

Filed for Record at Request of and
After Recording Return to:

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**AMENDED AND RESTATED DECLARATION
AND COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS AND RESERVATIONS FOR
THREE WILLOWS DIVISION NO. 2**

Grantor: THREE WILLOWS, INC., a Washington corporation
Grantee: Homeowners in Three Willows Division No. 2
Tax Parcel Nos.: 342506-9040-08; -9057-08; -9052-03; -9040-81
Legal Description: SW 1/4 of SE 1/4, Section 34, T 25 N, R 6 E, W.M.
Related Documents: 9803311304

THIS AMENDED AND RESTATED DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR THREE WILLOWS DIVISION NO. 2 (the "Declaration") is made by THREE WILLOWS, INC., a Washington corporation ("Declarant") as of this 22nd day of February, 1999.

RECITALS

Declarant is the owner of certain real property (the "Property") in King County, Washington, legally described on Exhibit A hereto.

The Property is subdivided as shown in the Plat for Three Willows Division No. 2, recorded in volume 184 of Plats, pages 88 through 91 records of King County, Washington (the "Plat").

The Property was initially known as Tract D of The Plat of Three Willows, which plat was recorded on December 16, 1997, under Recording No. 9712160594, records of King County, Washington (the "Three Willows Original Declaration"). In the event of any inconsistency between the Three Willows Original Declaration and this Declaration with respect to the Property, the terms, covenants and conditions of this Declaration shall govern.

Declarant has previously subjected the Property to that certain Declaration and Covenants, Conditions, Restrictions, Easements and Reservations for Three Willows Division No. 2, recorded on March 31, 1998 under King County Recording No. 9803311304 (the "Original Declaration").

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Article 17 of the Original Declaration provides that Declarant may, at any time prior to the Transition Date, amend the Original Declaration on its sole signature. The Transition Date has not yet passed.

NOW, THEREFORE, Declarant wishes to amend the Original Declaration and declares that the Property subject to all restrictions and easements of the Plat, shall be held, transferred, sold, conveyed, leased, used and occupied subject to the covenants, conditions, restrictions, easements, assessments, and liens hereinafter set forth which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property and which shall be binding on all parties having any right, title, or interest in the Property or any portion thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

Section 1.1 Words Defined. In this Declaration and any amendments hereto, the following terms shall have the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

1.1.1 "Apartment Building" shall mean a building on one or more Lots owned by a person or entity, consisting of two or more attached residential living units under one roof, but excluding Condominium Units and Duplexes.

1.1.2 "Association" shall mean Vintage 2 Homeowners Association described in Article 4 of this Declaration, its successor and assigns.

1.1.3 "Board" shall mean the Board of Directors of the Association, and "Directors" shall mean members of the Board of Directors.

1.1.4 "Common Areas" shall mean the real property (including the improvements and facilities thereon) described as all areas of the Property outside the Lots, including roadways, walkways, parking areas, parks, open space buffer and wetland areas shown on the Plat which will be conveyed by Declarant to the Association and held for the common use and enjoyment of the members of the Association, but shall not include any streets or other areas now or hereafter dedicated for public use. Common Areas specifically shall include Tract T as shown on the face of the Plat and shall also include the Community Common Areas more particularly defined in Section 2.10.

1.1.5 "The Community" shall mean the real property more particularly described in Section 2.10, which as of the date of this Declaration has been partially platted or shall be platted into Phases consisting of the Property, the Plat of Three Willows, the Plat of The Heights at Beaver Crest, the Plat of The Vistas at Beaver Crest Division 1, the Plat of The Vistas at Beaver Crest Division 2 and the Plat of The Vistas at Beaver Crest Division 3.

1.1.6 "Condominium" shall mean any Living Unit created in a declaration filed pursuant to the Horizontal Property Regimes Act, RCW 64.32, or any successor statute, including without limitation such units located in duplexes, fourplexes, and other multi-dwelling unit buildings, and any building composed of such units if the context shall require.

1.1.7 "Construction" and "Constructed" shall mean any construction, reconstruction, erection or alteration of an Improvement, except wholly interior alterations to a then existing Structure.

1.1.8 "Declarant" shall mean Three Willows, Inc., or such successor or assign (including a Participating Builder) as Declarant may designate by a writing recorded in the records of the Auditor of King County.

1.1.9 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, and Reservations for Three Willows Division No. 2, as hereby amended and restated, and as it may from time to time be further amended.

