer than all of the Units may be assessed exclusively against the Units benefited as an Individual Assessment. Individual Assessments shall also include default Assessments levied against any Unit to reimburse the Association or Village Association for costs incurred in bringing such Unit or its Owner into compliance with the provisions of this Declaration or the Policies and Procedures of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board, Individual Assessments shall be due thirty (30) days after the Board has given written notice thereof to the Owners subject to Individual Assessments.

**11.4 Assessment of Additional Property.** When Additional Property is annexed to the Residential Areas, the Units included therein shall become subject to Assessments from the date of such annexation, except for those Units exempt from assessment pursuant to Section 11.5. All other Units shall pay such Assessments in the amount then being paid by other Units. The Board, however, at its option may elect to recompute the budget based upon the additional Units subject to assessment and additional Common Areas and recompute Assessments for all Units, including the new Units, for the balance of the fiscal year. Notwithstanding any provision of this Declaration apparently to the contrary, a Supplemental Declaration annexing Additional Property may provide that such Additional Property does not have the right to use a particular Common Area or facility located thereon, in which case such Additional Property shall not be assessed for the costs of operating, maintaining, repairing, replacing or improving such Common Area or facility.

**11.5 Exempt Property.** The following property shall be exempt from payment of General Assessments, Village Assessments, Special Assessments, and Limited Common Area Assessments:

- (a) All Common Areas, Village Common Areas, Limited Common Areas and Community Improvements;
- (b) Any property dedicated to and accepted by any Governmental Authority or public utility;
- (c) Property owned by any Village Association for the common use and enjoyment of the Owners or the members of a Village Association or owned by the Association or the members of a Village Association as tenants-in-common;
- (d) Units owned by Declarant; and

(e) Units owned by any developer or builder who has purchased one or more parcels from Declarant for development and resale until the earlier of (i) such time as the Unit is occupied for a residential use or (ii) six (6) months after conveyance of such parcel to the developer or builder from Declarant. The exemption contained in this paragraph 11.5(e) shall not apply to assessments for reserves as required by Section 11.7.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

**11.6 Operations Fund.** The Association shall keep all funds received by it as Assessments, other than reserves described in Section 11.7, separate and apart from its other funds, in an Operations Fund. The Association shall use such fund for the purpose of promoting the recreation, health, safety and welfare of the residents within the Residential Areas and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Units, including but not limited to:

(a) Payment of the cost of maintenance, utilities and services, repairs, replacements of that portion of the Residential Areas for which the Association is responsible.

(b) Payment of the cost of insurance maintained by the Association.

(c) Payment of taxes assessed against the Common Areas and any Improvements thereon.

(d) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal and secretarial services.

(e) Payment of assessments imposed on the Association by the Community Council under the Community Improvements Declaration.

**11.7 Reserve Fund.** Declarant shall establish a Reserve Fund for replacement and major repairs and maintenance of those items to be maintained by the Association all or a part of which will normally require replacement or major repair or replacement in more than three (3) and less than thirty (30) years. Such Reserve Fund shall be funded by Assessments against the individual Units that are being assessed for maintenance of the items for which the Reserve Fund is being established and on the same pro rata basis. The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The Reserve Fund shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The Reserve Fund

shall be kept separate from the Operations Fund. Any interest earned on funds deposited in the Reserve Fund, however, may either be accumulated in the Reserve Fund or deposited in the Operations Fund. After termination of the Development Period, however, the Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from General Assessments, Village Assessments, Special Assessments, or Limited Common Area Assessments. Nothing in this section shall prohibit prudent investment of the Reserve Fund. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Units. Sellers of the Units, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

**11.8 Declarant's Subsidy.** Declarant may, but shall not be obligated to, reduce the General Assessments for any fiscal year by payment of a subsidy (in addition to any other amounts then owed by Declarant), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the Association's budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years unless otherwise provided in a written agreement between the Association and Declarant.

**11.9 Commencement of Assessment Obligation; Time of Payment.** The obligation to pay Assessments under this Declaration shall commence as to each Unit, on the first day of the month after such Unit becomes subject to this Declaration, or the Unit ceases to be exempt from Assessments, whichever is later. The first annual General Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence for such Unit.

**11.10 Payment of Assessments.** Assessments shall be paid in such manner and on such dates as the Board may establish. Unless the Board otherwise provides, the General Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any Assessments or other charges levied on his Unit, the Board may require the outstanding balance on all Assessments to be paid in full immediately. Until termination of the Development Period, any obligation of Declarant to pay Assessments may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

**11.11 Advance Payments Upon Sale.** The Association or any Village Association may require any Owner to obtain, in conjunction with the closing of any sale of such Owner's Unit, a deposit from the purchaser equal to the then estimated amount of assessments for three (3) months due to such Association. Any Owner entering into such a contract shall be obligated to collect or otherwise deposit such Assessments with the appropriate Association upon the closing of such conveyance and shall be liable therefor after such conveyance if those Assessments are ultimately not received by the



Association. No failure to require or collect such estimated Assessments shall impair any contract of sale or provide any grounds for a rescission of such sale.

**11.12 Personal Obligations for Assessments.** Declarant, for each Unit owned by it within the Residential Areas, hereby covenants, and each Owner of any Unit by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Bylaws. Such Assessments, charges and other costs shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 12.

**11.13 Village Association's Obligation to Pay Assessments.** A Village Association shall be jointly and severally obligated with the Owners of Units subject to its jurisdiction for all General and Special Assessments levied against such Units. Each such Village Association shall include as a line item in its common expense budget, and shall be responsible for collecting and paying to the Association, the total amount of all General, Special, Emergency and Limited Common Area Assessments levied by the Association against the Units within its jurisdiction and such amount shall have first priority for payment out of the income of the Village Association. The obligation of each Village Association for collection and payment of Assessments to the Association shall be enforceable by the Association, and the Association may bring suit against any Village Association to collect delinquent Assessments, in addition to any other rights or remedies it may have hereunder or at law or in equity. The foregoing collection remedies shall not, however, constitute a lien upon all property subject to the jurisdiction of a particular Village Association. The obligation of each Village Association to collect and pay such Assessments to the Association pursuant to this section shall not relieve any Owner of liability for its pro rata share of any amounts not paid by the Village Association.

**11.14 No Waiver.** Failure of the Board to fix Assessment amounts or rates or to deliver or mail each Owner an Assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Assessments on the same basis as during the last year for which an Assessment was made, if any, until a new Assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

**11.15 No Option to Exempt.** No Owner may exempt himself from liability for Assessments by non-use of Common Areas or Community Improvements, abandonment of his Unit, or any other means. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for

inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

11.16 **Certificate.** Upon written request, the Association shall furnish to any Owner liable for any type of Assessment a certificate in writing signed by an Association officer setting forth whether such Assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

## **ARTICLE 12 ENFORCEMENT**

12.1 **Violation of General Protective Covenants.** In the event any Owner constructs or permits to be constructed on his Unit an Improvement contrary to the provisions of this Declaration, or shall violate any provisions of the Governing Documents, then the Association acting through the Board shall notify the Owner in writing of any such specific violations. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within fifteen (15) days of written notice to the Owner, then the Association acting through the Board, shall have the right to do any or all of the following:

- (a) Assess reasonable fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation, which fines shall constitute Individual Assessments for purposes of this Declaration;
- (b) Enter the offending Unit and remove the cause of such violation, or alter, repair or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Operations Fund as an Individual Assessment, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings;
- (c) Cause any vehicle parked in violation of this Declaration or the Policies and Procedures to be towed and impounded at the Owners' expense;
- (d) Suspend the voting rights, any utility services paid for out of Assessments and the right to use the Common Areas for the period that the violations remain unabated, provided that the Association shall not deprive any Owner of access to and from his Unit in the absence of a foreclosure thereof or court order to such effect; and
- (e) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

**12.2 Lien for Assessments.** The Association shall have a lien against each Unit to secure payment of delinquent Assessments, as well as interest, late charges (subject to the limitations of Washington law), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the lien of a Village Association responsible for collecting the delinquent Assessment; (b) the liens of all taxes, bonds, Assessments, and other levies which by law would be superior, and (c) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure. Sale or transfer of any Unit shall not affect the Assessment lien or relieve such Unit from the lien for any subsequent Assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such Assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not personally be liable for Assessments on such Unit due prior to such acquisition of title. Such unpaid Assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to Assessments, including such acquirer, its successors and assigns.

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

(a) The Association may suspend such Owner's right to use the Common Areas until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any Annual Assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from the Owner's Unit in the absence of a foreclosure thereof or court order to such effect.

(b) The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens against real property under Washington law. The Association, through its duly authorized agents, may bid on the Unit at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no Assessment shall be levied on it and (b) each other Unit shall be charged, in addition to its usual Assessment, its pro rata share of Assessments that would have been charged such Unit had it not been acquired by the Association.

(c) The Association may bring an action to recover a money judgment for unpaid Assessments under this Declaration without foreclosing or waiving the lien

described in Section 12.2. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

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

**12.4 Interest, Expenses and Attorneys' Fees.** Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate of twelve percent (12%) per annum, or such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State of Washington. A late charge may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Association shall bring any suit or action to enforce this Declaration or incurs any costs or collection agency charges to collect any money due under this Declaration or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, with or without litigation, including attorneys' fees. The prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy issues or remedies.

**12.5 Assignment of Rents.** As security for the payment of all liens arising pursuant to this Article 12, each Owner hereby gives to and confers upon the Association the right, power and authority, during the continuance of such ownership, to collect the rents, issues and profits of the Owner's Unit, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligation under this Declaration or the Bylaws to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten (10) days written notice to such Owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, enter upon and take possession of such Owner's Unit or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of any indebtedness to the Association or in performance of any agreement hereunder, and in such order as the Association may determine. Such action shall not cure nor waive any default hereunder or invalidate any act done pursuant to this Declaration. The assignment of rents and powers described in the foregoing section shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder of any first or second mortgage on any Unit, or any part thereof, to do the same or similar acts.

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

**12.7 Dispute Resolution.**

**12.7.1 Mediation/Arbitration.** Any claim, controversy or dispute by or among Declarant, the Association or one or more Owners, or any of them, arising out of or related to this Declaration, the Bylaws or the Residential Areas shall be first subject to mediation and, if not timely settled by mediation, resolved by arbitration in accordance with this Section 12.7. Any party may at any time opt to forego mediation and submit the matter directly to arbitration as provided in this Declaration. The decisions and award of the arbitrator shall be final, binding and nonappealable. The arbitration shall be conducted in Kittitas County, Washington pursuant to the arbitration statutes of the State of Washington and any arbitration award may be enforced by any court with jurisdiction. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statute of limitations or for purposes of filing a notice of pending action ("lis pendens").

**12.7.2 Selection of Arbitrator.** The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties. The arbitrator selected shall be neutral and unbiased, except to the extent the arbitrator's prior relationship with any party is fully disclosed and consented to by the other party or parties. If the parties are unable to agree upon the arbitrator within ten (10) days after a party's demand for arbitration, upon application of any party, the Presiding Judge of the Superior Court of Kittitas County, Washington shall designate the arbitrator.

**12.7.3 Consolidated Arbitration.** Upon demand by any party, claims between or among the parties and third parties shall be submitted in a single, consolidated arbitration.

**12.7.4 Discovery.** The parties to the arbitration shall be entitled to such discovery as would be available to them in an action in Kittitas County Circuit Court. The arbitrator shall have all of the authority of the Court incidental to such discovery, including without limitation authority to issue orders to produce documents or other materials, to issue orders to appear and submit to deposition, and to impose appropriate sanctions including without limitation award against a party for failure to comply with any order.



**12.7.5 Evidence.** The parties to the arbitration may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary for an understanding and determination of the dispute. The arbitrator shall determine the admissibility of the evidence offered. All evidence shall be taken in the presence of the arbitrator and all of the parties, except where any of the parties is absent in default or has waived its right to be present.

**12.7.6 Excluded Matters.** Notwithstanding the foregoing, the following matters shall not be subject to mediation or arbitration under this Section 12.7 (but shall be subject to the applicable provisions of paragraph 12.7.7 below):

(a) actions relating to the collection of fees, Assessments, fines and other charges imposed or levied by the Association (other than disputes as to the validity or amount of such fees, assessments, fines or charges, which disputes shall be subject to mediation/arbitration as provided above);

(b) actions to enforce any order, decision or award rendered by arbitration pursuant to this Section 12.7;

(c) any action by the Association to obtain equitable relief (e.g., temporary restraining order, injunction, or specific performance) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article 7 and Article 8;

(d) any action for declaratory or injunctive relief which seeks a determination as to applicability, enforcement, clarification, or interpretation of any provisions of the Declaration;

(e) any action between Owners, which does not include Declarant or the Association as a party, if such suit asserts a claim which would constitute a cause of action independent of the Governing Documents if the amount in controversy exceeds \$5,000.00, which amount shall be increased in proportion to increases in the Consumer Price Index for Seattle-Tacoma for All Urban Consumers, All Items, from the date of recordation of this Declaration to the date of any such claim;

(f) any action in which any indispensable party is not a party subject to arbitration under this Section 12.7;

(g) any action as to which any applicable statute of limitations would expire within 180 days of a demand for arbitration having been given, unless the party or parties against whom the claim is made agree to toll the statute of limitations as to such claim for such period as may reasonably be necessary to comply with the provisions of this Section 12.7; and



(h) any action between an Owner and a builder of improvements within such Owner's Unit with respect to (i) any statutory warranty, (ii) any contractual warranty, or (iii) any construction defect claim.

The filing of a lis pendens or the application to any court for the issuance of any provisional process or similar remedy described in the Washington or Federal Rules of Civil Procedure shall not constitute a waiver of the right or duty to utilize the procedures specified in this Section 12.7.

**12.7.7 Costs and Attorneys' Fees.** The fees of any mediator and the costs of mediation shall be divided and paid equally by the parties. Each party shall pay its own attorneys' fees and costs in connection with any mediation. The fees of any arbitrator and the costs of arbitration shall be paid by the nonprevailing party or parties; if none, such fees and costs shall be divided and paid equally by the parties. Should any suit, action or arbitration be commenced in connection with any dispute related to or arising out of this Declaration or the Bylaws, to obtain a judicial construction of any provision of the Declaration or the Bylaws, to rescind this Declaration or the Bylaws or to enforce or collect any judgment or decree of any court or any award obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute, as the court or arbitrator may adjudge reasonable, at trial, in the arbitration, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit, action or arbitration proceeding. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party shall be decided by the arbitrator (with respect to attorneys' fees incurred prior to and during the arbitration proceeding) and by the court or courts, including any appellate or review court, in which such matter is tried, heard or decided, including a court that hears a request to compel or enjoin arbitration or that hears exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorneys' fees incurred in such proceedings).

**12.7.8 Survival.** The mediation and arbitration agreement set forth in this Section 12.7 shall survive the transfer by any party of its interest or involvement in the Residential Areas and any Unit therein and the termination of this Declaration.

## **ARTICLE 13 MORTGAGEES**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

**13.1 Subordination of Lien to Mortgages.** The lien of the Assessments or charges provided for in this Declaration shall be subordinate to the lien of any Mortgage on such Unit which was made in good faith and for value and which was recorded prior

to the recordation of the notice of lien. Sale or transfer of any Unit shall not affect the Assessment lien, but the sale or transfer of any Unit which is subject to any mortgage or deed of trust pursuant to a decree of foreclosure or nonjudicial sale thereunder shall extinguish any lien of an Assessment notice of which was recorded after the recording of the Mortgage. Such sale or transfer, however, shall not release the Unit from liability for any Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

**13.2 Reimbursement of First Mortgagees.** First mortgagees of Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Area. First mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

**13.3 Notification of First Mortgagee.** If a first Mortgagee has requested such notice in writing from the Association, the Board shall notify such Mortgagee of any individual Unit of any default in performance of this Declaration by the Owner which is not cured within sixty (60) days after notice of default to the Owner.

