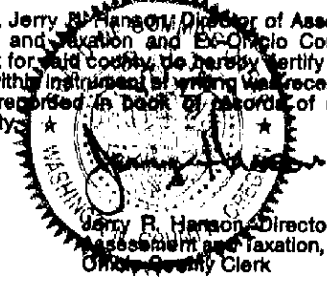


STATE OF OREGON
County of Washington) SS

I, Jerry R. Hanson, Director of Assessment and Taxation and Ex-Officio County Clerk for said County, do hereby certify that the within instrument of writing was received and recorded in Book of Records of said county.



Jerry R. Hanson, Director of Assessment and Taxation, Ex-Officio County Clerk

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AFTER RECORDING, RETURN TO:

Pahlisch Nielsen Homes, LLC
12540 SW 68th Parkway, Suite B
Tigard, OR 97223

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FIDELITY NATIONAL TITLE CO.

AMENDED AND RESTATED
DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
FOR STOLLER FARMS NO. 2 SUBDIVISION,
WASHINGTON COUNTY, OREGON

Pahlisch Duncan Homes, LLC

Declarant

This instrument filed for record by Fidelity National Title as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.

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**AMENDED AND RESTATED
DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
FOR STOLLER FARMS NO. 2 SUBDIVISION,
WASHINGTON COUNTY, OREGON**

THIS DECLARATION is made this 17 day of November, 1999 by PAHLISCH DUNCAN HOMES, LLC, an Oregon limited liability company ("Declarant").

RECITALS

A. Declarant has recorded the plat of "Stoller Farms No. 2" in the plat records of Washington County, Oregon. In addition, Declarant is the declarant of that certain Declaration of Conditions, Covenants and Restrictions for Stoller Farms No. 2 Subdivision, Washington County, Oregon, dated May 29, 1996 and recorded September 24, 1996, in the Records of Washington County, Oregon, as Document No. 96085826. Such declaration was amended by instruments recorded November 14, 1997 as Document No. 97107456.1 and April 19, 1999 as Document No. 99047952.1. Such declaration, as amended, is referred to in this instrument as the "Original Declaration."

B. Pursuant to Article XVI of the Original Declaration, Declarant hereby amends and restates the Original Declaration as set forth in this instrument, effective upon recording of this instrument in the Records of Washington County, Oregon.

C. Declarant desires to subject the property described in such plat to the conditions, restrictions and charges set forth in this instrument for the benefit of such property, and its present and subsequent owners, and to establish such property under the Oregon Planned Community Act, ORS 94.550 to 94.783, as a planned development to be known as "Stoller Farms No. 2."

NOW, THEREFORE, Declarant hereby declares that the property described in Article 2 below shall be held, sold and conveyed subject to the following easements, covenants, restrictions and charges, which shall 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.

ARTICLE 1

DEFINITIONS

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

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1.1 "**Architectural Review Committee**" or "**the Committee**" means the committee appointed pursuant to Article 7 below.

1.2 "**Assessments**" means all assessments and other charges, fines and fees imposed by the Association on an Owner in accordance with this Declaration, the Bylaws of the Association or the provisions of the Oregon Planned Community Act, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, and Individual Assessments as described in Article 10 below.

1.3 "**Association**" means the nonprofit corporation to be formed to serve as the owners association as provided in Article 8 below, and its successors and assigns.

1.4 "**Common Area**" means the tract designated as such in Section 3(b) below.

1.5 "**Common Easement Area**" means the easement areas established for the benefit of all property within Stoller Farms No. 2 pursuant to this Declaration.

1.6 "**Declarant**" means Pahlisch Duncan Homes, LLC, an Oregon limited liability company, and its successors and assigns if such successor or assignee should acquire Declarant's interest in the remainder of the proposed project site, or less than all of such property if a recorded instrument executed by Declarant assigns to the transferee all of Declarant's rights under this Declaration.

1.7 "**Improvement**" means every structure or improvement of any kind, including but not limited to a fence, wall, driveway, swimming pool, storage shelter, landscaping or other product of construction efforts on or in respect to the Property.