1.1.10 "Development Period" shall mean that period of time beginning on the date of the Original Declaration and ending on the Transition Date.

1.1.11 "First Mortgage" and "First Mortgagee" shall mean, respectively, (a) a recorded mortgage on a Lot that has legal priority over all other Mortgages thereon, and (b) the holder of a First Mortgage.

1.1.12 "Living Unit" shall mean a building or structure or any portion thereof situated in The Community that is designed and intended for use and occupancy as a residence by a Single Family, including attached or detached houses, Condominiums, and units within Apartment Buildings, and the appurtenant landscaping, fences, garages, driveways or parking areas occupying any Lot on which a Living Unit is situated. If a Living Unit is constructed on a Lot, the definition of Living Unit shall be deemed to encompass the underlying Lot, as well, but the definition shall not include any Lot on which a Living Unit has not yet received a certificate of occupancy or analogous certificate from the applicable governmental authority.

1.1.13 "Lot" shall mean any legally segmented and alienable portion of The Community shown upon any recorded subdivision map of the Property, the Plat of Three Willows, the Plat of The Heights at Beaver Crest, The Plat of The Vistas Division 1, the Plat of the Vistas Division 2 and any other Parcels within The Community, with the exception of streets and other public areas and the Common Areas.

1.1.14 "Mortgage" shall mean a recorded mortgage or deed of trust that creates a lien against a Lot and shall also mean a real estate contract for the sale of a Lot.

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1.1.15 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.

1.1.16 "Owner" shall mean the record owner, whether one or more Persons, of fee simple title to any Lot or Living Unit within The Community, including without limitation the Property, including Participating Builders but excluding Mortgagees or other persons or entities having such interest merely as security for the performance of an obligation. Purchasers of assignees under recorded real estate contracts shall be deemed Owners as against their respective sellers or assignors.

1.1.17 "Parcel" shall mean any portion of The Community not yet included within a Phase.

1.1.18 "Participating Builder" shall mean a Person who acquires from Declarant one or more Lots for the purpose of improving the same for resale to future Owners.

1.1.19 "Person" shall mean an individual, corporation, partnership, association, trustee, or other legal entity.

1.1.20 "Phase" shall mean any portion of The Community that is segregated by Declarant's (or a related entity) filing for recording of a final plat, short plat, binding site plan, condominium declaration or other analogous recorded plan, map or document that creates Lots, Living Units or Common Areas.

1.1.21 "Plat" shall mean the recorded plat of Three Willows Division No. 2 and any amendments, corrections or addenda thereto subsequently recorded.

1.1.22 "Property" shall mean the land described on Exhibit A and such additions thereto as may hereafter be subjected to the terms of the Declaration, and all improvements and structures now or hereafter placed on the land.

1.1.23 "Single Family" shall mean a single housekeeping unit that includes not more than four adults who are legally unrelated.

1.1.24 "Structure" shall mean any building, fence, wall, driveway, walkway, patio, garage, storage shed, carport, mailboxes, swimming pool, rockery, dog run, climbing or play toy or structure, basketball hoop or the like.

1.1.25 "Transition Date" shall be as defined in Section 4.10.

Section 1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably.

Section 1.3 Exhibits. The following are exhibits to this Declaration:

Exhibit A - Legal Description of the Property

Exhibit B - Fence Detail

Exhibit C - Legal Description of real property within The Community

ARTICLE 2. COMMON AREAS, LIMITED COMMON AREAS, EASEMENTS AND PARTY WALLS.

Section 2.1 Conveyance to Association. Declarant hereby grants and conveys the Common Areas to the Association.

Section 2.2 Use. Each Owner shall have the right to use the Common Areas in common with all other Owners. The right to use the Common Areas shall be appurtenant to and pass with the ownership of each Lot and shall extend not only to each Owner, but also to his agents, tenants, members of his household, invitees, and licensees. The right to use the Common Areas shall be governed by the provisions of this Declaration, the Bylaws, and the rules and regulations of the Association.

Section 2.3 Abandonment of Common Areas. The Common Areas may not be abandoned, partitioned, subdivided, encumbered, sold, or transferred by the Association, any Owner or any third party, provided that, with the approval of at least 67% of the Owners and compliance with any restrictions on the face of the Plat, the Common Areas may be transferred to or encumbered for the benefit of a public agency, authority, or utility. The granting of easements for utilities or for other purposes consistent with the intended use of the Common Areas by the Owners shall not be deemed a partition or division.