**13.4 Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

## **ARTICLE 14 MISCELLANEOUS PROVISIONS**

**14.1 No Implied Obligations.** Nothing in this Declaration shall be construed to require Declarant or any successor to subject Additional Property to this Declaration or to improve or develop any of the Residential Areas or to do so for any particular uses.

**14.2 Right to Approve Additional Covenants.** No Person shall record any declaration of covenants, conditions, and restrictions, declaration of condominium or similar instrument affecting any portion of the Residential Areas without Declarant's prior written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force or effect unless subsequently approved in writing by Declarant.

**14.3 Right to Transfer or Assign Declarant's Rights.** Any or all of Declarant's rights and related obligations under this Declaration may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant then has under this Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and recorded with the Auditor. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any

right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment.

**14.4 Amendment and Repeal.** During the Development Period, Declarant may unilaterally amend this Declaration for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Residential Areas without the consent of the Owner and has no material adverse affect on any right, privilege, or protection granted to the Owners under this Declaration. Any such amendment shall become effective only upon recordation with the Auditor of an instrument executed by the Declarant setting forth in full the amendment or amendments. In addition, this Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Residential Areas, may be amended or repealed by the vote or written consent of Owners holding not less than seventy-five percent (75%) of the voting rights, together with the written consent of the Class B member, if any. Any such amendment or repeal shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that said amendment, amendments or repeal have been approved in the manner required by this Declaration. In no event shall an amendment under this section create, limit or diminish the rights reserved by Declarant under this Declaration without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

**14.5 Regulatory Amendments.** Notwithstanding the provisions of Section 14.4, Declarant shall have the unilateral right to amend this Declaration and the Articles and Bylaws in order to (a) comply with the requirements of any applicable statute, ordinance or regulation of any federal, state or local governmental agency or the Federal Housing Administration, the U.S. Department of Housing and Urban Development, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Washington, or any corporation wholly owned, directly or indirectly, by the United States or the State of Washington which insures, guarantees or provides financing for a planned community or lots in a planned community or regulates the development or sale of real property; (b) to bring any provision of this Declaration into compliance with any applicable statutes, ordinances or judicial determinations to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Residential Areas; (c) to satisfy the requirements of any Governmental Authority; or (d) to comply with the requirements of any governmental agency in connection with obtaining and maintaining registration of any portion of the Residential Areas for sale within the jurisdiction of such agency.

**14.6 Duration.** Unless repealed or terminated in accordance with the provisions of Section 14.4, this Declaration shall have perpetual duration. If State of Washington law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless repealed in accordance with the provisions of Section 14.4 above.

**14.7 Joint Owners.** Unless otherwise provided in a Village Declaration, in any case in which two or more Persons share the ownership of any Unit, regardless of the form of ownership, the responsibility of such Persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such Persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such Persons disagree among themselves as to the manner in which any consent shall be given with respect to a pending matter, any such Person may deliver written notice of such disagreement to the Association, and the right of consent involved shall then be disregarded completely in determining the proportion of consents given with respect to such matter.

**14.8 Lessees and Other Invitees.** Lessees, licensees, invitees, contractors, family members, guests, and other Persons entering the Residential Areas under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of his or her Unit and other areas within the Residential Areas. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such Persons in the same manner and to the same extent as if the failure had been committed by such Owner.

**14.9 Notice of Sale or Transfer of Title.** Any Owner selling or otherwise transferring title to his or her Unit shall give the Association written notice within seven (7) days after such transfer of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including Assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

**14.10 Exclusive Rights to Use Name of Development.** No Person shall use the name "Suncadia" or any derivative of such name in any printed, digital (i.e. internet) or other promotional or commercial material without Declarant's prior written consent. However, an Owner may use the name "Suncadia" where such term is used solely to specify that the Owner's property is located within the Residential Areas and Village Associations shall be entitled to use the words "Suncadia" in their names. In no event shall any Owner enter into an agreement with any third party for the sale, rental or management of the Owner's Unit which agreement purports to grant any right to such

third party to use the name "Suncadia" or any derivative of such name in violation of this provision.

14.11 **Nonwaiver.** Failure by the Association or by any Owner to enforce any covenant or restriction in this Declaration contained shall in no event be deemed a waiver of the right to do so thereafter.

14.12 **Construction; Severability; Number; Captions.** This Declaration shall be governed and construed under the laws of the State of Washington. It shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory sections of this Declaration. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

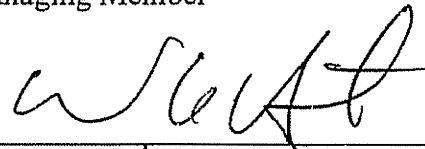
14.13 **Terminology and Captions.** As used in this Declaration, the singular shall include the plural and the plural the singular, and the masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used in this Declaration are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

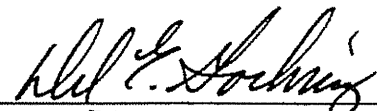
14.14 **Notices and Other Documents.** Any notice or other document permitted or required by this Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed made twenty-four (24) hours after having been deposited in the United States mail as certified or registered mail, with postage prepaid, addressed as follows: (a) if to Declarant or the Association, P.O. Box 887, Roslyn, WA 98941; (b) if to a Village Association, to the address designated by such Village Association in writing with the Association, or at the principal office of such Village Association; or (c) if to an Owner, to such Owner at the address of such Owner's property within the jurisdiction of the Association or such other address as it has registered with the Association. If to an Owner, at the address given by the Owner at the time of purchase of a Unit, or at the Unit. The address of a party may be changed at any time by notice in writing delivered as provided in this section.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first written above.

MOUNTAINSTAR RESORT  
DEVELOPMENT, LLC,  
a Delaware limited liability company,  
d/b/a **SUNCADIA DEVELOPMENT  
COMPANY**

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By   
Name: WILLIAM G. HUNT  
Its: EVP

By   
Name: DEL F. GOEHRING  
Its: VICE President



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Page: 71 of 77  
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STATE OF WASHINGTON

COUNTY OF Kittitas

} ss.

On this day personally appeared before me William G. Hunt and Del E Goehring, to me known to be the EVP and Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of MOUNTAINSTAR RESORT DEVELOPMENT, LLC, the Delaware limited liability company, d/b/a **SUNCADIA DEVELOPMENT COMPANY**, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 15 day of July, 2004.



Patti A. Madison  
Printed Name Patti A. Madison  
NOTARY PUBLIC in and for the State of Washington,  
residing at 4420 Red Bridge Rd, P.O. Box 1000  
My Commission Expires December 19, 2007



## EXHIBIT A

### PROPERTY SUBJECT TO THIS DECLARATION

The following real property as shown on the plat of MOUNTAINSTAR DIVISION 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274:

Units: Lots numbered 1 through 247, inclusive.

Common Areas: All private roads shown on the foregoing plat except MountainStar Drive and MountainStar Circle.

The following residential real property as shown on the Plat of MOUNTAINSTAR PHASE 1, DIVISION 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38:

Units: Lots 1 through 166, inclusive.

Common Areas: All private roads shown on the foregoing plat except MountainStar Drive and Cle Elum Drive.

## EXHIBIT B

### PROPERTY WHICH MAY BE MADE SUBJECT TO THIS DECLARATION

Any real property located within Kittitas County, Washington, which is now, or may be, subject to the MPR Project Development Permit issued by Kittitas County on October 10, 2000, together with the Development Agreement also dated October 10, 2000 for MountainStar Resort (now known as "Suncadia"), as the same may hereafter be amended and/or as may be set forth in the MPR Legal Description as recorded in the records of Kittitas County, Washington.

## EXHIBIT C

### ADDITIONAL RESTRICTIONS—DIVISION 1A

The following additional restrictions were imposed on Lots 1 through 247 of the Plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274 ("Subject Property") pursuant to a First Supplemental Declaration recorded under Kittitas County Auditor's File No. 200308210009:

**1. ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

**1.1 Minimum Dwelling Size.** No primary dwelling constructed within the Subject Property shall have an interior floor area of less than 2,200 square feet. The calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee. Garage space will not be included in the calculation of the interior floor area except that any incremental square footage within a garage in excess of 450 square feet will be included in the calculation of the interior floor area of the dwelling.

**1.2 Maximum Dwelling Size Restrictions.** Dwellings constructed within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

**1.3 Time-sharing or Fractional Interest Ownership Prohibited.** No purchaser of a Unit or any of several Units within the Subject Property shall receive a right to occupy such Unit or any of several Units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land, and any such attempted conveyance shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods.

**2. AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Exhibit C for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has a no material adverse affect on any right, privilege, or protection granted to the Owners under this Exhibit C. In addition, this Exhibit C may be amended by the vote or written consent of Owners holding not less than seventy-five percent (75%) of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation

with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Exhibit C. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

**3. BINDING EFFECT.** The Subject Property, including all Units therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this Exhibit C, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

**4. OTHER PROVISIONS.** The foregoing terms and conditions are in addition to and do not supersede or replace the terms and conditions of the Declaration, all of which shall remain in full force and effect.

## EXHIBIT D

### ADDITIONAL RESTRICTIONS—PHASE 1, DIVISION 2

The following additional restrictions were imposed on Lots 1 through 166 of the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38 ("Subject Property") pursuant to a Third Supplemental Declaration recorded under Kittitas County Auditor's File No. 200401080028:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Exhibit D.

2. **ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

2.1 **Minimum Dwelling Size.** No primary dwelling constructed on a Unit within the Subject Property shall have an interior floor area of less than 2,200 square feet. The calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee. Garage space will not be included in the calculation of the interior floor area except that any incremental square footage within a garage in excess of 450 square feet will be included in the calculation of the interior floor area of the dwelling.

2.2 **Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

2.3 **Time-sharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

3. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Exhibit D for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Exhibit D. In addition, this Exhibit D may be

amended by the vote or written consent of Owners holding not less than seventy-five percent (75%) of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Exhibit D. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

**4. BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this Exhibit D, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

**5. OTHER PROVISIONS.** The terms and conditions of this Exhibit D are in addition to and do not supersede or replace the terms and conditions of the Declaration, all of which shall remain in full force and effect.

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Page: 1 of 4

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Kittitas Co Auditor AMERITITLE

**HILLIS CLARK MARTIN & PETERSON, P.S.**

Attention: Steven R. Rovig

500 Galland Building

1221 Second Avenue

Seattle, WA 98101-2925

COURTESY RETURNING ONLY...  
NO LIABILITY FOR VALIDITY  
AND / OR ACCURACY ASSUMED BY  
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**FIRST SUPPLEMENTAL DECLARATION TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                           |                                                              |                  |
|-----------------------------------------------------------|--------------------------------------------------------------|------------------|
| <b>Grantor:</b>                                           | SUNCADIA, LLC                                                |                  |
| <b>Grantee:</b>                                           | PLATS OF MOUNTAINSTAR                                        |                  |
| <b>Legal Description:</b><br>(abbreviated)                | Portions of Sections 19, 20, 28, 29 and 30, T20N, R15E, W.M. |                  |
| <b>Assessor's Tax Parcel Nos:</b>                         | 20-15-30000-0020                                             | 20-15-20000-0010 |
|                                                           | 20-15-29000-0009                                             | 20-15-19000-0016 |
|                                                           | 20-15-29000-0001                                             | 20-15-19000-0008 |
|                                                           | 20-15-20000-0015                                             |                  |
| <b>Reference Nos. Documents<br/>Released or Assigned:</b> | 200407200037                                                 |                  |

THIS FIRST SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("First Supplement"), dated for reference purposes as of March 10, 2005, is made by **SUNCADIA, LLC**, a Delaware limited liability company, formerly known as MountainStar Resort Development, LLC ("Declarant").

**RECITALS**

A. Declarant owns certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The

portion of Suncadia referred to herein as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 on July 20, 2004 (the "Declaration").

**B.** Pursuant to the authority reserved by Declarant in the Declaration, including, without limitation, Sections 1.9, 1.30, 5.6, 5.14.1, and 5.14.2, Declarant is recording this First Supplement to designate certain private roads in the Residential Areas as Limited Common Areas.

**C.** Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

### AMENDMENTS

**1. Designation of Limited Common Areas.** All (i) private roads shown on the plats of MountainStar Division 1A and MountainStar Phase 1, Division 2, except for Suncadia Trail and Swiftwater Drive, (collectively, the "Limited Common Area Roads") and (ii) gates or monitored entrances installed to regulate access to the Limited Common Area Roads, are hereby designated as Limited Common Areas restricted to the exclusive use of the owners or occupants of the Units located on Lots 1 through 247, inclusive, on the plat of MountainStar Division 1A, and Lots 1 through 166, inclusive, on the plat of MountainStar Phase 1, Division 2, (the "Benefited Units"). Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended and superseded by the replacement **EXHIBIT A** attached hereto.

**2. Use of Common Areas by Others.** As set forth in Section 5.14.4 of the Declaration, the Association may permit the Owners of Units other than the Benefited Units to use the Limited Common Area Roads upon payment of reasonable user fees, which fees shall be used to offset the expenses attributable to such Limited Common Areas.

**3. Costs Associated with Limited Common Area Roads.** Pursuant to Section 11.3.4, all costs associated with maintenance, repair, and replacement of the Limited Common Area Roads shall be allocated among the Owners of the Benefited Units.

**4. Effective Date.** This First Supplement shall take effect upon recording.

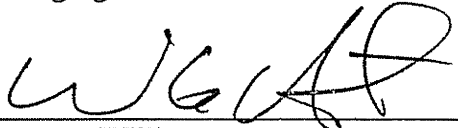
**5. Other Provisions.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

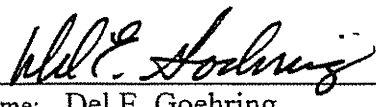
EXECUTED as of the day and year first above written.

DECLARANT:

SUNCADIA, LLC,  
a Delaware limited liability company  
(formerly known as MountainStar Resort  
Development, LLC)

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

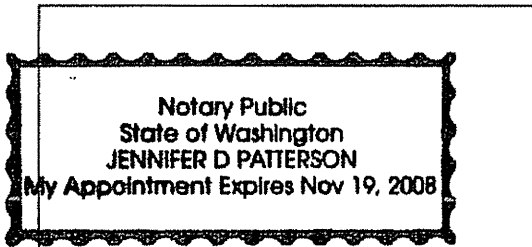
By   
Name: William G. Hunt  
Its: Executive Vice President

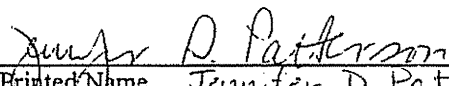
By   
Name: Del E. Goehring  
Its: Vice President

STATE OF WASHINGTON }  
COUNTY OF KITTITAS } ss.

On this day personally appeared before me William G. Hunt and Del E. Goehring, to me known to be the Executive Vice President and Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, formerly known as MountainStar Resort Development, LLC, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10th day of March, 2005.



  
Printed Name Jennifer D. Patterson  
NOTARY PUBLIC in and for the State of Washington,  
residing at South Cle Elum  
My Commission Expires November 19, 2008

## EXHIBIT A

### PROPERTY SUBJECT TO THIS DECLARATION

The following real property as shown on the plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274:

Units: Lots numbered 1 through 247, inclusive.  
Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail.

The following residential real property as shown on the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38:

Units: Lots 1 through 166, inclusive.  
Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail and Swiftwater Drive.