1.8 "**Living Unit**" means a building or a portion of a building located upon a Lot within the Property and designated for separate residential occupancy, together with any permitted Accessory Dwelling Unit.

1.9 "**Lot**" means a platted or partitioned lot within the Property.

1.10 "**Mortgage**" means a mortgage or a trust deed; "**mortgagee**" means a mortgagee or a beneficiary of a trust deed; and "**mortgagor**" means a mortgagor or a grantor of a trust deed.

1.11 "**Owner**" means the person or persons, including Declarant, owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

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1.12 "**Public Areas**" means areas dedicated to the public or conveyed to the Tualatin Hills Park and Recreation District.

1.13 "**Sold**" means that legal title has been conveyed or that a contract of sale has been executed and recorded under which the purchaser has obtained the right to possession.

1.14 "**Stoller Farms No. 2**" means the property described in Article 2 below.

1.15 "**The Property**" means Stoller Farms No. 2.

1.16 "**This Declaration**" means all of the easements, covenants, restrictions and charges set forth in this instrument, together with any rules or regulations promulgated hereunder, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

Declarant hereby declares that all of the real property described below is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration:

All real property within that certain plat entitled "Stoller Farms No. 2," filed in the plat records of Washington County, Oregon, in Book 106 at Page 27 of Plat Records, Document No. 96085816.

ARTICLE 3

LAND CLASSIFICATIONS

All land within the Property is included in one or another of the following classifications:

- (a) Lots, which shall consist of the numbered Lots in the plat of the Property.
- (b) Common Area, which shall be the area marked as Tract F on the plat of the Property.
- (c) Common Easement Area, which shall be a ten (10) foot easement for fencing and landscaping along the frontage of all Lots and Tracts abutting NW West Union Road.

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ARTICLE 4

PROPERTY RIGHTS IN COMMON AREA AND COMMON EASEMENT AREA

4.1 **Owners' Easements of Enjoyment.** Subject to provisions of this Article, every Owner and his invitees shall have a right and easement of enjoyment in and to the Common Area, which easement shall be appurtenant to and shall pass with the title to every Lot.

4.2 **Common Easement Area.** The Common Easement Area shall be reserved for landscaping and a boundary fence. Such area is to be maintained by the Association and no changes in landscaping will be permitted within such area without written authorization by the Board of Directors of the Association. No building, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon the Common Easement Area.

4.3 **Title.** Title to the Common Area shall be conveyed to the Association by Declarant, free and clear of monetary liens, prior to the date on which Class B membership in the Association ceases and is converted to Class A membership as described in Section 8.3. Title to the Common Easement Area, subject to the easements set forth in this Declaration, shall rest in the Owners of the respective Lots within which such area is located.

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

(a) **Association Easements.** Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property an easement over, under and upon the Common Area and the Common Easement Area for maintenance and repair of any landscaping, fence or walkway thereon.

(b) **Use of the Common Area.** The Common Area shall be used only as an access walkway. The Board of Directors of the Association shall have authority to abate any trespass or encroachment upon the Common Area at any time, by any reasonable means and with or without having to bring legal proceedings.

(c) **Alienation of the Common Area.** The Association may not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Lots unless the holders of at least 80 percent of the Class A Association voting rights and the Class B member (as defined in Section 8.3 below), if any, have given their prior written approval. The Association, upon approval in writing of at least 50 percent of the Class A Association voting rights and the Class B member, if any, may dedicate or convey the Common Area to a park district or other public body.

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(d) **Limitations on Use.** Use of the Common Area by the Owners shall be subject to the provisions of this Declaration and to the following:

(i) The right of the Association to suspend such use rights of an Owner to the extent provided in Article 11 below.

(ii) The right of the Association to adopt, amend and repeal rules and regulations in accordance with this Declaration.

4.5 **Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment of the Common Area to the family members, tenants, invitees and guests, whose use shall be subject to this Declaration and Rules and Regulations adopted under this Declaration.