Section 2.4 Alteration of Common Areas. Nothing shall be altered or constructed in or removed from any Common Areas except upon the prior written consent of the Board.

Section 2.5 Private Easements.

2.5.1 Private Drainage and Utility Easements. Declarant hereby creates private drainage and utility easements more particularly identified below and as shown on the face of the Plat, for the benefit of the identified Lots and Lot Owners. The Owners of benefited Lots shall share equally in the operation, maintenance and replacement costs for the drainage facilities and utilities located within the easements. The Board may assess the benefited Lots for such purposes.

Lot 183. 10 foot drainage easement to benefit Lot 182.

Lots 184 - 195. 10 foot drainage and utility easement to benefit those Lots.

Lot 197. 10 foot sanitary sewer easement to benefit Lot 196.

Lots 198 - 201. 10 foot drainage and utility easement to benefit those Lots.

Lots 156 - 161. 10 foot drainage and utility easement to benefit those Lots.

Lots 162 - 171. 10 foot drainage and utility easement to benefit those Lots.

Lots 202 - 207. 10 foot drainage and utility easement to benefit those Lots.

Lots 212 - 217. 10 foot drainage and utility easement to benefit those Lots.

Lots 172 - 182. 15 foot drainage and utility easement to benefit those Lots.

2.5.2 Private Sanitary Sewer Easements. Declarant hereby creates a 10 foot private sanitary sewer easement over Lot 182, as shown on the face of the Plat, for the benefit of Lot 183. Declarant further hereby creates a 10 foot private sanitary sewer easement over Lot 197, as shown on the face of the Plat, for the benefit of Lot 196. Declarant further hereby creates a 10 foot sanitary sewer easement over Lot 199, as shown on the face of the Plat, for the benefit of Lot 198.

2.5.3 Private Water Easement. Declarant hereby creates a 10 foot private water easement over Lot 170, as shown on the face of the Plat, for the benefit of Lot 171.

2.5.4 Joint Use Driveway Easement. The easement area on Lots 182 and 183 which is shown on the face of the Plat shall be used for joint driveway, ingress and egress purposes for the benefit of Lots 182 and 183. The Owners of Lots 182 and 183 shall be jointly responsible, in equal shares, for maintenance, repair and replacement of the joint driveway. Neither Owner shall obstruct in any way use of the joint driveway by the other Owner. Any disputes between the Owners of Lots 182 and 183 shall be resolved by the Board, whose decision shall be binding on the Owners.

Section 2.6 Easements for Utilities. Declarant hereby creates and reserves a 10 foot easement along all property lines adjoining street frontage for the benefit of any power company, any Telephone Company, Washington Natural Gas Company, any Water and Sewer District, the cable television company and such other similar private utility and drainage users as may be authorized by the Board, all for installation, repair, replacement and operation of the utility services provided by such entities, together with the right to enter upon the easements at all time for the purposes stated. No structures shall be constructed on any area reserved for this easement. For purposes of this section, "structures" shall not include landscaping, fencing, walkways, driveways or rockeries. The Board, with the consent of at least 51% of the voting power of the Association, shall be entitled to designate those additional private utilities that shall be entitled to utilize the easement area reserved in this Section 2.6. No lines or wires for the transmission of electric current or for telephone use or cable television shall be placed or permitted to be placed upon any Lot unless the same be underground or in conduit attached to a Structure.

Section 2.7 Sammamish Plateau Sewer and Water District. Declarant hereby creates and reserves, for the benefit of the Sammamish Plateau Sewer and Water District, and its successors and assigns, easements as shown on the face of the Plat and described as "sanitary sewer easements" to

install, maintain, replace, repair and operate water and sewer systems, mains, and appurtenances for the Plat and other property, together with the right to enter onto said easements at all times for the purposes stated in this Section 2.7. No structures or obstructions shall be constructed on any areas reserved for these easements. For purposes of this Section 2.7, "structures" shall include fences, trees, bushes or other shrubbery.

Section 2.8 Drainage Easement – King County. Declarant hereby creates and reserves, for the benefit of King County, a twelve-foot wide easement across Lot 175, to install, maintain, replace and repair storm drainage facilities, together with the right to enter onto said easement at all times for the purposes stated in this Section 2.8. No structures or obstructions shall be constructed on the area reserved for this easement. For purposes of this Section 2.8, "structures" shall include fences, trees, bushes or other shrubbery.