Note: MountainStar Drive and MountainStar Circle have been re-named Suncadia Trail.  
Cle Elum Drive has been re-named Swiftwater Drive.

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Page: 1 of 6

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**HILLIS CLARK MARTIN & PETERSON, P.S.**

Attention: Steven R. Rovig

500 Galland Building

1221 Second Avenue

Seattle, WA 98101-2925

REVIEWED BY

KITTITAS COUNTY TREASURER

DEPUTY

DATE

*K. I. [signature]*

*05-03-05*

**SECOND SUPPLEMENTAL DECLARATION TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                   |                                                              |                  |                  |
|---------------------------------------------------|--------------------------------------------------------------|------------------|------------------|
| Grantor:                                          | SUNCADIA, LLC                                                |                  |                  |
| Grantee:                                          | PLAT OF SUNCADIA PHASE 1, DIVISION 3                         |                  |                  |
| Legal Description: (abbreviated)                  | Portions of Sections 19, 20, 28, 29 and 30, T20N, R15E, W.M. |                  |                  |
| Assessor's Tax Parcel Nos:                        | 20-15-20040-0003                                             | 20-15-20040-0008 | 20-15-20040-0009 |
|                                                   | 20-15-20012-0001                                             | 20-15-20012-0003 | 20-15-20013-0001 |
|                                                   | 20-15-20013-0003                                             | 20-15-20013-0005 | 20-15-20040-0004 |
|                                                   | 20-15-20040-0010                                             | 20-15-20040-0002 | 20-15-21030-0022 |
|                                                   | 20-15-28000-0005                                             | 20-15-29000-0004 | 20-15-21030-0044 |
|                                                   | 20-15-19000-0010                                             | 20-15-20000-0011 | 20-15-20000-0016 |
|                                                   | 20-15-20013-0002                                             | 20-15-20040-0013 | 20-15-20040-0011 |
|                                                   | 20-15-21030-0046                                             | 20-15-28000-0015 |                  |
| Reference Nos. of Documents Released or Assigned: | 200407200037                                                 |                  | 200503170033     |

THIS SECOND SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Second Supplement"), dated for reference purposes as of May 2, 2005, is made by **SUNCADIA, LLC**, a Delaware limited liability company ("Declarant").

## RECITALS

A. Declarant owns certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by a First Supplemental Declaration as recorded under Kittitas County Recording No. 200503170033 ("First Supplemental Declaration").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **EXHIBIT A** as the Subject Property subject to the Declaration and to impose certain additional and/or different restrictions as provided in this Second Supplement.

C. In addition, pursuant to the authority reserved by Declarant in the Declaration, including, without limitation, Sections 1.9, 1.30, 5.6, 5.14.1, and 5.14.2, Declarant wishes to designate certain private roads within the Subject Property as Limited Common Areas and to expand the definition of Benefited Units with regard to the designation of certain Limited Common Areas contained in the First Supplemental Declaration.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Second Supplement.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All platted numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Common Areas.** Certain roads and tracts as more particularly identified on the attached **EXHIBIT A** shall be Common Areas or Limited Common Areas.



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Page: 3 of 6

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3. **ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

3.1 **Minimum Dwelling Size.** No primary dwelling constructed on a Unit within the Subject Property shall have an interior floor area of less than 2,200 square feet. The calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee.

3.2 **Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

3.3 **Time-sharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

4. **DESIGNATION OF LIMITED COMMON AREAS.** Section 1 of the First Supplemental Declaration as recorded under Kittitas County Recording No. 200503170033 is hereby amended in its entirety as follows:

1. **Designation of Limited Common Areas.** All (i) private roads shown on the plats of MountainStar Division 1A and MountainStar Phase 1, Division 2, except for Suncadia Trail and Swiftwater Drive, together with all private roads within the plat of Suncadia Phase 1, Division 3 except (a) Suncadia Trail, (b) Swiftwater Drive, (c) Coal Mine Way from its intersection with Suncadia Trail to the easterly boundary of Lot 3-110, (d) Firehouse Road and (e) Rope Rider Drive (collectively, the "Limited Common Area Roads"), (ii) Access Tract A-1 as shown on the plat of Suncadia Phase 1, Division 3 and (iii) gates or monitored entrances installed to regulate access to the Limited Common Area Roads, are hereby designated as Limited Common Areas restricted to the exclusive use of the owners or occupants of the Units located on Lots 1 through 247, inclusive, on the plat of MountainStar Division 1A, Lots 1 through 166, inclusive, on the plat of MountainStar Phase 1, Division 2, and Lots 1 through 159, inclusive, on the plat of Suncadia Phase 1, Division 3 (the "Benefited Units"). Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration



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is hereby amended and superseded by the replacement **EXHIBIT A** attached hereto.

5. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Second Supplement for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Second Supplement. In addition, this Second Supplement may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Second Supplement. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

6. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

7. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

8. **EFFECTIVE DATE.** This Second Supplement shall take effect upon recording.

EXECUTED as of the day and year first above written.

DECLARANT:

SUNCADIA, LLC,  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

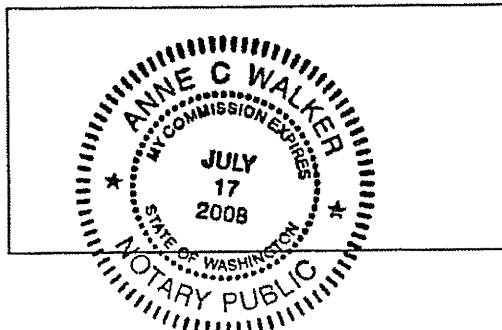
By: [Signature]  
Name: William G. Hunt  
Its: Executive Vice President

By: [Signature]  
Name: Del E. Goehring  
Its: Vice President

STATE OF WASHINGTON }  
COUNTY OF KITTITAS } ss.

On this day personally appeared before me William G. Hunt and Del E. Goehring, to me known to be the Executive Vice President and Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, formerly known as MountainStar Resort Development, LLC, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 2nd day of May, 2005.



[Signature]  
Printed Name Anne C. Walker  
NOTARY PUBLIC in and for the State of Washington,  
residing at Cle Elum  
My Commission Expires 7/17/08

## EXHIBIT A

### PROPERTY SUBJECT TO THE DECLARATION

Property subject to the Declaration is as follows:

- A. The following real property as shown on the plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274:

Units: Lots numbered 1 through 247, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail.

- B. The following real property as shown on the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38:

Units: Lots 1 through 166, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail and Swiftwater Drive.

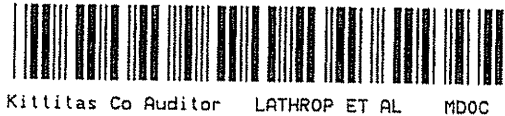
- C. The following real property as shown on the plat of Suncadia Phase 1, Division 3, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 94 to 120 and referred to in this Second Supplement as the "**Subject Property**":

Units: Lots numbered 1 through 159, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except (i) Suncadia Trail, (ii) Swiftwater Drive, (iii) Coal Mine Way from its intersection with Suncadia Trail to the easterly boundary of Lot 3-110, (iv) Firehouse Road and (v) Rope Rider Drive.

Access Tract: Tract AC-1.

When Recorded, Return to:



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Page: 1 of 8  
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HILLIS CLARK MARTIN & PETERSON, P.S.

Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

REVIEWED BY  
KITITITAS COUNTY TREASURER  
DEPUTY M. Starks  
DATE 4.19.2006

**THIRD SUPPLEMENTAL DECLARATION TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                    |                                                                                                                       |                     |  |
|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|---------------------|--|
| Grantor:                                           | <u>SUNCADIA, LLC</u>                                                                                                  |                     |  |
| Grantee:                                           | <u>PLAT OF SUNCADIA PHASE 1, DIVISION 4</u>                                                                           |                     |  |
| Legal Description: (abbreviated)                   | <u>TRACTS Z-1 AND LOT 248, MOUNTAINSTAR PHASE 1,<br/>DIVISION 1 (ALTERATION) RECORDED IN VOL. 10,<br/>PAGES 12-45</u> |                     |  |
| <input checked="" type="checkbox"/> Additional on: | <u>EXHIBIT A</u>                                                                                                      |                     |  |
| Assessor's Tax Parcel Nos:                         | <u>20-15-29050-0248 and 20-15-29050-0265</u>                                                                          |                     |  |
| Reference Nos. of Documents Released or Assigned:  | <u>200407200037</u>                                                                                                   | <u>200503170033</u> |  |
|                                                    | <u>200505040002</u>                                                                                                   |                     |  |

THIS THIRD SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Third Supplement"), dated for reference purposes as of April 18, 2006, is made by SUNCADIA, LLC, a Delaware limited liability company ("Declarant").

**RECITALS**

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated

Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by a First Supplemental Declaration as recorded under Kittitas County Recording No. 200503170033 and a Second Supplemental Declaration as recorded under Kittitas County Recording No. 200505040002 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **EXHIBIT A** as the Subject Property subject to the Declaration and to impose certain additional and/or different restrictions as provided in this Third Supplement.

C. In addition, pursuant to the authority reserved by Declarant in the Declaration, Declarant wishes to designate certain private roads and tracts within the Subject Property as Limited Common Areas, expand the definition of Benefited Units with regard to the designation of certain Limited Common Areas, and further amend the Declaration to reflect certain previously recorded plat alterations and adjustments.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

#### AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Third Supplement.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All platted numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Common Areas.** Certain roads and tracts as more particularly identified on the attached **EXHIBIT A** shall be Common Areas or Limited Common Areas.

3. **ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

3.1 **Minimum Dwelling Size.** No primary dwelling constructed on a Unit within the Subject Property shall have an interior floor area of less than 2,200 square

feet. The calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee.

**3.2 Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

**3.3 Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

**4. DESIGNATION OF LIMITED COMMON AREAS.** The designation of Limited Common Areas as set forth in the First Supplemental Declaration and the Second Supplemental Declaration referenced above is hereby amended as follows:

**4.1 Benefited Units.** The definition of Benefited Units for purposes of all Limited Common Areas previously described in the Declaration, as amended, as well as the private roads shown on the plat of the Subject Property referenced herein shall be amended to include Lots 1 through 114, inclusive, of the Plat of Suncadia Phase 1, Division 4.

**4.2 Specifically Benefited Units.** Certain Limited Common Areas within the Subject Property are solely for the benefit of certain Units, all as set forth in the table below:

| Access and Utility Tract | Benefited Units      |
|--------------------------|----------------------|
| Tract AC-1               | Lots 61, 62 and 64 * |
| Tract AC-4               | Lots 38 and 39       |
| Tract AC-7               | Lots 24 and 25       |
| Tract AC-8               | Lots 21 and 22       |

\* Lot 60 is benefited by a non-exclusive utility easement over Tract AC-1, but, because it does not have access rights, Tract AC-1 shall not be deemed a Limited Common Area for the benefit of Lot 60.

4.3 **Conforming Amendments.** Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended and superseded by the replacement **EXHIBIT A** attached hereto.

5. **PLAT ALTERATIONS.** As a result of certain changes to previously recorded plats, references are hereby changed to reflect those altered plats, as follows:

5.1 All references in the Declaration to the plat known as MountainStar Division 1A shall hereby refer to MountainStar Phase 1, Division 1, Alteration recorded in Kittitas County, Washington, in Volume 10 of Plats, pages 12 through 45.

5.2 All references in the Declaration to the plat known as MountainStar Phase 1, Division 2 shall hereby refer to MountainStar Phase 1, Division 2 (Plat Alteration) recorded in Kittitas County, Washington, in Volume 9 of Plats, pages 157 through 187.

5.3 References in the Declaration to the road known as Coal Mine Way as first referenced in the plat known as Suncadia Phase 1, Division 3 shall hereby be referred to as follows:

Coal Mine Way of Suncadia, Phase 1, Division 3, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 9 of Plats, pages 94 through 120, records of Kittitas County, Washington; EXCEPT Tract G-4B of that certain Survey recorded January 19, 2006, under Auditor's File No. 200601190072 and filed in Book 32 of Surveys, Page 46, records of Kittitas County, State of Washington.

6. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Third Supplement for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Third Supplement. In addition, this Third Supplement may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Third Supplement. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

7. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

8. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

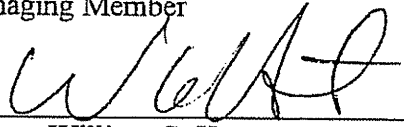
9. **EFFECTIVE DATE.** This Third Supplement shall take effect upon recording.

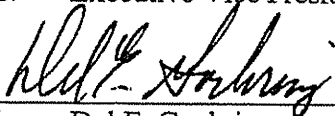
EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By:   
Name: William G. Hunt  
Its: Executive Vice President

By:   
Name: Del E. Goehring  
Its: Senior Vice President – Finance



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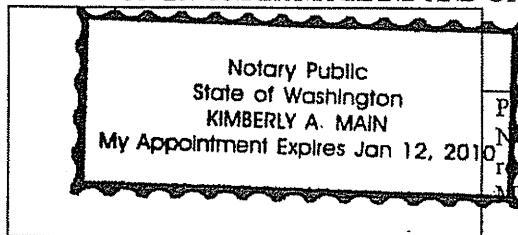
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STATE OF WASHINGTON

COUNTY OF KITTITAS

} SS.

On this day personally appeared before me William G. Hunt and Del E. Goehring, to me known to be the Executive Vice President and Senior Vice President – Finance, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, formerly known as MountainStar Resort Development, LLC, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 19<sup>th</sup> day of April, 2006.

Kimberly A Main  
Printed Name Kimberly A Main  
NOTARY PUBLIC in and for the State of Washington,  
residing at Ronald  
My Commission Expires Jan 12, 2010

**EXHIBIT A**

**PROPERTY SUBJECT TO THE DECLARATION**

Property subject to the Declaration is as follows:

- A. The following real property as shown on the plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 1 ALTERATION, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 12 through 45:

Units: Lots numbered 1 through 247, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail.

- B. The following real property as shown on the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 2 (PLAT ALTERATION), recorded in Kittitas County, Washington, Volume 9 of Plats, pages 157 through 187:

Units: Lots 1 through 166, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail and Swiftwater Drive.

- C. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 3, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 94 to 120, as amended by that certain Boundary Line Adjustment Survey affecting tracts G-4, OS-10 and Coal Mine Way, recorded in Kittitas County, Washington, Volume 32 of Surveys, page 46:

Units: Lots numbered 1 through 159, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except (i) Suncadia Trail, (ii) Swiftwater Drive, (iii) Coal Mine Way from its intersection with Suncadia Trail to the easterly boundary of Lot 3-110, (iv) Firehouse Road and (v) Rope Rider Drive.

Access Tract: Tract AC-1.



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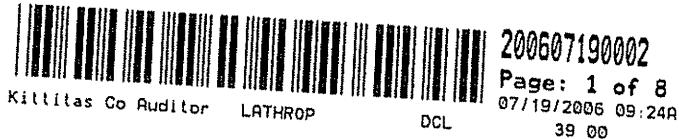
- D. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 4, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 50 to 73 and referred to in this Third Supplement as the "**Subject Property**":

Units: Lots numbered 1 through 114, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat.

Access and Utility Tracts: Tract AC-1, AC-4, AC-7 and AC-8.