ARTICLE 5

PROPERTY RIGHTS IN LOTS

5.1 **Use and Occupancy.** The Owner of a Lot in the Property shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and each Owner and the Declarant shall comply with the restrictions contained in Article 6 below and all other provisions of this Declaration and the provisions of any supplement or amendment to this Declaration.

5.2 **Easements Reserved.** In addition to any utility and drainage easements shown on any recorded plat, Declarant hereby reserves the following easements for the benefit of Declarant and the Association:

(a) **Adjacent Common Area or Common Easement Area.** The Owner of any Lot which adjoins any Common Area or Common Easement Area shall, if the Association elects from time to time to so require, permit the Association to enter upon the Lot to perform the maintenance of such Common Area or Common Easement Area.

(b) **Right of Entry.** Declarant, the Architectural Review Committee and any representative of the Association authorized by it may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of determining whether or not the use and/or improvements of such Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(c) **Utility Easements.** Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Lots, as shown on any recorded plat. Within the easements, the Architectural Review Committee will not permit any structure,

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planting or other material to be placed or permitted to remain on the easement area 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 channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible, except the Common Easement Area, which will be maintained by the Association.

ARTICLE 6

GENERAL USE RESTRICTIONS

6.1 **Structures Permitted.** No structures shall be erected or permitted to remain on any Lot except structures containing a single detached Living Unit, together with an Accessory Dwelling Unit if permitted by applicable Washington County regulations, and structures normally accessory thereto. No building may be erected on any of the Lot sites unless it contains a minimum of 1,000 square feet of floor area, exclusive of open porches, garages, garden houses and other appurtenances. In the case of a two-story dwelling, the lower or ground level shall not be less than 750 square feet, with a minimum total square footage of 1,400 square feet. Front elevation shall include features acceptable to the Architectural Control Committee. Exterior stain or paint colors shall be approved by the Architectural Control Committee. Windows shall be of solid vinyl or vinyl clad construction. All dwelling units shall have a double car garage or larger. Roofing shall be of laminated shingles (minimum 25 year life) or a reasonable substitute acceptable to the Architectural Control Committee. No outbuildings, lean-tos, sheds, pool houses, wood storage facilities, and/or equipment storage facilities shall be constructed upon the lot without prior written approval from the Architectural Control Committee. A designated real estate company may be granted the right by the Architectural Control Committee to construct and maintain a sales office upon suitable site on the Property during the period of construction and sale of all of the Living Units to be built in the Property. Builders are permitted to erect temporary or portable sheds as tool houses and for other uses common to residential construction and to maintain them until each structure is finished.

6.2 **Residential Use.** Lots shall only be used for residential purposes. Except with the consent of the Board of Directors of the Association, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any such Lot. The mere parking on a Lot of a vehicle bearing the name of a business shall not, in itself, constitute a violation of this provision. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the rental or sale of Living Units, (b) the right of Declarant or any contractor or homebuilder to construct Living Units on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any Living Unit as a sales or rental office or model home or apartment for purposes of sales or rental in Stoller Farms No. 2 and (c) the right of the Owner of a Lot to maintain his

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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 Living Unit. The Board of Directors shall not approve commercial activities otherwise prohibited by this paragraph unless the Board of Directors determines that only normal residential activities would be observable outside of the Living Unit and that the activities would not be in violation of applicable Washington County, Oregon ordinances.

6.3 **Offensive or Unlawful Activities.** No noxious or offensive activities or noxious or offensive or unsightly conditions shall be permitted on any part of the Property, nor shall anything be done or placed on the Property which is a source of annoyance or nuisance to the neighborhood. No unlawful use shall be made of the Property nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction over the Property shall be observed.

6.4 **Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept or permitted within the Property, except dogs, cats or other household pets which are not kept, bred or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of their respective owners. No animal shall be permitted to roam the Property unattended, and all dogs shall be kept on a leash while outside a Lot or within a Common Easement Area. An Owner or occupant may be required to remove a pet upon receipt of the third written notice from the Association Board of Directors of violations of any rule, regulation or restriction governing pets within the Property.