Section 2.9 Conditions for Grant of Easements. The easements granted in Sections 2.5, 2.6,, 2.7 and 2.8 are subject to the agreement of grantees to compensate grantor (or grantor's successors and assigns) for any damage to the affected property caused by the exercise of grantee's easement rights; to use reasonable care in carrying out any construction or repair in the easement areas and to restore such areas, to the extent reasonably practicable, to the condition they were immediately prior to such work; and to indemnify and hold harmless grantor (and grantor's successors and assigns) from any and all claims for injuries and/or damages suffered by any person caused by grantee's exercise of the rights therein granted.

Section 2.10 Cross Easements Over Common Areas. Declarant, together with related entities which are part of the Murray Franklyn Family of Companies ("Murray Franklyn"), Quadrant Corporation and Connor Development Corporation (collectively, the "Developers") own a large assemblage of real property commonly known as Beaver Crest and Three Willows, which assemblage includes and/or is adjacent to the Property. Hereinafter, Beaver Crest and Three Willows, which includes the Property, shall be referred to collectively as "The Community", (which, for marketing purposes, shall be known as "Vintage", including "Avignon", "Keswick", "Touraine", "Pomerol", "Provence", "Bouchard", and any other marketing names adopted by Declarant, Murray Franklyn or Developers, at their sole discretion). The initial legal description of The Community is set forth in Exhibit D. Declarant or Murray Franklyn may, at their sole discretion, annex additional real property to The Community or delete portions of the real property described in Exhibit D from The Community. The Developers intend to develop The Community with separate homeowner associations for different portions, but with integrated use of certain Common Areas, defined as The Community Common Areas, all as more particularly described in Section 4.10 of this Declaration. Each homeowner association may be responsible for the maintenance of certain Common Areas within the boundaries of the Phase governed by that homeowner association, and each homeowner association will be authorized to create reasonable rules and regulations governing use of such Common Areas, provided that no such rules and regulations may discriminate among members of The Community. In addition, all of the associations and Building Apartment Owners shall contribute toward the maintenance and operation of the Community Common Areas, all as more particularly described in Section 4.10. Each Owner of or tenant in a Living Unit within The Community shall have an easement for use and enjoyment of all the Common Areas. Accordingly, Declarant hereby grants and conveys to all of the Owners

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within the Plat of the Heights at Beaver Crest, the Plats of Three Willows and Three Willows Division 2, the Plats of Vistas Division 1, Vistas Division 2 and Vistas Division 3 and such future plats or Phases as may be created within The Community, the right to use the Common Areas (including any Community Common Areas) located within the Plat, consistent with such reasonable, non-discriminatory rules and regulations as may be adopted by the Board. As new Phases are created, Declarant, Murray Franklyn and the Developers shall from time to time during the Development Period convey to various homeowner associations the Common Areas designated on a final plat or other recorded map or plan creating the Phase. Upon its creation as a Common Area in a Phase, and whether or not it shall have been conveyed as yet to the relevant association, every Common Area shall be subject to an easement of common use and enjoyment in favor of all associations within the Community and every Owner, their heirs, successors, and assigns, in accordance with the terms and conditions of the applicable declaration, rules and regulations. Such easement shall be appurtenant to and shall not be separated from ownership of any Lot or Living Unit and shall not be assigned or conveyed in any way except upon the transfer of title to such Lot or Living Unit, and then only to the transferee of such title and shall be deemed so transferred and conveyed whether or not it shall be so expressed in the deed or other instrument conveying title. Certain rights of use, ingress, egress, occupation, and management authority in the Common Areas set forth in this Declaration or the applicable declaration shall be reserved to Declarant or the applicable developer or builder during the Development Period. The Association shall reasonably cooperate with other homeowner associations created as part of creating Phases within The Community and with the Maintenance Committee in enforcing reasonable and non-discriminatory rules and regulations adopted by such other associations which govern use of the Common Areas. Unless it elects to otherwise delegate its authority, the Maintenance Committee shall have sole authority to adopt and enforce reasonable and non-discriminatory rules and regulations governing use of the Community Common Areas.

Section 2.11 Joint Ownership Tracts. Any disputes with respect to the joint ownership of the Tracts described in this Section 2.11 shall be resolved by the Board, whose decision shall be binding upon the parties in dispute.