When Recorded, Return to:



HILLIS CLARK MARTIN & PETERSON, P.S.  
Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

REVIEWED BY  
KITTITAS COUNTY TREASURER  
DEPUTY M. STARK  
DATE 7-19-2006

**FOURTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                    |                                                                                                                    |                     |  |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|---------------------|--|
| Grantor:                                           | <u>SUNCADIA, LLC</u>                                                                                               |                     |  |
| Grantee:                                           | <u>PLAT OF SUNCADIA</u>                                                                                            |                     |  |
| Legal Description: (abbreviated)                   | <u>LOTS 6 AND 7 OF SURVEY RECORDED IN BOOK 30 OF SURVEYS, PAGES 104-107 RECORDS OF KITTITAS COUNTY, WASHINGTON</u> |                     |  |
| <input checked="" type="checkbox"/> Additional on: | <u>EXHIBIT A</u>                                                                                                   |                     |  |
| Assessor's Tax Parcel Nos:                         | <u>20-15-19000-0019, 20-15-20000-0008</u>                                                                          |                     |  |
| Reference Nos. of Documents Released or Assigned:  | <u>200407200037</u>                                                                                                | <u>200503170033</u> |  |
|                                                    | <u>200505040002</u>                                                                                                | <u>200604190029</u> |  |

THIS FOURTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Fourth Supplemental"), dated for reference purposes as of July 18, 2006, is made by SUNCADIA, LLC, a Delaware limited liability company ("Declarant").

**RECITALS**

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia

Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by a First Supplemental Declaration as recorded under Kittitas County Recording No. 200503170033, a Second Supplemental Declaration as recorded under Kittitas County Recording No. 200505040002 and a Third Supplemental Declaration as recorded under Kittitas County Recording No. 200604190029 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **EXHIBIT A** as the Subject Property subject to the Declaration and to impose certain additional and/or different restrictions as provided in this Fourth Supplemental.

C. In addition, pursuant to the authority reserved by Declarant in the Declaration, Declarant wishes to designate certain private roads and tracts within the Subject Property as Limited Common Areas and expand the definition of Benefited Units with regard to the designation of certain Limited Common Areas.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

#### AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Fourth Supplemental.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All platted numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Common Areas.** Certain roads and tracts as more particularly identified on the attached **EXHIBIT A** shall be Common Areas, Limited Common Areas or Village Common Areas.

3. **ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

3.1 **Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including

renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

**4. PREVIOUSLY DESIGNATED LIMITED COMMON AREAS.** The designation of Limited Common Areas as set forth in Section 1 of the First Supplemental Declaration, Section 4 of the Second Supplemental Declaration and Section 4.1 of the Third Supplemental Declaration referenced above is hereby amended as follows:

**4.1 Benefited Units.** The definition of Benefited Units for purposes of such previously designated Limited Common Areas is amended to include Lots 1 through 89, inclusive, of the Plat of Suncadia Phase 1, Division 5.

**4.2 Additional Limited Common Areas.** All private roads within the Plat of Suncadia Phase 1, Division 5 are hereby designated Limited Common Areas for the benefit of the Benefited Units.

**4.3 Conforming Amendments.** Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended and superseded by the replacement **EXHIBIT A** attached hereto.

**5. VILLAGE.** Pursuant to Section 3.1 of the Declaration, the Subject Property is hereby designated as a Village to be known as "Prospector's Reach". Accordingly, Tracts S-1, S-2, S-3 and S-4 and Tracts OS-1 and OS-2 are designated as Village Common Areas.

**6. AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Fourth Supplement for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Fourth Supplement. In addition, this Fourth Supplement may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Fourth Supplement. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

7. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

8. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

9. **EFFECTIVE DATE.** This Fourth Supplement shall take effect upon recording.

EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By W G Hunt  
Name: William G. Hunt  
Its: Executive Vice President

By Del E. Goehring  
Name: Del E. Goehring  
Its: Senior Vice President - Finance

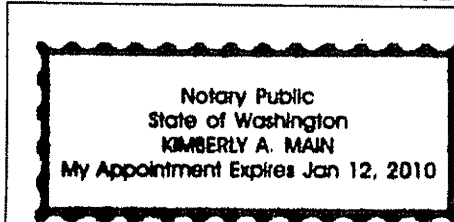
STATE OF WASHINGTON

COUNTY OF KITTITAS

SS.

On this day personally appeared before me William G. Hunt and Del E. Goehring, to me known to be the Executive Vice President and Senior Vice President – Finance, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, formerly known as MountainStar Resort Development, LLC, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 17<sup>th</sup> day of July, 2006.



Kimberly A. Main  
Printed Name Kimberly A. Main  
NOTARY PUBLIC in and for the State of Washington,  
residing at Ronald  
My Commission Expires Jan 12, 2010

CONSENT OF BENNETT HOMES KITTITAS, LLC

As owner of the Subject Property, the undersigned consents to the foregoing Fourth Supplemental Declaration.

BENNETT HOMES KITTITAS, LLC,  
a Washington limited liability company

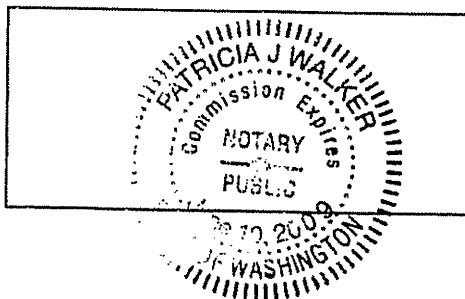
By: Bennett Homes, Inc.,  
a Washington corporation  
Its Managing Member

By [Signature]  
Name: Todd R. Bennett  
Its: Chairman

STATE OF WASHINGTON }  
COUNTY OF King } ss.

On this day personally appeared before me Todd R. Bennett, to me known to be the Chairman of Bennett Homes, Inc., a Washington corporation and Managing Member of BENNETT HOMES KITTITAS, LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 14<sup>th</sup> day of July, 2006.



[Signature]  
Printed Name Patricia J. Walker  
NOTARY PUBLIC in and for the State of Washington,  
residing at Sammamish, WA  
My Commission Expires 6/10/09



200607190002

Page: 7 of 8

07/19/2006 09:24A

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Kittitas Co Auditor

LATHROP

DCL

**EXHIBIT A****PROPERTY SUBJECT TO THE DECLARATION**

Property subject to the Declaration is as follows:

- A. The following real property as shown on the plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 1 ALTERATION, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 12 through 45:

Units: Lots numbered 1 through 247, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail.

- B. The following real property as shown on the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 2 (PLAT ALTERATION), recorded in Kittitas County, Washington, Volume 9 of Plats, pages 157 through 187:

Units: Lots 1 through 166, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail and Swiftwater Drive.

- C. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 3, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 94 to 120, as amended by that certain Boundary Line Adjustment Survey affecting tracts G-4, OS-10 and Coal Mine Way, recorded in Kittitas County, Washington, Volume 32 of Surveys, page 46:

Units: Lots numbered 1 through 159, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except (i) Suncadia Trail, (ii) Swiftwater Drive, (iii) Coal Mine Way from its intersection with Suncadia Trail to the easterly boundary of Lot 3-110, (iv) Firehouse Road and (v) Rope Rider Drive.

Access Tract: Tract AC-1.



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Page: 8 of 8  
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39 00

- D. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 4, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 50 to 73;

Units: Lots numbered 1 through 114, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat.

Access and Utility Tracts: Tract AC-1, AC-4, AC-7 and AC-8.

- E. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 5, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 103 to 109 :

Units: Lots numbered 1 through 89, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat.

Village Common Areas: Tracts S-1 through S-4 for monument signage and Tracts OS-1 and OS-2.



When Recorded, Return to:

**HILLIS CLARK MARTIN & PETERSON, P.S.**

Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

REVIEWED BY

KITTITAS COUNTY TREASURER

DEPUTY

DATE

R. Parkhurst

9/28/06

**FIFTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                           |                                                                                                                   |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| <b>Grantor:</b>                                           | SUNCADIA, LLC                                                                                                     |
| <b>Grantee:</b>                                           | PLAT OF SUNCADIA                                                                                                  |
| <b>Legal Description: (abbreviated)</b>                   | LOTS 1 AND 2 OF SURVEY RECORDED IN BOOK 30 OF<br>SURVEYS, PAGES 104-107 RECORDS OF KITTITAS<br>COUNTY, WASHINGTON |
| <input checked="" type="checkbox"/> <b>Additional on:</b> | EXHIBIT A                                                                                                         |
| <b>Assessor's Tax Parcel Nos:</b>                         | 20-15-18030-0002, 20-15-18030-0008, 20-14-13010-0002<br>20-14-13010-0004, 20-14-13000-0008, 20-15-18030-0009      |
| <b>Reference Nos. of Documents Released or Assigned:</b>  | 200407200037      200503170033<br>200505040002      200604190029<br>200607190002                                  |

THIS FIFTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Fifth Supplemental"), dated for reference purposes as of July 31, 2006, is made by **SUNCADIA, LLC**, a Delaware limited liability company ("Declarant").



## RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by a First Supplemental Declaration as recorded under Kittitas County Recording No. 200503170033, a Second Supplemental Declaration as recorded under Kittitas County Recording No. 200505040002, a Third Supplemental Declaration as recorded under Kittitas County Recording No. 200604190029, and a Fourth Supplemental Declaration as recorded under Kittitas County Recording No. 200607190002 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **EXHIBIT A** as the Subject Property subject to the Declaration and to impose certain additional and/or different restrictions as provided in this Fifth Supplemental.

C. In addition, pursuant to the authority reserved by Declarant in the Declaration, Declarant wishes to designate certain private roads and tracts within the Subject Property as Limited Common Areas and expand the definition of Benefited Units with regard to the designation of certain Limited Common Areas.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Fifth Supplemental.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All platted numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Common Areas.** Certain roads and tracts as more particularly identified on the attached **EXHIBIT A** shall be Common Areas, Limited Common Areas or Village Common Areas.

**3. ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

**3.1 Minimum Dwelling Size.** No primary dwelling constructed on a Unit within the Subject Property shall have an interior floor area of less than 2,200 square feet. The calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee.

**3.2 Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

**3.3 Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

**4. PREVIOUSLY DESIGNATED LIMITED COMMON AREAS.** The designation of Limited Common Areas as set forth in Section 1 of the First Supplemental Declaration, Section 4 of the Second Supplemental Declaration, Section 4.1 of the Third Supplemental Declaration and Section 4 of the Fourth Supplemental Declaration referenced above is hereby amended as follows:

**4.1 Benefited Units.** The definition of Benefited Units for purposes of such previously designated Limited Common Areas is amended to include Lots 1 through 61, inclusive, of the Plat of Suncadia Phase 2, Division 2.

**4.2 Additional Limited Common Areas.** Except for Swiftwater Drive which has been previously designated as a "Community Improvement", all private roads within the Plat of Suncadia Phase 2, Division 2 are hereby designated Limited Common Areas for the benefit of the Benefited Units.

**4.3 Conforming Amendments.** Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended and superseded by the replacement **EXHIBIT A** attached hereto.

5. **SPECIFICALLY BENEFITED UNITS.** Certain Limited Common Areas within the Subject Property are solely for the benefit of certain Units, all as set forth in the table below:

Plat of Suncadia Phase 2, Division 2:

| Access and Utility Tract | Benefited Units |
|--------------------------|-----------------|
| AC-1                     | Lots 60 and 61  |
| AC-2                     | Lots 58 and 59  |
| AC-3                     | Lots 31 and 32  |
| AC-4                     | Lots 28 and 29  |
| AC-5                     | Lots 26 and 27  |
| AC-6                     | Lots 20 and 21  |
| AC-7                     | Lots 18 and 19  |
| AC-8                     | Lots 6 and 7    |
| AC-9                     | Lots 43 and 44  |

6. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Fifth Supplemental for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Fifth Supplemental. In addition, this Fifth Supplemental may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Fifth Supplemental. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

7. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any

part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

8. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

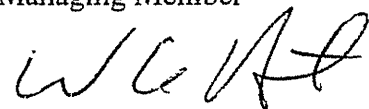
9. **EFFECTIVE DATE.** This Fifth Supplemental shall take effect upon recording.

EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By   
Name: WILLIAM G. HUNT  
Its: EVP

By   
Name: GARY A. KYLESON  
Its: VICE PRESIDENT



200609280022

Page: 6 of 8

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Kittitas Co Auditor

SUNCADIA

DCL

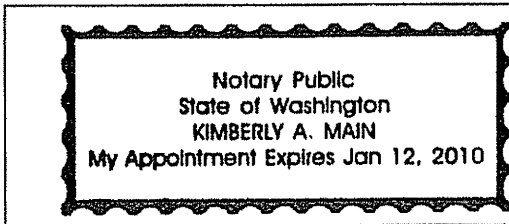
STATE OF WASHINGTON

COUNTY OF KITTITAS

SS.

On this day personally appeared before me William G. Hunt and Gary A. Kittleson, to me known to be the Executive Vice President and Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 31<sup>st</sup> day of July, 2006.



Kimberly A. Main  
Printed Name Kimberly A. Main  
NOTARY PUBLIC in and for the State of Washington,  
residing at Ronald  
My Commission Expires Jan. 12, 2010

**EXHIBIT A**

**PROPERTY SUBJECT TO THE DECLARATION**

Property subject to the Declaration is as follows:

- A. The following real property as shown on the plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 1 ALTERATION, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 12 through 45:

Units: Lots numbered 1 through 247, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail.

- B. The following real property as shown on the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 2 (PLAT ALTERATION), recorded in Kittitas County, Washington, Volume 9 of Plats, pages 157 through 187:

Units: Lots 1 through 166, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail and Swiftwater Drive.

- C. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 3, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 94 to 120, as amended by that certain Boundary Line Adjustment Survey affecting tracts G-4, OS-10 and Coal Mine Way, recorded in Kittitas County, Washington, Volume 32 of Surveys, page 46:

Units: Lots numbered 1 through 159, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except (i) Suncadia Trail, (ii) Swiftwater Drive, (iii) Coal Mine Way from its intersection with Suncadia Trail to the easterly boundary of Lot 3-110, (iv) Firehouse Road and (v) Rope Rider Drive.

Access Tract: Tract AC-1.



- D. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 4, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 50 to 73:

Units: Lots numbered 1 through 114, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat.

Access and Utility Tracts: Tract AC-1, AC-4, AC-7 and AC-8.

- E. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 5, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 103 to 109:

Units: Lots numbered 1 through 89, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except.

Village Common Areas: Tracts S-1 through S-4 for monument signage and Tracts OS-1 and OS-2.

- F. The following real property as shown on the plat of SUNCADIA PHASE 2, DIVISION 2, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 170 to 183:

Units: Lots numbered 1 through 61, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat, except Swiftwater Drive.

Access and Utility Tracts: AC-1 through AC-9.

Common Areas: Open Space Tracts: OS-1 through OS-9.

When Recorded, Return to:

HILLIS CLARK MARTIN & PETERSON, P.S.  
Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

10/26/2007 10:06:39 AM  
\$47.00  
Declaration AMERITITLE  
Kittitas County Auditor

200710260008  
Page 1 of 8



**SIXTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                          |                                                                                                                                                                                                                                                                                    |                                              |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| <b>Grantor:</b>                                          | SUNCADIA, LLC                                                                                                                                                                                                                                                                      |                                              |
| <b>Grantee:</b>                                          | PLAT OF SUNCADIA                                                                                                                                                                                                                                                                   |                                              |
| <b>Legal Description:</b><br>(abbreviated)               | Lodge Unit of The Lodge at Suncadia Master Condominium, as recorded in Book <u>11</u> of Plats, pages <u>26</u> through <u>38</u> , and according to Declaration thereof recorded under Auditor's File No. 2007 <u>10260005</u> , records of Kittitas County, State of Washington. |                                              |
| <input checked="" type="checkbox"/> Additional on:       | EXHIBIT A                                                                                                                                                                                                                                                                          |                                              |
| <b>Assessor's Tax Parcel Nos.:</b>                       | 20-15-19000-0020                                                                                                                                                                                                                                                                   |                                              |
| <b>Reference Nos. of Documents Released or Assigned:</b> | 200407200037<br>200505040002<br>200607190002                                                                                                                                                                                                                                       | 200503170033<br>200604190029<br>200607190002 |

THIS SIXTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Sixth Supplemental"), dated for reference purposes as of October 26, 2007, is made by SUNCADIA, LLC, a Delaware limited liability company ("Declarant").



## RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by a First Supplemental Declaration as recorded under Kittitas County Recording No. 200503170033, a Second Supplemental Declaration as recorded under Kittitas County Recording No. 200505040002, a Third Supplemental Declaration as recorded under Kittitas County Recording No. 200604190029, a Fourth Supplemental Declaration as recorded under Kittitas County Recording No. 200607190002, and a Fifth Supplemental Declaration as recorded under Kittitas County Recording No. 200609280022 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in Paragraph G of the attached EXHIBIT A ("Subject Property") subject to the Declaration.

C. The Subject Property has been further subjected to the Condominium Declaration for The Lodge at Suncadia Residential Condominium as more particularly described on the attached EXHIBIT A ("Residential Condominium Declaration"). The Residential Condominium Declaration creates 223 residential condominium units. Such condominium units, and any residential condominium units subsequently created within the Residential Condominium are deemed to be Units herein.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Sixth Supplemental.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All residential condominium units created within the Subject Property shall be Units as defined in Section 1.47 of the Declaration.



**2.2 Common Areas.** There are no Common Areas, Limited Common Areas or Village Common Areas within the Subject Property described herein.

**3. AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Sixth Supplemental for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Sixth Supplemental. In addition, this Sixth Supplemental may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Sixth Supplemental. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

**4. BINDING EFFECT.** The Subject Property, including all Units therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

**5. OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

**6. EFFECTIVE DATE.** This Sixth Supplemental shall take effect upon recording.

10/26/2007 10:06:39 AM

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Page 4 of 8

\$47.00  
Declaration AMERITITLE  
Kittitas County Auditor



EXECUTED as of the day and year first above written.

DECLARANT:

SUNCADIA, LLC,  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By: Michael S. Tande  
Name: Michael S. Tande  
Its: Sr. Vice Pres.

By: Del E. Goehring  
Name: Del E. Goehring  
Its: Sr. Vice President

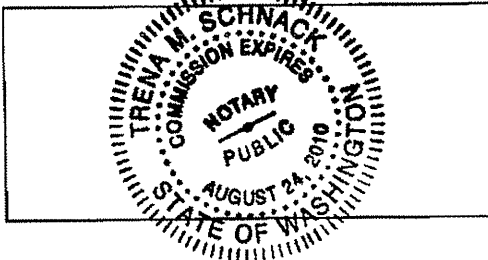
STATE OF WASHINGTON

COUNTY OF KITTITAS

SS.

On this day personally appeared before me Del E. Goehring and Michael S. Tande, to me known to be the Sr VP and Sr VP, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 25 day of October, 2007.



Printed Name: Trena M. Schnack  
NOTARY PUBLIC in and for the State of Washington,  
residing at CJE Elum  
My Commission Expires 8/21/2010



### CONSENT OF ROSLYN LODGE

As owner of the Subject Property, the undersigned consents to the foregoing Sixth Supplemental Declaration.

DATED for reference purposes October 26, 2007.

**ROSLYN LODGE, LLC,**  
a Delaware limited liability company

By Michael S. Tande  
Name: Michael S. Tande  
Its: Sr. Vice Pres.

By Del E. Goehring  
Name: Del E. Goehring  
Its: Sr. Vice President

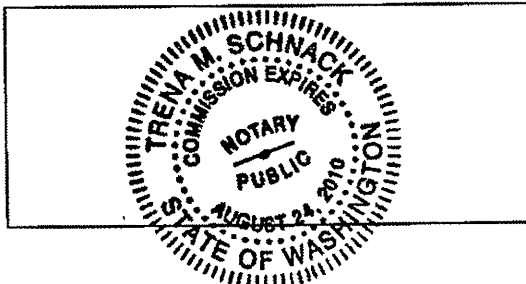
STATE OF WASHINGTON

COUNTY OF KITTITAS

ss.

On this day personally appeared before me Del E. Goehring  
and Michael S. Tande, to me known to be the Sr. VP  
and Sr. VP, respectively, of **ROSLYN LODGE, LLC**, the Delaware  
limited liability company that executed the foregoing instrument, and acknowledged such  
instrument to be the free and voluntary act and deed of such limited liability company for  
the uses and purposes therein mentioned, and on oath stated that they were duly  
authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 25 day of October 2007.



Trena M. Schnack  
Printed Name Trena M. Schnack  
NOTARY PUBLIC in and for the State of Washington,  
residing at CLE Elum  
My Commission Expires 8/24/2010

**EXHIBIT A****PROPERTY SUBJECT TO THE DECLARATION**

Property subject to the Declaration is as follows:

- A. The following real property as shown on the plat of MountainStar Division 1A, recorded in Kittitas County, Washington, Volume 8 of Plats, pages 241 to 274, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 1 ALTERATION, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 12 through 45:

Units: Lots numbered 1 through 247, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail.

- B. The following real property as shown on the Plat of MountainStar Phase 1, Division 2, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 8 to 38, as amended by that certain MOUNTAINSTAR PHASE 1, DIVISION 2 (PLAT ALTERATION), recorded in Kittitas County, Washington, Volume 9 of Plats, pages 157 through 187:

Units: Lots 1 through 166, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except Suncadia Trail and Swiftwater Drive.

- C. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 3, recorded in Kittitas County, Washington, Volume 9 of Plats, pages 94 to 120, as amended by that certain Boundary Line Adjustment Survey affecting tracts G-4, OS-10 and Coal Mine Way, recorded in Kittitas County, Washington, Volume 32 of Surveys, page 46:

Units: Lots numbered 1 through 159, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except (i) Suncadia Trail, (ii) Swiftwater Drive, (iii) Coal Mine Way from its intersection with Suncadia Trail to the easterly boundary of Lot 3-110, (iv) Firehouse Road and (v) Rope Rider Drive.

Access Tract: Tract AC-1.

\$47.00  
Declaration AMERITITLE  
Kittitas County Auditor



- D. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 4, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 50 to 73:

Units: Lots numbered 1 through 114, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat.

Access and Utility Tracts: Tract AC-1, AC-4, AC-7 and AC-8.

- E. The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 5, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 103 to 109:

Units: Lots numbered 1 through 89, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat except.

Village Common Areas: Tracts S-1 through S-4 for monument signage and Tracts OS-1 and OS-2.

- F. The following real property as shown on the plat of SUNCADIA PHASE 2, DIVISION 2, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 170 to 183:

Units: Lots numbered 1 through 61, inclusive.

Limited Common Areas: All private roads shown on the foregoing plat, except Swiftwater Drive.

Access and Utility Tracts: AC-1 through AC-9.

Common Areas: Open Space Tracts: OS-1 through OS-9.



G. The following real property:

Lodge Unit of The Lodge at Suncadia Master Condominium, as recorded in Book 11 of Plats, pages 24 through 38, and according to Declaration thereof recorded under Auditor's File No.

2007 10260005, records of Kittitas County, State of Washington.

Units:

All Residential Units set forth on Exhibit B of the Condominium Declaration for The Lodge at Suncadia Residential Condominium, recorded under Auditor's File No. 2007 10260006, as it may be amended, records of Kittitas County, State of Washington. All such Residential Units are located within the Subject Property.

Limited Common Areas: N/A

Common Areas: N/A



*When Recorded, Return to:*

**HILLIS CLARK MARTIN & PETERSON, P.S.**

Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

---

**SEVENTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                          |                                                                                                                    |                                      |                                      |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------|
| <b>Grantor:</b>                                          | <u>SUNCADIA, LLC</u>                                                                                               |                                      |                                      |
| <b>Grantee:</b>                                          | <u>PLAT OF SUNCADIA</u>                                                                                            |                                      |                                      |
| <b>Legal Description:</b> (abbreviated)                  | LOTS 1 AND 2 OF SURVEY RECORDED IN BOOK 30 OF<br>SURVEYS, PAGES 104-107, RECORDS OF<br>KITTITAS COUNTY, WASHINGTON |                                      |                                      |
| <input checked="" type="checkbox"/> Additional on:       | <u>EXHIBIT A</u>                                                                                                   |                                      |                                      |
| <b>Assessor's Tax Parcel Nos:</b>                        | 20-15-18030-0002<br>20-14-13010-0004                                                                               | 20-15-18030-0008<br>20-14-13000-0008 | 20-14-13010-0002<br>20-15-18030-0009 |
| <b>Reference Nos. of Documents Released or Assigned:</b> | 200407200037      200503170033<br>200505040002      200604190029<br>200607190002      200607190002<br>200710260008 |                                      |                                      |

THIS SEVENTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Seventh Supplemental"), dated for reference purposes as of November 15, 2007, is made by SUNCADIA, LLC, a Delaware limited liability company ("Declarant").

## RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002 and 200710260008 ("Supplemental Declarations").

B. Pursuant to Section 6 of the Fifth Supplemental Declaration recorded under Kittitas County Recording No. 200609280022, Declarant may unilaterally amend the Fifth Supplemental Declaration for any purpose, provided that such amendment has no material adverse effect on the title to any portion of the Subject Property without the consent of the Owner of such property or has no material adverse effect on any right, privilege or protection granted to the Owners under the Fifth Supplemental Declaration.

C. Declarant has determined that the minimum dwelling size restrictions set forth in Section 3.1 of the Fifth Supplemental Declaration should be amended with respect to two separate areas within the Subject Property described in the Fifth Supplemental Declaration. Such amendment does not have a material adverse effect on the title to any portion of the Subject Property described therein nor does it have a material adverse effect on any right, privilege or protection granted to the Owners of the Subject Property described therein inasmuch as this amendment only affects a restriction, not a right, privilege or protection.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **MODIFIED ADDITIONAL RESTRICTIONS.** Section 3 of the Fifth Supplemental Declaration is hereby amended in its entirety as follows:

3. **THREE ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

3.1 **Minimum Dwelling Size.** No primary dwelling constructed on a Unit within Lots 1 through 32 of the Subject Property shall have an interior floor area of less than 2,200 square feet. The

calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee.

No primary dwelling constructed on a Unit within Lots 33 through 61 of the Subject Property shall have an interior floor area of less than 2,000 square feet, inclusive of garage space. The calculation of the minimum interior floor area shall be pursuant to standards adopted by the Design Review Committee.

**3.2 Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

**3.3 Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

**2. AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Seventh Supplemental for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Seventh Supplemental. In addition, this Seventh Supplemental may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Seventh Supplemental. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

3. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

4. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

5. **EFFECTIVE DATE.** This Seventh Supplemental shall take effect upon recording.

EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By

Name: Christopher Kelsey  
Its: Senior V.P.

By

Name: Del Goehring  
Its: Senior V.P.

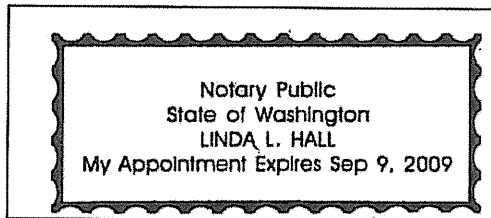
STATE OF WASHINGTON

COUNTY OF KITTITAS

SS.

On this day personally appeared before me Christopher Kelsey and Del E. Goehring, to me known to be the Senior V. P. and Senior V. P., respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of **SUNCADIA, LLC**, a Delaware limited liability company, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 15<sup>th</sup> day of November, 2007.



Linda L. Hall  
Printed Name Linda L. Hall  
NOTARY PUBLIC in and for the State of Washington,  
residing at Roslyn  
My Commission Expires Sept. 9, 2009

**EXHIBIT A**  
**PROPERTY SUBJECT**  
**TO**  
**SEVENTH SUPPLEMENTAL DECLARATION**

The following real property as shown on the plat of SUNCADIA PHASE 2, DIVISION 2, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 170 to 183:

|                              |                                                                                                                              |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| <u>Units:</u>                | Lots numbered 1 through 61, inclusive.                                                                                       |
| <u>Limited Common Areas:</u> | All private roads shown on the foregoing plat, except Swiftwater Drive.<br><br>Access and Utility Tracts: AC-1 through AC-9. |
| <u>Common Areas:</u>         | Open Space Tracts: OS-1 through OS-9.                                                                                        |

When Recorded, Return to:

12/19/2007 09:17:17 AM

200712190004  
Page 1 of 6

HILLIS CLARK MARTIN & PETERSON, P.S.

Attention: Steven R. Rovig

500 Galland Building

1221 Second Avenue

Seattle, WA 98101-2925

\$45.00  
Declaration LATHROP LAW  
Kittitas County Auditor



REVIEWED BY: Lesa Cal  
DEPUTY, KITTITAS COUNTY TREASURER

DATE: 12-19-07

STANDS BEFORE ME: Rhoda Crispin

REPRESENTING: Lathrop City

STATING THAT NO CONSIDERATION  
IS BEING PAID.

**EIGHTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                    |                                                                                                                                                                |                  |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Grantor:                                           | SUNCADIA, LLC                                                                                                                                                  |                  |
| Grantee:                                           | PLAT OF SUNCADIA                                                                                                                                               |                  |
| Legal Description: (abbreviated)                   | LOT A OF SURVEY RECORDED IN BOOK 31 OF<br>SURVEYS, PAGES 158 THROUGH 161, UNDER AUDITOR'S<br>FILE NO. 200508110028, RECORDS OF KITTITAS COUNTY,<br>WASHINGTON. |                  |
| <input checked="" type="checkbox"/> Additional on: | EXHIBIT A                                                                                                                                                      |                  |
| Assessor's Tax Parcel Nos:                         | 20-15-19000-0003                                                                                                                                               | 20-15-19000-0013 |
| Reference Nos. of Documents                        | 200407200037                                                                                                                                                   | 200503170033     |
| Released or Assigned:                              | 200505040002                                                                                                                                                   | 200604190029     |
|                                                    | 200607190002                                                                                                                                                   | 200609280022     |
|                                                    | 200710260008                                                                                                                                                   | 200711190079     |

THIS EIGHTH SUPPLEMENTAL DECLARATION TO AMENDED AND  
RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Eighth Supplemental  
Declaration"), dated for reference purposes as of December 4, 2007, is made by  
SUNCADIA, LLC, a Delaware limited liability company ("Declarant").



## RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002, 200609280022, 200710260008, and 200711190079 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **EXHIBIT A** ("Subject Property") subject to the Declaration.

C. In addition, pursuant to the authority reserved by Declarant in the Declaration, Declarant wishes to designate certain private roads and tracts within the Subject Property as Limited Common Areas and expand the definition of Benefited Units with regard to the designation of certain Limited Common Areas.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Eighth Supplemental Declaration.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All platted numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Limited Common Areas.** Certain roads as more particularly identified on the attached **EXHIBIT A** shall be Limited Common Areas.

3. **PREVIOUSLY DESIGNATED LIMITED COMMON AREAS.** The designation of Limited Common Areas as set forth in Section 1 of the First Supplemental



Declaration, Section 4 of the Second Supplemental Declaration, Section 4.1 of the Third Supplemental Declaration and Section 4 of the Fourth Supplemental Declaration and Section 4 of the Fifth Supplemental Declaration, referenced above is hereby amended as follows:

**3.1 Benefited Units.** The definition of Benefited Units for purposes of such previously designated Limited Common Areas is amended to include Lots 9-1 through 9-3, inclusive, of the Plat of Suncadia Phase 1, Division 9.