6.5 **Maintenance of Structures and Grounds.** Each Owner shall maintain the Owner's Lot 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. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, walks, lights and fences on alleys and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by the Architectural Review Committee. In addition, each Owner shall keep all shrubs, trees, grass and plantings of every kind on the Owner's Lot (other than Common Easement Area) neatly trimmed, property 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 a reasonable period of time.

6.6 **Vehicles.** No boats, trailers, trucks (except pickups), campers or truck campers and like equipment, or junk cars or other unsightly vehicles shall be allowed on any part of the Property nor on public ways adjacent thereto, excepting only within the confines of an enclosed garage or other screened enclosure, and no portion of same may project beyond the enclosed area except under such circumstances, if any, as may be prescribed by written approval by the Architectural Control Committee. Fencing and/or screened enclosures may not extend beyond

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the front of the building, nor any structures, such as fences for arbors are to be built in the front of the building without prior approval from the Architectural Control Committee. All other parking of equipment shall be prohibited except as approved by the Architectural Control Committee.

6.7 **Existing Trees.** Every attempt shall be made to preserve existing trees. No tree of diameter greater than a six-inch base may be removed without approval of the Architectural Control Committee.

6.8 **Signs.** Unless written approval is first obtained from the Architectural Control Committee, no sign of any kind shall be displayed to public view on any building or Living Unit on the Property except one professional sign of not more than five square feet advertising such Property for sale or rent, or a sign used by the builder to advertise the Property during the construction and sales period. If a Property is sold or rented, any sign relating thereto shall be removed immediately, except that the builder or its agent may post a "sold" sign for a reasonable period following the sale.

6.9 **Rubbish and Trash.** No part of the Property shall be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash or other waste shall be kept or maintained on any part of the Property except in a sanitary container. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and shall be screened from public view.

6.10 **Landscaping and Sidewalks.** All front yard landscaping must be completed within six months from the date of completion of the Living Unit constructed thereon. All front yard landscaping must include one deciduous tree 1-1/4 inches in diameter at the base. The purchaser of a Lot shall install, at purchaser's cost, concrete sidewalks to county standards along front property lines, and side property lines in the case of corner lots, and concrete driveways from the edge of the finished surface of the public street to the property line and then concrete to connect with the paved surface of the floor of the garage.

6.11 **Temporary Structures: Building Completion.** No trailer, camper-truck, tent, garage, barn, shack or other outbuildings shall at any time be used as a residence either temporarily or permanently, on any part of the Property. All buildings shall be completed and painted within six (6) months from the time construction is commenced.

6.12 **Fences, Hedges and Walls.** No shrub, trees or bushes shall be allowed to grow to a height which unduly restricts the view from adjoining property and the Architectural Control Committee, at its discretion, after an investigation, may require any offending shrub, tree or bush to be pruned, trimmed or removed. Fences shall be consistent with the Fence Design Plans attached hereto, marked Exhibits A, B and C and incorporated as part of this Declaration. Quality of fence installation workmanship must be acceptable to the Architectural Control Committee. Fences are to remain natural wood color or owner may use clear sealer or tinted cedar color

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sealer. No hedge, fence hedge wall, boundary wall, retaining wall or similar structure shall be erected or maintained between any front set back line of any Lot and any street line serving as a boundary line for such Lot, unless approval of the Committee as to material, form, size and color is first obtained.

6.13 Service Facilities. No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes nor any pole, tower or other structure, supporting said outdoor overhead wires, shall be erected, placed or maintained within the Property. All purchasers of building sites, their heirs, successors and assigns shall use underground service wires to connect their Living Units to the underground electric or telephone utility facilities.

6.14 Antennas and Satellite Dishes. Exterior antennas, satellite receiver and transmission dishes and other communication devices shall not be permitted to be placed upon any Lot except in accordance with rules established by the Architectural Review Committee in accordance with Section 7.3.