2.11.1 Tract V. Declarant hereby grants and conveys to the Owners of Lots 158 through 161 an equal, undivided tenancy in common interest in Tract V, to provide ingress, egress and utilities to said Lots. The Owners of Lots 158 through 161 shall share equally in the costs of maintaining, repairing and replacing the driveway and any other improvements located within Tract V which serve all four Lots, as well as property taxes assessed against Tract V. Tract V is subject to an easement for water, sanitary sewer and drainage as shown on the face of the Plat.

2.11.2 Tract H. Declarant hereby grants and conveys to the Owners of Lots 172 through 174 an equal, undivided tenancy in common interest to Tract H, to provide ingress, egress and utilities to said Lots. The Owners of Lots 172 through 174 shall share equally in the costs of maintaining, repairing and replacing the driveway and other improvements located within Tract H which serve all three Lots, as well as property taxes assessed against Tract H. Tract H is subject to an easement for water, sanitary sewer and drainage, as shown on the face of the Plat.

2.11.3 Tract U. Declarant hereby grants and conveys to the Owners of Lots 195 through 199 an equal, undivided tenancy in common interest to Tract U, to provide ingress, egress and utilities to said Lots. The Owners of Lots 195 through 199 shall share equally in the costs of maintaining, repairing and replacing the driveway and other improvements located within Tract U which serve all four Lots, as well as property taxes assessed against Tract U. Tract U is subject to an easement for water, sanitary sewer and drainage, as shown on the face of the Plat.

2.11.4 General Terms, Conditions and Covenants Governing Joint Ownership Tracts. Declarant, on behalf of itself and its successor Lot Owners, effective on recording of this Declaration, and until the Transition Date, hereby appoints the Board as its true and lawful attorney for Declarant and in its name, place and stead to perform all work and take all actions as may be deemed necessary by the Board to maintain, repair and replace the driveways located in Tracts V, H and U (the "Driveways"). The Board may specially assess the Lot Owners for their proportionate share of maintenance expenses. Until the Transition Date, this power of attorney shall be irrevocable and the appointment of the Board as attorney in fact shall be a grant of authority coupled with an interest which shall survive the death or incompetence of any successor Lot Owners. This power of attorney shall terminate automatically, without further action of Declarant or any other person, on the Transition Date. After the Transition Date, any owner believing it is necessary for work to be performed on a Driveway shall notify the other affected owners, in writing, as to the nature and estimated cost of such work, and a time and place for a meeting to discuss the proposed work, which shall be not less than two weeks nor more than two months following the date of delivery of the notice. At the meeting, the owners shall vote on the proposed work by being present or by proxy. Each Lot shall be entitled to one vote. A quorum is present throughout any meeting if the Owners to which fifty percent (50%) of the votes are allocated are present in person or by proxy at the beginning of the meeting. The decision whether to proceed with the work shall be made by a vote of the majority of those constituting a quorum. If, after the meeting and the vote, bids are received which exceed the estimate by 15%, another meeting shall be called and a new vote of the Owners shall be taken, based upon the actual bid amounts. In the event of a deadlock or for resolution of any other dispute with respect to maintenance or operation of the Driveways, any Lot Owner may submit the dispute to the Board, whose decision shall be binding. Each Lot Owner shall promptly pay its share of the costs of maintaining, repairing and replacing the Driveway within thirty (30) days after receipt of an invoice setting forth the total amount paid and the Lot Owner's share. If a Lot Owner fails to pay their proportionate share when due, one or more of the other Lot Owners may pay the defaulting Lot owner's share and the unpaid sums shall constitute a lien on the defaulting owner's Lot, from the date the payment is made until paid in full. The lien for such unpaid sums shall be subordinate to tax liens on the Lot in favor of any assessing unit and/or special district, but to the extent permitted by applicable law shall have priority over all other liens against the Lot. The lien for delinquent payments may be foreclosed by suit by the Lot Owners making the delinquent payment, in the same manner as provided for other assessments under the terms of this Declaration. The owners making payment for a delinquent owner may charge interest at the rate of 12% per annum on the sum so paid, from the date of payment. No Lot Owner shall park vehicles within a Driveway or otherwise obstruct use of the Driveway by any other Lot Owner. Any Lot Owner using a Driveway shall indemnify, defend and hold the other Lot Owners harmless from and against claims, damages, causes of action, costs and attorneys' fees arising from or in connection

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