**3.2 Additional Limited Common Areas.** Except for Suncadia Trail and Big Hill Drive which are designated as "Community Improvements" and Tumble Creek Drive which shall be deemed a Village Common Area for Tumble Creek, all private roads within the Plat of Suncadia Phase 1, Division 9 are hereby designated Limited Common Areas for the benefit of the Benefited Units.

**3.3 Conforming Amendments.** Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended by **EXHIBIT A** attached hereto.

**4. AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Eighth Supplemental Declaration for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Eighth Supplemental Declaration. In addition, this Eighth Supplemental Declaration may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Eighth Supplemental Declaration. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

**5. BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.



6. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

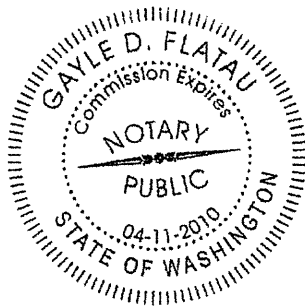
7. **EFFECTIVE DATE.** This Eighth Supplemental Declaration shall take effect upon recording.

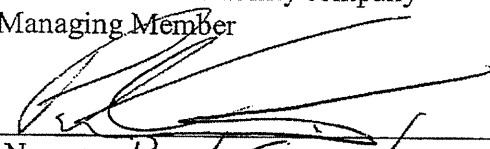
EXECUTED as of the day and year first above written.

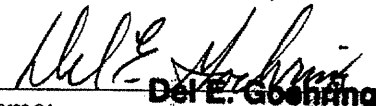
**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member



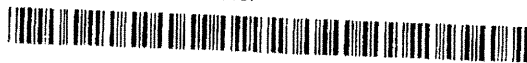
By:   
Name: Paul Eisenberg  
Its: Senior Vice President

By:   
Name: Del E. Goshong  
Its: Sr. Vice President

STATE OF WASHINGTON }

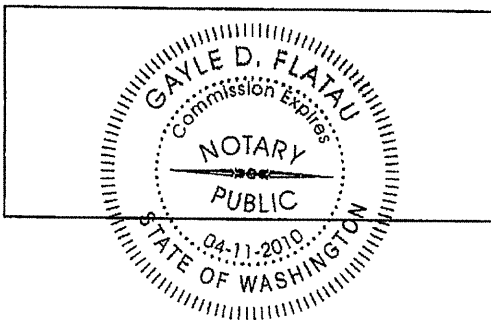
COUNTY OF KITTITAS }

SS.



On this day personally appeared before me Paul Eisenberg  
and Dej E. Goehring, to me known to be the SVP  
and SVP, respectively, of Easton Ridge Investors, LLC, a Delaware  
limited liability company and Managing Member of SUNCADIA, LLC, a Delaware  
limited liability company, that executed the foregoing instrument, and acknowledged  
such instrument to be the free and voluntary act and deed of such limited liability  
company, for the uses and purposes therein mentioned, and on oath stated that they were  
duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 4<sup>th</sup> day of December, 2007.



Gayle D. Flatau  
Printed Name Gayle D. Flatau  
NOTARY PUBLIC in and for the State of Washington,  
residing at Clallam, Kittitas County  
My Commission Expires 4-11-2010



**EXHIBIT A**

**PROPERTY SUBJECT  
TO  
EIGHTH SUPPLEMENTAL DECLARATION**

The following real property as shown on the plat of SUNCADIA PHASE 1,  
DIVISION 9, recorded in Kittitas County, Washington, Volume 11 of Plats,  
pages 78 to 82 :

Units:

Lots numbered 9-1 through 9-3, inclusive.

Limited Common Areas:

All private roads shown on the foregoing  
plat, except Suncadia Trail, Tumble Creek  
Drive and Big Hill Drive.

When Recorded, Return to:

HILLIS CLARK MARTIN & PETERSON, P.S.  
Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

CERTIFIED TO BE A TRUE COPY

AF# 200804160005  
RECORDING DATE 4/16/08  
RECORDING TIME 10:46pm

AMT 106747-24  
46

**NINTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                           |                                                                                                                                                                                                                                                                    |              |              |              |              |              |              |              |              |              |  |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--|
| <b>Grantor:</b>                                           | <u>SUNCADIA, LLC</u>                                                                                                                                                                                                                                               |              |              |              |              |              |              |              |              |              |  |
| <b>Grantee:</b>                                           | <u>PLAT OF SUNCADIA</u>                                                                                                                                                                                                                                            |              |              |              |              |              |              |              |              |              |  |
| <b>Legal Description: (abbreviated)</b>                   | <u>Suncadia Phase 2, Division 2 Lots 1-61, Tracts AC-1 through AC-9, OS-1 through OS-9, Z-1 through Z-3 and roads.</u>                                                                                                                                             |              |              |              |              |              |              |              |              |              |  |
| <input checked="" type="checkbox"/> <b>Additional on:</b> | <u>EXHIBIT A</u>                                                                                                                                                                                                                                                   |              |              |              |              |              |              |              |              |              |  |
| <b>Assessor's Tax Parcel Nos:</b>                         | <u>20-14-13050-0001 through 20-14-13050-0100</u>                                                                                                                                                                                                                   |              |              |              |              |              |              |              |              |              |  |
| <b>Reference Nos. of Documents Released or Assigned:</b>  | <table><tr><td>200407200037</td><td>200503170033</td></tr><tr><td>200505040002</td><td>200604190029</td></tr><tr><td>200607190002</td><td>200609280022</td></tr><tr><td>200710260008</td><td>200711190079</td></tr><tr><td>200712190004</td><td></td></tr></table> | 200407200037 | 200503170033 | 200505040002 | 200604190029 | 200607190002 | 200609280022 | 200710260008 | 200711190079 | 200712190004 |  |
| 200407200037                                              | 200503170033                                                                                                                                                                                                                                                       |              |              |              |              |              |              |              |              |              |  |
| 200505040002                                              | 200604190029                                                                                                                                                                                                                                                       |              |              |              |              |              |              |              |              |              |  |
| 200607190002                                              | 200609280022                                                                                                                                                                                                                                                       |              |              |              |              |              |              |              |              |              |  |
| 200710260008                                              | 200711190079                                                                                                                                                                                                                                                       |              |              |              |              |              |              |              |              |              |  |
| 200712190004                                              |                                                                                                                                                                                                                                                                    |              |              |              |              |              |              |              |              |              |  |

THIS NINTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Ninth Supplemental"), dated for reference purposes as of April 15, 2008, is made by **SUNCADIA, LLC**, a Delaware limited liability company ("Declarant").

## RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002, 200609280022, 200710260008, 200711190079, and 200712190004 ("Supplemental Declarations").

B. Pursuant to Section 2 of the Seventh Supplemental Declaration recorded under Kittitas County Recording No. 200711190079, Declarant may unilaterally amend the Seventh Supplemental Declaration for any purpose, provided that such amendment has no material adverse effect on the title to any portion of the Subject Property without the consent of the Owner of such property or has no material adverse effect on any right, privilege or protection granted to the Owners under the Seventh Supplemental Declaration.

C. Declarant has determined that the minimum dwelling size restrictions set forth in Section 3.1 of the Fifth Supplemental Declaration as amended by the Seventh Supplemental Declaration should be amended with respect to Lots 1 through 32 within the Subject Property described in the Seventh Supplemental Declaration. Such amendment does not have a material adverse effect on the title to any portion of the Subject Property described therein nor does it have a material adverse effect on any right, privilege or protection granted to the Owners of the Subject Property described therein inasmuch as this amendment only affects a restriction, not a right, privilege or protection.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **MODIFIED ADDITIONAL RESTRICTIONS.** Section 1 of the Seventh Supplemental Declaration is hereby amended so that the following sentence is deleted: "No primary dwelling constructed on a Unit within Lots 1 through 32 of the Subject Property shall have an interior floor area of less than 2,200 square feet." Such sentence is hereby replaced with the following sentence: "No primary dwelling constructed on a Unit within Lots 1 through 32 of the Subject Property shall have an interior floor area of less than 2,000 square feet, inclusive of garage space."

2. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Ninth Supplemental for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Ninth Supplemental. In addition, this Ninth Supplemental may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Ninth Supplemental. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

3. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

4. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

5. **EFFECTIVE DATE.** This Ninth Supplemental shall take effect upon recording.

EXECUTED as of the day and year first above written.

DECLARANT:

SUNCADIA, LLC,  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

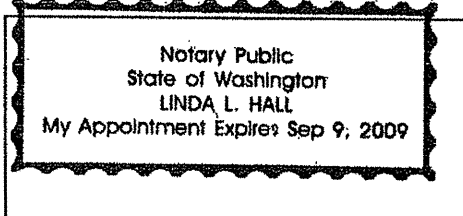
By [Signature]  
Name: Christopher Kelsey  
Its: Sr. Vice President

By [Signature]  
Name: Del E. Goehring  
Its: Sr. Vice President

STATE OF WASHINGTON }  
COUNTY OF KITTITAS } ss.

On this day personally appeared before me Christopher Kelsey and Del E. Goehring, to me known to be the Sr. Vice President and Sr. Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 14<sup>th</sup> day of April, 2008.



Linda L. Hall  
Printed Name Linda L. Hall  
NOTARY PUBLIC in and for the State of Washington,  
residing at Roslyn  
My Commission Expires Sept. 9, 2009

**EXHIBIT A**  
**PROPERTY SUBJECT**  
**TO**  
**NINTH SUPPLEMENTAL DECLARATION**

The following real property as shown on the plat of SUNCADIA PHASE 2, DIVISION 2, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 170 to 183:

|                              |                                                                         |
|------------------------------|-------------------------------------------------------------------------|
| <u>Units:</u>                | Lots numbered 1 through 61, inclusive.                                  |
| <u>Limited Common Areas:</u> | All private roads shown on the foregoing plat, except Swiftwater Drive. |
|                              | Access and Utility Tracts: AC-1 through AC-9.                           |
| <u>Common Areas:</u>         | Open Space Tracts: OS-1 through OS-9.                                   |



When Recorded, Return to:

HILLIS CLARK MARTIN & PETERSON, P.S.  
Attention: Steven R. Rovig  
500 Galland Building  
1221 Second Avenue  
Seattle, WA 98101-2925

CERTIFIED TO BE A TRUE COPY

AF# 20080830 0056

RECORDING DATE 5.30.08

RECORDING TIME 4:22 pm

Amr 106961-~~40~~  
49

**TENTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                    |                                                                                                        |                     |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------|---------------------|
| <b>Grantor:</b>                                    | <u>SUNCADIA, LLC</u>                                                                                   |                     |
| <b>Grantee:</b>                                    | <u>PLAT OF SUNCADIA</u>                                                                                |                     |
| <b>Legal Description:</b> (abbreviated)            | <u>SUNCADIA PHASE 1, DIVISION 5 LOTS 1-89, TRACTS S-1 THROUGH S-4, TRACTS OS-1 AND OS-2, AND ROADS</u> |                     |
| <input checked="" type="checkbox"/> Additional on: | <u>EXHIBIT A</u>                                                                                       |                     |
| <b>Assessor's Tax Parcel Nos:</b>                  | <u>20-15-19000-0019; 20-15-20000-008</u>                                                               |                     |
| <b>Reference Nos. of Documents</b>                 | <u>200407200037</u>                                                                                    | <u>200503170033</u> |
| <b>Released or Assigned:</b>                       | <u>200505040002</u>                                                                                    | <u>200604190029</u> |
|                                                    | <u>200607190002</u>                                                                                    | <u>200609280022</u> |
|                                                    | <u>200710260008</u>                                                                                    | <u>200711190079</u> |
|                                                    | <u>200712190004</u>                                                                                    | <u>200804160005</u> |

THIS TENTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Tenth Supplemental Declaration"), dated for reference purposes as of May 30, 2008, is made by SUNCADIA, LLC, a Delaware limited liability company ("Declarant").

## RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002, 200609280022, 200710260008, 200711190079, 200712190004, and 200804160005 ("Supplemental Declarations").

B. Declarant has determined that the Subject Property described in **Exhibit A** attached hereto should be subjected to certain additional provisions as set forth in this Tenth Supplemental Declaration. Such Subject Property is the same Subject Property described in the Fourth Supplemental Declaration recorded under Kittitas County Recording No. 200607190002. In the Fourth Supplemental Declaration, the Subject Property was designated as a Village named "Prospector's Reach."

C. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

## AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

### 1. AUTHORIZATION OF CERTAIN REPAIR AND MAINTENANCE SERVICES.

A. The Association is authorized, but not obligated, to provide any or all of the following repair and maintenance services within the Subject Property:

- (i) repair and maintenance of all driveways and walkways, whether used by a single Unit or more than one Unit; (ii) snow removal from such driveways and walkways; and
- (iii) repair and maintenance of landscape and irrigation systems within the Lots.

Effective upon reasonable notice to the Unit Owners within the Subject Property, the Association may discontinue providing any or all such repair and maintenance services.

B. Notwithstanding anything to the contrary in the Declaration or any Supplemental Declaration, the Association is authorized to levy Village Assessments against all Units within the Subject Property to fund and establish reserves for the repair and maintenance services authorized in this Tenth Supplemental Declaration. For each Unit within the Subject Property, such Village Assessments shall commence no earlier than the date of closing of any sale of such Unit to a person other than (i) Prospector's

Reach, LLC or (ii) an affiliate of Prospector's Reach, LLC with the prior written consent of Declarant.

C. To the extent that any repair and maintenance authorized in this Tenth Supplemental Declaration is made necessary by the negligence of an Owner, an amount equal to the cost of such repair and maintenance may be levied against such Owner's Unit in the same manner as an Individual Assessment.

2. **COMMON ROOFS.** Unless otherwise determined by the Association, the maintenance and repair of each common roof (i) shall be the responsibility of the Units benefited by such common roof and (ii) shall not be the responsibility of the Association. The Owners of Units with common roofs shall cooperate with each other in the maintenance and repair of such roofs and shall equitably share the cost of such maintenance and repair.

3. **INSURANCE.** Unless otherwise determined by the Association, the Association shall not be responsible for insuring any Unit, including without limitation the roof structures of any Unit.

4. **NO LIMITATION.** Nothing in this Tenth Supplemental Declaration shall be construed to limit any authority granted in the Declaration or the Supplemental Declarations to the Association to levy assessments or to undertake repair and maintenance.

5. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Tenth Supplemental Declaration for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Tenth Supplemental Declaration. In addition, this Tenth Supplemental may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Tenth Supplemental Declaration. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

6. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration and the Supplemental Declarations, as modified by this instrument, which shall run with the

Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

7. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration and the Supplemental Declarations shall remain in full force and effect.

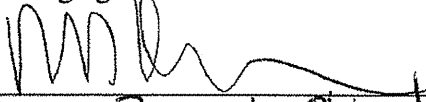
8. **EFFECTIVE DATE.** This Tenth Supplemental Declaration shall take effect upon recording.

EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By   
Name: Ronald Opat  
Its: Managing Director

By   
Name: Del E. Goehring  
Its: Sr. Vice President

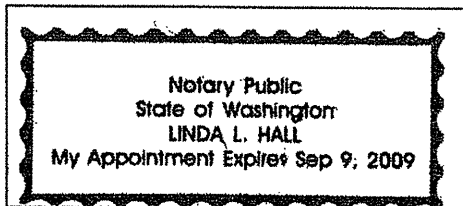
STATE OF WASHINGTON

COUNTY OF KITTITAS

SS.