6.15 Exterior Lighting or Noisemaking Devices. Except with the consent of the Architectural Review Committee, no exterior lighting or noisemaking devices shall be installed or maintained on any Lot, other than as originally installed by the builder of the home and security and fire alarms.

6.16 Pest Control. No Owner shall permit any thing or condition to exist upon any portion of the Property which shall induce, breed or harbor infectious plant or animal diseases or noxious insects or vermin.

6.17 Grades, Slopes and Drainage. Each Owner of a Lot 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 Lot or Common Area without the express written permission of the Architectural Review Committee, and then only to the extent and in the manner specifically approved. 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 channels.

6.18 Rules and Regulations. In addition, the Association from time to time may adopt, modify or revoke such nondiscriminatory Rules and Regulations governing the conduct of persons and the operation and use of the Property as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the Rules and Regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner. The rules and

regulations may be adopted by the Board of Directors of the Association, except as may be otherwise provided in the Bylaws of the Association.

ARTICLE 7

ARCHITECTURAL REVIEW COMMITTEE

7.1 **Architectural Review.** No Improvement shall be commenced, erected, placed or altered on any Lot 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 Architectural 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 existing Improvements and as to location with respect to topography and finished grade elevations and compliance with the setback requirements contained in the conditions of approval of Washington County. The building plans to be submitted shall consist of one complete set of plans and specifications in the usual form showing insofar as appropriate, (i) the size the dimensions of the Improvements, (ii) the exterior design, (iii) approximate exterior color scheme, (iv) location of Improvements on the Lot, including setbacks, driveway and parking areas, and (v) location of existing trees to be removed. These plans and specifications shall be left with the Committee until sixty (60) days after notice of completion has been received by the Committee. This is for the purpose of determining whether, after inspection by the Committee, the Improvement complies substantially with the plans and specifications submitted and approved. The Architectural Review Committee is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or any other governmental regulations, all of which are the responsibility of the applicant. The procedure and specific requirements for review and approval of construction may be set forth in Design Guidelines adopted from time to time by the Architectural Review Committee. The Committee may charge a reasonable fee to cover the cost of processing the application. In all cases in which the Architectural Review Committee consent is required by this Declaration, the provisions of this Article shall apply, except that this Article shall not apply to construction by Declarant.

7.2 **Committee Decision.** The Architectural Review Committee shall render its decision with respect to the construction proposal within thirty (30) working days after it has received all material required by it with respect to the application. In the event the Committee fails to render its approval or disapproval within forty-five (45) working days after the Committee has received all material required by it with respect to the proposal, or if no suit to enforce this Declaration has been commenced within one year after completion thereof, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with.

7.3 **Committee Discretion.** The Architectural Review Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the

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Committee intends for Stoller Farms No. 2. Consideration such as siting, shape, size, color, design, materials, height, solar access, screening, impairment of the view from other Lots, or other effect on the enjoyment of other Lots or the Common Area, disturbance of existing terrain and vegetation and any other factors which the Committee reasonably believes to be relevant, may be taken into account by the Committee in determining whether or not to consent to any proposed work. Regulations on siting of television antennas and satellite receiving dishes shall be in conformance with any applicable Federal Communications Commission rules.

7.4 Membership: Appointment and Removal. The Architectural Review Committee shall consist of as many persons, but not less than two, as the Declarant may from time to time appoint. The Declarant may remove any member of the Committee from office at its discretion at any time and may appoint new or additional members at any time. The Association shall keep on file at its principal office a list of the names and addresses of the members of the Committee. Declarant may at any time delegate to the Board of Directors of the Association the right to appoint or remove members of the Architectural Review Committee. In such event, or in the event Declarant fails to appoint an Architectural Review Committee, the Board of Directors shall assume responsibility for appointment and removal of members of the Architectural Review Committee, or if it fails to do so, the Board of Directors shall serve as the Architectural Review Committee.

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

7.6 Liability. Neither the Architectural Review Committee nor any member thereof shall be liable to any Owner, occupant, builder or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member of the Committee, and the Association shall indemnify the Committee and its members therefrom, provided only that the member has, in accordance with the actual knowledge possessed by him, acted in good faith.

7.7 Nonwaiver. Consent by the Architectural Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

7.8 Appeal. At any time after Declarant has delegated appointment of the members of the Architectural Review Committee to the Board of Directors of the Association pursuant to Section 7.4, any Owner adversely affected by action of the Architectural Review Committee may appeal such action to the Board of Directors of the Association. Appeals shall be made in writing within ten (10) days of the Committee's action and shall contain specific objections or mitigating

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circumstances justifying the appeal. A final, conclusive decision shall be made by the Board of Directors of the Association within fifteen (15) working days after receipt of such notification.

7.9 **Effective Period of Consent.** The Architectural Review Committee's consent to any proposed work shall automatically be revoked one year after issuance unless construction of the work has been substantially commenced in the judgment of the Architectural Review Committee and thereafter diligently pursued, unless the Owner has applied for and received an extension of time from the Committee.

7.10 **Estoppel Certificate.** Within fifteen (15) working days after written request is delivered to the Architectural Review Committee by any Owner, and upon payment to the Committee of a reasonable fee fixed by the Committee to cover costs, the Committee shall provide such Owner with an estoppel certificate executed by a member of the Committee and acknowledged, certifying with respect to any Lot owned by the Owner, that as of the date thereof, either: (a) all Improvements made or done upon or within such Lot 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 therein, such matters being conclusive as between Declarant, the Architectural Review Committee, the Association and all Owners, and such purchaser or mortgagee.

ARTICLE 8

ASSOCIATION

Declarant shall organize an association of all of the Owners within Stoller Farms No. 2. Such Association, its successors and assigns, shall be organized under the name "Stoller Farms No. 2 Owners Association" or such similar name as Declarant shall designate, and shall have such property, powers and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of Lots located therein.

8.1 **Organization.** Declarant shall organize the Association as a nonprofit corporation under the general nonprofit corporation laws of the State of Oregon. 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.

8.2 **Membership.** Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Lots within the Property, 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.

8.3 **Voting Rights.** 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 one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three votes for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs later:

- (i) When all of the Lots in the Property have been sold and conveyed to Owners other than Declarant; or
- (ii) Ninety (90) days following recording of this Declaration.

8.4 **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 Oregon.
- (c) The powers, duties and obligations of a homeowners association pursuant to the Oregon Planned Community Act.
- (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 Property.

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 its provisions, accompanied by changes in the Articles of Incorporation or Bylaws of the Association

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made in accordance with such instruments and with the nonprofit corporation laws of the State of Oregon.

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

(a) **Maintenance and Services.** The Association shall provide maintenance and services for the Property as provided in Article 9 and other provisions of this Declaration.

(b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association.

(c) **Rulemaking.** The Association shall make, establish, promulgate, amend and repeal Rules and Regulations as provided in Section 6.18 of this Declaration.

(d) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article 10 of this Declaration.

(e) **Enforcement.** The Association shall 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 Rules and Regulations adopted by the Association, including, without limitation, enforcement of the decisions of the Architectural Review Committee.

(f) **Employment of Agents, Advisers and Contractors.** The Association, through its Board of Directors, may employ the services of any person or corporation 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, architects, planners, lawyers and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Property.

(g) **Borrow Money, Hold Title and Make Conveyances.** The Association may borrow and repay moneys for the purpose of performing its duties under this Declaration. The Association may acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, and shall accept any real or personal property, leasehold or other property interests within Stoller Farms No. 2 conveyed to the Association by Declarant.

(h) **Transfer, Dedication and Encumbrance of Common Area.** Except as otherwise provided in Section 4.4(c) above, the Association may sell, transfer or encumber all or any portion of the Common Area to a person, firm or entity, whether public or private, and dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for public purposes.