On this day personally appeared before me Ronald Olstad  
and Del E. Goehring, to me known to be the Managing Director  
and Sr. Vice President respectively, of Easton Ridge Investors, LLC, a Delaware  
limited liability company and Managing Member of SUNCADIA, LLC, a Delaware  
limited liability company, that executed the foregoing instrument, and acknowledged  
such instrument to be the free and voluntary act and deed of such limited liability  
company, for the uses and purposes therein mentioned, and on oath stated that they were  
duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 29<sup>th</sup> day of May,  
2008.



Linda L. Hall  
Printed Name Linda L. Hall  
NOTARY PUBLIC in and for the State of Washington,  
residing at Roslyn  
My Commission Expires Sept 9, 2009

CONSENT OF PROSPECTOR'S REACH, LLC

As owner of the Subject Property, the undersigned consents to the foregoing Tenth Supplemental Declaration.

PROSPECTOR'S REACH, LLC,  
a Washington limited liability company

By: \_\_\_\_\_

Name: Paul Glosniak

Its: Authorized Signer

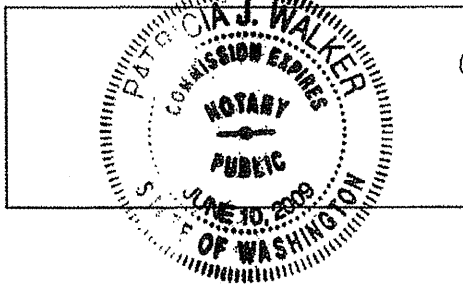
STATE OF WASHINGTON

COUNTY OF King

} ss.

On this day personally appeared before me Paul Glosniak, to me known to be an authorized signer of **Prospectors Reach, LLC**, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 28<sup>th</sup> day of May, 2008.



Printed Name \_\_\_\_\_

NOTARY PUBLIC in and for the State of Washington,  
residing at Sammamish, WA

My Commission Expires 6/10/09

**EXHIBIT A**  
**PROPERTY SUBJECT**  
**TO**  
**TENTH SUPPLEMENTAL DECLARATION**

The following real property as shown on the plat of SUNCADIA PHASE 1, DIVISION 5, recorded in Kittitas County, Washington, Volume 10 of Plats, pages 103 to 109:

|                              |                                                                       |
|------------------------------|-----------------------------------------------------------------------|
| <u>Units:</u>                | Lots numbered 1 through 89, inclusive.                                |
| <u>Limited Common Areas:</u> | All private roads shown on the foregoing plat.                        |
| <u>Village Common Areas:</u> | Tracts S-1 through S-4 for monument signage and Tracts OS-1 and OS-2. |





**RECITALS**

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002, 200609280022, 200710260008, 200711190079, 200712190004, 200804160005, and 200805300056 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **Exhibit A** ("Subject Property") subject to the Declaration.

C. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

**AMENDMENTS**

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Eleventh Supplemental Declaration.
2. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.
3. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.
4. **EFFECTIVE DATE.** This Eleventh Supplemental shall take effect upon recording.



EXECUTED as of the day and year first above written.

DECLARANT:

SUNCADIA, LLC,  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By

Name:

Its:

Paul Eisenberg  
Sr. Vice President

By

Name:

Its:

Del E. Goehring  
Sr. Vice President

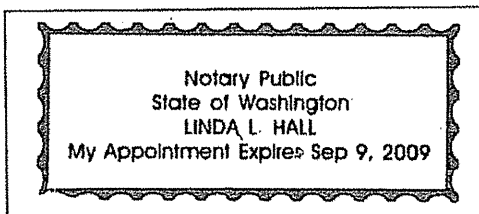
STATE OF WASHINGTON

COUNTY OF KITTITAS

ss.

On this day personally appeared before me Paul Eisenberg  
and Del E. Goehring, to me known to be the Sr. Vice President  
and Sr. Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware  
limited liability company and Managing Member of SUNCADIA, LLC, a Delaware  
limited liability company, that executed the foregoing instrument, and acknowledged  
such instrument to be the free and voluntary act and deed of such limited liability  
company, for the uses and purposes therein mentioned, and on oath stated that they were  
duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 29<sup>th</sup> day of July,  
2008.



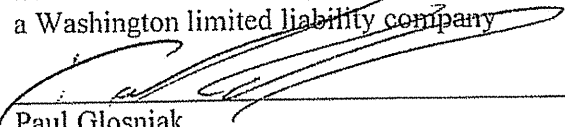
Linda L. Hall  
Printed Name Linda L. Hall  
NOTARY PUBLIC in and for the State of Washington,  
residing at Roslyn  
My Commission Expires Sept. 9, 2009

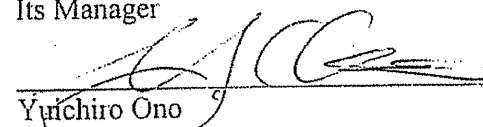


## CONSENT OF BENNETT - SFS LLC

As owner of the Subject Property, the undersigned consents to the foregoing Eleventh Supplemental Declaration.

**BENNETT - SFS LLC,**  
a Washington limited liability company

  
Paul Glosniak  
Its Manager

  
Yuichiro Ono  
Its Manager

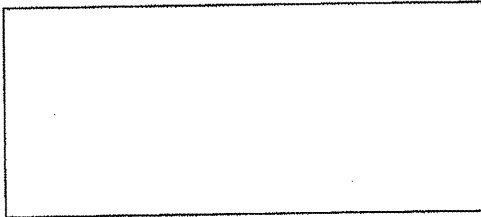
STATE OF WASHINGTON

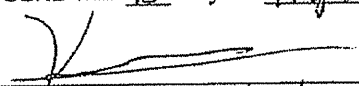
COUNTY OF KING

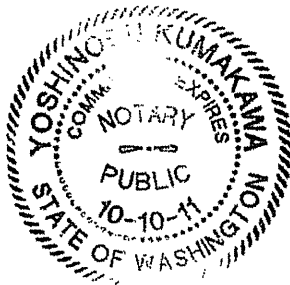
} ss.

On this day personally appeared before me Paul Glosniak and Yuichiro Ono, to me known to be the Managers of **BENNETT - SFS LLC**, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 15<sup>th</sup> day of August, 2008.



  
Printed Name Yoshinobu Kumakawa  
NOTARY PUBLIC in and for the State of Washington,  
residing at Bellevue  
My Commission Expires 10 / 10 / 2011





## EXHIBIT A

PROPERTY SUBJECT  
TO  
ELEVENTH SUPPLEMENTAL DECLARATION

The following real property as shown on the plat of SUNCADIA PHASE 1,  
DIVISION 13A, recorded in Kittitas County, Washington, Volume /// of Plats,  
pages 163 to 168:

Units: Lots numbered 1 through 19 inclusive.  
Lots numbered 67 through 78 inclusive.

Limited Common Areas: Access Tract: AC-1



When Recorded, Return to:

03/27/2009 04:05:09 PM

200903270051

\$48.00  
Declaration  
Kittitas County Auditor

Page 1 of 7

HILLIS CLARK MARTIN & PETERSON, P.S.

Attention: Steven R. Rovig

1221 Second Avenue, Suite 500

Seattle, WA 98101-2925

REVIEWED BY: *AMT*  
DEPUTY, KITTITAS COUNTY TREASURER

DATE: *3-27-09*

STANDS BEFORE ME: *Cathy Fisher*  
REPRESENTING *ATC*

STATING THAT NO CONSIDERATION  
IS BEING PAID.



AMT 108770-36

\$48.00

**TWELFTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                      |                                                                                                           |                                                                              |                              |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|------------------------------|
| Grantor:                                             | SUNCADIA, LLC                                                                                             |                                                                              |                              |
| Grantee:                                             | PLAT OF SUNCADIA                                                                                          |                                                                              |                              |
| Legal Description: (abbreviated)                     | LOTS 1-4, SUNCADIA, PHASE 1, DIVISION 12, A BINDING SITE PLAN, VOL 11, PAGES 155-158, KITTITAS COUNTY, WA |                                                                              |                              |
| <input checked="" type="checkbox"/> Additional on:   | EXHIBIT A                                                                                                 |                                                                              |                              |
| Assessor's Tax Parcel Nos:                           | 20-15-19055-0001<br>20-15-19055-0002                                                                      | 20-15-19055-0003<br>20-15-19055-0004                                         |                              |
| Reference Nos. of Documents<br>Released or Assigned: | 200407200037<br>200505040002<br>200607190002<br>200710260008<br>200712190004                              | 200503170033<br>200604190029<br>200609280022<br>200711190079<br>200804160005 | 200805300056<br>200808210002 |
| Real Estate Excise Tax Affidavit:                    | Does not apply - no consideration as defined<br>WAC 458-61A-102(2)                                        |                                                                              |                              |

THIS TWELFTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Twelfth Supplemental Declaration"), dated for reference purposes as of March 17, 2009, is made by SUNCADIA, LLC, a Delaware limited liability company ("Declarant").

COURTESY RECORDING ONLY ...  
NO LIABILITY FOR VALIDITY  
AND / OR ACCURACY ASSUMED BY  
AMERITITLE

**RECITALS**

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations as recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002, 200609280022, 200710260008, 200711190079, 200712190004, 200804160005, 200805300056, and 200808210002 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain real property described in the attached **EXHIBIT A** ("Subject Property") subject to the Declaration and to impose certain additional and/or different restrictions as provided in this Twelfth Supplemental Declaration.

C. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

**AMENDMENTS**

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Twelfth Supplemental Declaration.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one of the following classifications:

2.1 **Units.** All platted, numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Common Areas.** There are no Common Areas, Limited Common Areas or Village Common Areas within the Subject Property described herein.

3. **ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

3.1 **Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest,

which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods.

4. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Twelfth Supplemental Declaration for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Twelfth Supplemental Declaration. In addition, this Twelfth Supplemental Declaration may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Twelfth Supplemental Declaration. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

5. **BINDING EFFECT.** The Subject Property, including all Units therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

6. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

7. **EFFECTIVE DATE.** This Twelfth Supplemental Declaration shall take effect upon recording.

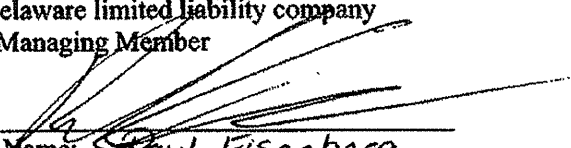


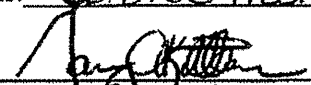
EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By: Easton Ridge Investors, LLC,  
a Delaware limited liability company  
Its Managing Member

By:   
Name: Paul Eisenberg  
Its: Sr. Vice President

By:   
Name: Gary A. Kittleson  
Its: VICE PRESIDENT

STATE OF WASHINGTON }  
COUNTY OF KITTITAS } ss.

On this day personally appeared before me Paul Eisenberg and Gary Kittleson, to me known to be the Sr. Vice President and Vice President, respectively, of Easton Ridge Investors, LLC, a Delaware limited liability company and Managing Member of SUNCADIA, LLC, a Delaware limited liability company, formerly known as MountainStar Resort Development, LLC, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 27<sup>th</sup> day of March, 2009.



Valerie L. Soma  
Printed Name Valerie L. Soma  
NOTARY PUBLIC in and for the State of Washington,  
residing at Cle Elum  
My Commission Expires 2-27-2010

03/27/2009 04:05:09 PM

200903270051  
Page 5 of 7

\$48.00  
Declaration AMT  
Kittitas County Auditor

CONSENT OF EAST AHM LLC

As owner of the Subject Property, the undersigned consents to the foregoing  
Twelfth Supplemental Declaration.

EAST AHM LLC,  
a Washington limited liability company

By: [Signature]

Name: JOFF HANSELL

Its: CO-MANAGING MEMBER

STATE OF WASHINGTON }

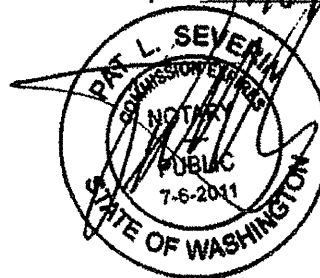
ss.

COUNTY OF SLATE

On this day personally appeared before me JOFF HANSELL, to  
me known to be the CO-MANAGING MEMBER of EAST AHM LLC, the Washington limited  
liability company that executed the foregoing instrument, and acknowledged such  
instrument to be the free and voluntary act and deed of such limited liability company, for  
the uses and purposes therein mentioned, and on oath stated that he/she was duly  
authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 27th day of March, 2009.

Printed Name PAT L. SEVERIN  
NOTARY PUBLIC in and for the State of Washington,  
residing at SLATE COUNTY, WASHINGTON  
My Commission Expires 7/6/2011



03/27/2009 04:05:09 PM  
\$48.00  
Declaration AMT  
Kittitas County Auditor

200903270051  
Page 6 of 7

### CONSENT OF LENDER

As the beneficiary of a mortgage encumbering the Subject Property, the undersigned lender consents to the foregoing Twelfth Supplemental Declaration.

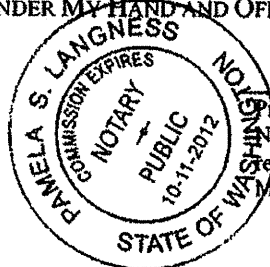
**FRONTIER BANK,**  
a national banking association  
State

By: Mary K Jobe  
Name: Mary K Jobe  
Its: Senior VP

STATE OF WASHINGTON }  
COUNTY OF Snohomish } ss.

On this day personally appeared before me Mary K Jobe, to me known to be the Senior VP of **FRONTIER BANK**, a national banking association that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such national banking association, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 26 day of March, 2009.



Pamela S Langness  
Printed Name Pamela S Langness  
NOTARY PUBLIC in and for the State of Washington,  
Residing at Everett  
My Commission Expires 10-11-2012

03/27/2009 04:05:09 PM  
\$48.00  
Declaration AMT  
Kittitas County Auditor

200903270051  
Page 7 of 7



**EXHIBIT A**

**PROPERTY SUBJECT TO THE DECLARATION**

Property subject to the Declaration is as follows:

The following real property as shown on the plat of SUNCADIA PHASE 1,  
DIVISION 12, A Binding Site Plan BSP-08-01, recorded in Kittitas County,  
Washington, Volume 11 of Plats, pages 155-158:

Units:            Lots 1-4



05/21/2012 04:30:32 PM

201205210064

\$70.00  
Declaration AMERITITLE  
Kittitas County Auditor

Page 1 of 9

When Recorded, Return to:



HILLIS CLARK MARTIN & PETERSON, P.S.

Attention: Steven R. Rovig

1221 Second Avenue, Suite 500

Seattle, WA 98101-2925

REVIEWED BY: [Signature]  
DEPUTY, KITTITAS COUNTY TREASURER

DATE: 5-21-12  
STANDS BEFORE ME, Sidney Martin  
REPRESENTING AMERITITLE  
STATE, THAT NO CONSIDERATION  
IS BEING PAID.

\$70<sup>00</sup>

AMT-115720-18

**THIRTEENTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS**

|                                                    |                                                                    |
|----------------------------------------------------|--------------------------------------------------------------------|
| Grantor:                                           | <u>SUNCADIA, LLC</u>                                               |
| Grantee:                                           | <u>PLAT OF SUNCADIA</u>                                            |
| Legal Description: (abbreviated)                   | <u>SUNCADIA PH 1, DIV 10A, Volume 12 of Plats, pages 21 to 27.</u> |
| <input checked="" type="checkbox"/> Additional on: | <u>EXHIBIT A</u>                                                   |
| Assessor's Tax Parcel Nos:                         | <u>20-15-20058-0183</u>                                            |
| Reference Nos. of Documents Released or Assigned:  | <u>200407200037</u>                                                |

THIS THIRTEENTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Thirteenth Supplemental Declaration"), dated for reference purposes as of April 1, 2011, is made by **SUNCADIA, LLC**, a Delaware limited liability company ("Declarant").