(i) **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, without being required to render such services to those of its members who do not assent to such charges and to such other Rules and Regulations as the Board of Directors deems proper. In addition, the Board of Directors 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 the same.

(j) **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.

8.6 **Liability.** A member of the Board of Directors or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his duties, except for acts of gross negligence or intentional acts. In the event any member of the Board of Directors 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.

8.7 **Interim Board: Turnover Meeting.** Declarant shall have the right to appoint an interim board of three directors, who shall serve as the Board of Directors of the Association until replaced by Declarant or until their successors take office at the turnover meeting following termination of Class B membership. At such meeting the interim directors shall resign and be replaced by their successors, who shall be designated as provided in this Declaration and the Bylaws of the Association. Declarant shall call a meeting of the Association for the purpose of turning over administrative responsibility for the Property to the Association not later than ninety (90) days after termination of the Class B membership in accordance with Section 8.3 above. At the turnover meeting the interim directors shall resign and their successors shall be elected by the Owners as provided in this Declaration and in the Bylaws of the Association. If Declarant fails to call the turnover meeting required by this section, any Owner or mortgagee of a Lot may call the meeting by giving notice as provided in the Bylaws.

8.8 **Contracts Entered into by Declarant or Prior to Turnover Meeting.** Notwithstanding any other provision of this Declaration, any management contracts, service contracts or employment contracts entered into by the Declarant or the Board of Directors on behalf of the Association prior to the turnover meeting described in Section 8.7 above shall have a term of not in excess of three (3) years. In addition, any such contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) days' notice to the other party given not later than sixty (60) days after the turnover meeting described in Section 8.7 above.

ARTICLE 9

MAINTENANCE, UTILITIES AND SERVICES

9.1 **Maintenance of Common Area and Common Easement Area.** The Association may provide exterior lighting for and shall perform all maintenance upon the Common Area and Common Easement Area, including but not limited to landscaping, irrigation, fences, walls, and walkways and trails, unless the maintenance thereof is assumed by a public body. Such area shall be maintained in an attractive condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended.

9.2 **Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association, Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants that the Association, its board of directors and committees, Declarant, and any successor Declarant are not insurers and that each person using the Property assumes all risks for loss or damage to persons, to property and to the contents of Lots resulting from acts of third parties and releases such parties from any liability therefor.

9.3 **Services.** The Association shall provide or contract for such services as the Board may reasonably deem to be of benefit to the Property.

9.4 **Owner's Responsibility.** Except as otherwise provided in this Declaration or by written agreement with the Association, all maintenance of the Lots and Improvements thereon as provided in Section 6.5 above shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a neat and attractive condition in accordance with the community-wide standard of Stoller Farms No. 2. The Association shall, in the discretion of the Board of Directors, assume the maintenance responsibilities of such Owner if, in the opinion of the Board of Directors, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Board of Directors shall notify the Owner in writing of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action within fifteen (15) days after mailing of such written notice, then the Association shall proceed. The expenses of such maintenance by the Association shall be reimbursed to the Association by the Owner, together with interest as provided in Section 11.5 below. Such charges shall be an Individual Assessment and lien on the Lot as provided in Sections 10.7 and 11.2 below.

ARTICLE 10**ASSESSMENTS**

10.1 **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Property and for the maintenance and repair of the Common Area and Common Easement Area.

10.2 **Types of Assessments.** The Association may levy Annual Assessments, Special Assessments, Emergency Assessments, and Individual Assessments, all as more particularly described below.

10.3 **Apportionment of Assessments.** Lots owned by Declarant shall not be subject to Annual Assessments, Special Assessments or Emergency Assessments until such time as the Lot is occupied for residential use, except that Annual Assessments for reserves as described in Section 10.11(b) below shall begin accruing for all Lots, including Lots owned by Declarant, from the date of recording of this Declaration. Declarant, however, may defer payment of the accrued reserve assessments for a Lot until the date the Lot is conveyed. The books and records of the Association shall reflect the amount owing from the Declarant for all reserve assessments. All Lots other than unoccupied Lots owned by Declarant shall be subject to assessment shall pay an equal share of the Annual Assessments, Special Assessments and Emergency Assessments. Declarant may elect to delay collection of Annual Assessments against all Lots, but in such case shall pay all common expenses of the Association until such Assessments commence. No Owner by the Owner's own action may claim exemption from liability for contribution towards common expenses by abandonment by the Owner of the Owner's Lot. An Owner may not claim an offset against an Assessment for failure of the Association to perform its obligations, and no Owner may offset amounts owing or claimed to be owing by the Association or Declarant to the Owner.