**RECITALS**

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia



interior floor area for any such dwelling shall be consistent with standards adopted by the Design Review Committee for the Village.

**3.2 Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

**3.3 Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

**4. PREVIOUSLY DESIGNATED LIMITED COMMON AREAS.** The designation of Limited Common Areas as set forth in Section 1 of the First Supplemental Declaration, Section 4 of the Second Supplemental Declaration, Section 4.1 of the Third Supplemental Declaration, Section 4 of the Fourth Supplemental Declaration and Section 4 of the Fifth Supplemental Declaration referenced above, and as otherwise amended, is hereby amended as follows:

**4.1 Benefited Units.** The definition of Benefited Units for purposes of such previously designated Limited Common Areas is amended to include Lots 1 through 7 and 33 through 37, of the Plat of Suncadia Phase 1, Division 10A.

**4.2 Additional Limited Common Areas.** All private roads within the Plat of Suncadia Phase 1, Division 10 are hereby designated Limited Common Areas for the benefit of the Benefited Units.

**4.3 Conforming Amendments.** Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended and superseded by the replacement **EXHIBIT A** attached hereto.

**5. VILLAGE.** Pursuant to Section 3.1 of the Declaration, the Subject Property is hereby designated as a Village to be known as "Black Nugget". Accordingly, Tracts S-1 and S-2 are designated as Village Common Areas.

**6. COMMENCEMENT OF ASSESSMENTS.** The Subject Property having been originally conveyed to the below-named builder on November 17, 2006, the exemption provided under Section 11.5(E) of the Declaration is not applicable and the



EXECUTED as of the day and year first above written.

**DECLARANT:**

**SUNCADIA, LLC,**  
a Delaware limited liability company

By

Name: Paul Eisenberg  
Its: Senior Vice President

By

Name: Gary Kittleson  
Its: Vice President

STATE OF WASHINGTON  
COUNTY OF KITTITAS

ss.

On this day personally appeared before me Paul Eisenberg and Gary Kittleson, to me known to be the Senior Vice President and Vice President, respectively, of **SUNCADIA, LLC**, the Delaware limited liability company that executed the foregoing instrument and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16<sup>th</sup> day of May, 2012.

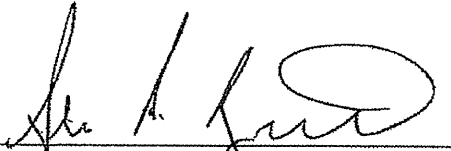
BONNIE J. SCOTT  
STATE OF WASHINGTON  
NOTARY PUBLIC  
MY COMMISSION EXPIRES  
03-04-16

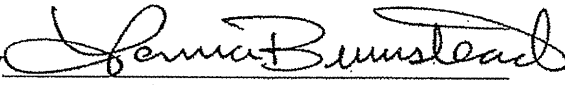
Printed Name Bonnie J Scott  
NOTARY PUBLIC in and for the State of Washington,  
residing at Cle Elum  
My Commission Expires 03/04/16



CONSENT OF OWNER OF LOT 4

As owner of Lot 4, the undersigned consents to the foregoing Thirteenth Supplemental Declaration.

By   
Steve Burnstead

By   
Donna Burnstead

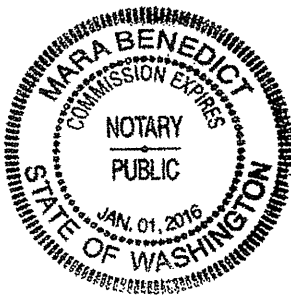
STATE OF WASHINGTON

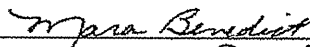
COUNTY OF King

ss.

I certify that I know or have satisfactory evidence that **STEVE BURNSTEAD** and **DONNA BURNSTEAD** are the individuals who appeared before me, and said individuals acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 9 day of May, 2012.



  
Printed Name Mara Benedict  
NOTARY PUBLIC in and for the State of Washington,  
residing at Sammamish, WA  
My Commission Expires 1/1/16



**EXHIBIT A**

**PROPERTY MADE SUBJECT TO THE DECLARATION**

The Subject Property referenced in the foregoing Supplemental Declaration is as follows:

The following real property as shown on the plat of SUNCADIA  
PHASE 1, DIVISION 10A, recorded in Kittitas County, Washington,  
Volume 12 of Plats, pages 21 to 27:

|                              |                                                 |
|------------------------------|-------------------------------------------------|
| <u>Units:</u>                | Lots numbered 1 through 7 and<br>33 through 37. |
| <u>Limited Common Areas:</u> | All private roads shown on the foregoing plat   |
| <u>Village Common Areas:</u> | Service Tracts S-1 and S-2                      |

COURTESY RECORDING ONLY . . .  
NO LIABILITY FOR VALIDITY  
AND / OR ACCURACY ASSUMED BY  
AMERITITLE

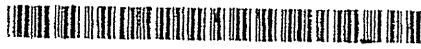


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Declaration AMERITITLE  
Kittitas County Auditor

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Page 1 of 7

When Recorded, Return to:

HILLIS CLARK MARTIN & PETERSON, P.S.  
Attention: Steven R. Rovig  
1221 Second Avenue, Suite 500  
Seattle, WA 98101-2925



#78<sup>00</sup>

AmT-116637-8

FOURTEENTH SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNCADIA RESIDENTIAL AREAS

|                                                    |                                                             |
|----------------------------------------------------|-------------------------------------------------------------|
| Grantor:                                           | NEW SUNCADIA, LLC                                           |
| Grantee:                                           | PLAT OF SUNCADIA                                            |
| Legal Description: (abbreviated)                   | SUNCADIA PH 1, DIV 10B, Volume 12 of Plats, pages 42 to 47. |
| <input checked="" type="checkbox"/> Additional on: | EXHIBIT A                                                   |
| Assessor's Tax Parcel Nos:                         | 20-15-20059-0040                                            |
| Reference Nos. of Documents Released or Assigned:  | 200407200037                                                |

THIS FOURTEENTH SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNCADIA RESIDENTIAL AREAS ("Fourteenth Supplemental Declaration"), dated for reference purposes as of September 10, 2012, is made by NEW SUNCADIA, LLC, a Delaware limited liability company ("Declarant").

RECITALS

A. Declarant is the developer of certain real property in Kittitas County, Washington, which Declarant is developing as a planned development known as "Suncadia." The portion of Suncadia referred to as the "Residential Areas" is being developed for residential purposes and is governed by that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Suncadia

Suncadia Residential Areas : 14th Supplemental (P1/D10B)  
ND: 20602.00301 4840-8129-4863v2

page 1

COURTESY RECORDING ONLY ...  
NO LIABILITY FOR VALIDITY  
AND / OR ACCURACY ASSUMED BY  
AMERITITLE



Residential Areas recorded under Kittitas County Recording No. 200407200037 (the "Declaration"). The Declaration has been amended by Supplemental Declarations recorded under Kittitas County Recording Nos. 200503170033, 200505040002, 200604190029, 200607190002, 200609280022, 200710260008, 200711190079, 200712190004, 200804160005, 200805300056, 200808210002, 200903270051; and 201205210064 ("Supplemental Declarations").

B. Pursuant to Section 2.2 of the Declaration, Declarant wishes to make that certain additional real property described in the attached **EXHIBIT A** as the Subject Property subject to the Declaration and to impose certain additional and/or different restrictions as provided in this Fourteenth Supplemental Declaration.

C. In addition, pursuant to the authority reserved by Declarant in the Declaration, Declarant wishes to designate certain private roads and tracts within the Subject Property as Limited Common Areas and expand the definition of Benefited Units with regard to the designation of certain Limited Common Areas.

D. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

#### AMENDMENTS

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

1. **SUBJECT TO DECLARATION.** The Subject Property shall be subject to the Declaration and to the terms and conditions set forth in this Fourteenth Supplemental Declaration.

2. **LAND CLASSIFICATIONS.** The Subject Property is included in one or another of the following classifications:

2.1 **Units.** All platted numbered lots within the Subject Property, but excluding any tracts so labeled, shall be Units as defined in Section 1.47 of the Declaration.

2.2 **Common Areas.** Certain roads and tracts as more particularly identified on the attached **EXHIBIT A** shall be Common Areas, Limited Common Areas or Village Common Areas.

3. **ADDITIONAL RESTRICTIONS.** The Subject Property shall be subject to the following additional restrictions:

3.1 **Minimum Dwelling Size.** No specific minimum size is required for any dwelling constructed within the Subject Property. However, the minimum

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interior floor area for any such dwelling shall be consistent with standards adopted by the Design Review Committee for the Village.

**3.2 Maximum Dwelling Size Restrictions.** Dwellings constructed on Units within the Subject Property may be subject to maximum size restrictions. Such maximum dwelling size restrictions shall, if established, be set forth in the Design Guidelines as adopted by the Design Review Committee from time to time. Owners are urged to become familiar with any such maximum size restrictions applicable to their Units prior to commencement of design and construction of any such improvements.

**3.3 Timesharing or Fractional Interest Ownership Prohibited.** Within the Subject Property there shall be no timeshare, or other fractional interest, which is defined by Washington law as "a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land." Any attempted conveyance of a timeshare or fractional interest shall be void; provided, however, this restriction shall not be interpreted to prevent joint ownership of Units not including such exclusive use periods

**4. PREVIOUSLY DESIGNATED LIMITED COMMON AREAS.** The designation of Limited Common Areas as set forth in Section 1 of the First Supplemental Declaration, Section 4 of the Second Supplemental Declaration, Section 4.1 of the Third Supplemental Declaration, Section 4 of the Fourth Supplemental Declaration and Section 4 of the Fifth Supplemental Declaration referenced above, and as otherwise amended, is hereby amended as follows:

**4.1 Benefited Units.** The definition of Benefited Units for purposes of such previously designated Limited Common Areas is amended to include Lots 1 through 7 and 33 through 37, of the Plat of Suncadia Phase 1, Division 10B.

**4.2 Additional Limited Common Areas.** All private roads within the Plat of Suncadia Phase 1, Division 10B (i.e., Black Nugget Lane) are hereby designated Limited Common Areas for the benefit of the Benefited Units.

**4.3 Conforming Amendments.** Any inconsistent provisions of the Declaration are hereby amended accordingly and Exhibit A attached to the Declaration is hereby amended by **EXHIBIT A** attached hereto.

**5. VILLAGE.** Pursuant to Section 3.1 of the Declaration, the Subject Property is hereby designated as part of the Village to be known as "Black Nugget".

**6. COMMENCEMENT OF ASSESSMENTS.** The Subject Property having been originally conveyed to the below-named builder on November 17, 2006, the exemption provided under Section 11.5(E) of the Declaration is not applicable and the

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Subject Property shall be subject to assessment by the Suncadia Residential Owners Association as of the date this Fourteenth Supplemental Declaration is recorded.

7. **AMENDMENT.** During the Development Period, Declarant may unilaterally amend this Fourteenth Supplemental for any purpose, provided such amendment has no material adverse affect on the title to any portion of the Subject Property without the consent of the Owner or has no material adverse affect on any right, privilege, or protection granted to the Owners under this Fourteenth Supplemental Declaration. In addition, this Fourteenth Supplemental Declaration may be amended by the vote or written consent of Owners holding not less than 75% of the voting rights within the Subject Property, together with the written consent of the Class B member of the Association, if such Class B membership has not been terminated. Any such amendment shall become effective only upon recordation with the Auditor of a certificate of the president or secretary of the Association, setting forth in full the amendment so approved and certifying that the amendment has been approved in the manner required by this Fourteenth Supplemental Declaration. In no event shall such an amendment create, limit or diminish the rights reserved by Declarant without Declarant's written consent, or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Units unanimously consent to the amendment.

8. **BINDING EFFECT.** The Subject Property, including all Units and Common Areas therein, shall be owned, sold, conveyed, leased, encumbered, occupied, improved and used only in accordance with the provisions of the Declaration, as modified by this instrument, which shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title or interest in the Subject Property, or any part thereof, and shall inure to the benefit of each Owner thereof and their respective successors and assigns.

9. **OTHER PROVISIONS.** Except as specifically modified herein, all other provisions of the Declaration shall remain in full force and effect.

10. **EFFECTIVE DATE.** This Fourteenth Supplemental Declaration shall take effect upon recording.



EXECUTED as of the day and year first above written.

DECLARANT:

NEW SUNCADIA, LLC,  
a Delaware limited liability company

By: Suncadia Operating Member, LLC,  
a Delaware limited liability company  
Its Managing Member

By: LDD Suncadia Manager, Inc.,  
a Delaware corporation  
Its Manager

By: [Signature]  
Name: Paul Eisenberg  
Its: Senior Vice President

By: [Signature]  
Name: GARY A KETTLESON  
Its: VICE PRESIDENT

STATE OF WASHINGTON

COUNTY OF KITTITAS

ss.

On this day personally appeared before me Paul Eisenberg and Gary Kettleson, to me known to be the Senior Vice President and Vice President, respectively, of LDD Suncadia Manager, Inc., a Delaware corporation and Manager of Suncadia Operating Member, LLC, a Delaware limited liability company and Managing Member of NEW SUNCADIA, LLC, the Delaware limited liability company that executed the foregoing instrument and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10<sup>th</sup> day of September, 2012.

BONNIE J. SCOTT  
STATE OF WASHINGTON  
NOTARY PUBLIC  
MY COMMISSION EXPIRES  
03-04-16

[Signature]  
Printed Name Bonnie J. Scott  
NOTARY PUBLIC in and for the State of Washington,  
residing at Cle Elum  
My Commission Expires 03/04/16



CONSENT OF STEVE BURNSTEAD CONSTRUCTION LLC

As owner of the Subject Property, the undersigned consents to the foregoing  
Fourteenth Supplemental Declaration.

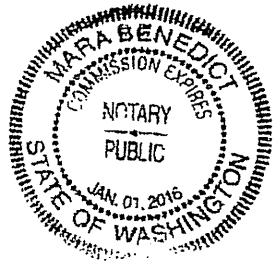
STEVE BURNSTEAD CONSTRUCTION LLC,  
a Washington limited liability company

By [Signature]  
Name: Leo Suver  
Its: President

STATE OF WASHINGTON }  
COUNTY OF King } ss.

On this day personally appeared before me Leo Suver, to  
me known to be the President of STEVE BURNSTEAD  
CONSTRUCTION LLC, the Washington limited liability company that executed the  
foregoing instrument, and acknowledged such instrument to be the free and voluntary act  
and deed of such limited liability company, for the uses and purposes therein mentioned,  
and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 19 day of September, 2012.



Mara Benedict  
Printed Name Mara Benedict  
NOTARY PUBLIC in and for the State of Washington,  
residing at Sammamish, WA  
My Commission Expires 1/1/16



**EXHIBIT A**

**PROPERTY MADE SUBJECT TO THE DECLARATION**

The Subject Property referenced in the foregoing Supplemental Declaration is as follows:

The following real property as shown on the plat of SUNCADIA  
PHASE 1, DIVISION 10B, recorded in Kittitas County, Washington,  
Volume 12 of Plats, pages 42 to 47:

Units: Lots numbered 8 through 18, 31 and 32.

Limited Common Areas:

- All private roads shown on the foregoing plat for the Benefitted Units described in Section 4 of this Fourteenth Supplement Declaration
- Tract AC-1 for the benefit of Lots 10, 11, 12 and 13 of the Plat
- Tract AC- 2 for the benefit of Lot 31 of the Plat and future Lots 29 and 30.