10.4 **Annual Assessments.** The Board of Directors of the Association 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 overassessment and any common profits of the Association. The budget shall take into account the numbers of Lots subject to assessment as of the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. 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 10.9 below. Annual Assessments for such operating expenses and reserves ("Annual Assessments") shall then be apportioned among the Lots as provided in Section 10.3 above. Within thirty (30) days after adopting the annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt an annual budget, the last adopted budget shall continue in effect. The manner of billing and collection of Assessments shall be as provided in the Bylaws.

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10.5 Special Assessments. In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment ("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 Annual Assessments. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to fifteen percent (15%) 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 voting on such matter, together with the written consent of the Class B member, if any. Prior to the turnover meeting described in Section 8.7, any Special Assessment must be approved by not less than fifty percent (50%) of the Class A voting rights, together with the written consent of the Class B member. Special Assessments shall be apportioned as provided in Section 10.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

10.6 Emergency Assessments. If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors of the Association shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment"). Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to five percent (5%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the voting rights voting on such matter, together with the written consent of the Class B member, if any. Emergency Assessments shall be apportioned as set forth in Section 10.3 above and payable as determined by the Board of Directors.

10.7 Individual Assessments. Any common expense or any part of a common expense benefitting fewer than all of the Lots may be assessed exclusively against the Lots benefitted ("Individual Assessment"). Individual Assessments include, without limitation, charges for services provided under Sections 8.5(i), 8.9, and 9.4 and any common expense that is the fault of the Owner and not paid by insurance. Individual Assessments shall also include default assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to the Individual Assessments.

10.8 Operations Fund. The Association shall keep all funds received by it as Assessments, other than reserves described in Section 10.9, separate and apart from its other funds, in a bank account in the name of the Association to be known as the "Operations Fund."

All expenses of the Association shall be paid from the Operations Fund or the Reserve Fund referred to in Section 10.9. The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within the Property 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 Area and of the Lots situated upon the Property, including but not limited to:

- (a) Payment of the cost of maintenance, utilities and services as described in Article 9.
- (b) Payment of the cost of insurance as described in the Bylaws of the Association.
- (c) Payment of taxes assessed against the Common Area.
- (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.

10.9 Reserve Fund.

(a) Establishment of Account. The Declarant shall establish a bank account in the name of the Association (the "Reserve Fund") for replacement of common properties which will normally require replacement in whole or in more than three(3) and less than thirty (30) years and for exterior painting if the Common Area and the Common Easement Area or other property to be maintained by the Association include exterior painted surfaces. The Reserve Fund need not include those items that could reasonably be funded fro operating assessments.

(b) Funding of Reserve Fund. The Reserve Fund shall be funded by assessments against the individual Lot assessed for maintenance of the items for which the Reserve Fund is being established, which sums shall be included in the regular monthly Annual Assessment for the Lot. 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 Association is responsible for administering the Reserve Fund and making periodic payments into it.

(c) Reserve Studies. The amount of the reserve payments shall be adjusted at least annually to recognize changes in current replacement costs over time. The Board of Directors annually shall conduct a reserve study, or review an update an existing study, of the Common Area and the Common Easement Area and other property maintained by the Association to determine the Reserve Fund requirements. A Reserve Fund shall be established for those items of the Common Area and the Common Easement Area and other property maintained by the Association for all or part of which will normally require replacement in more than three (3) and less than thirty (30) years, for exterior painting if the Common Area and the Common Easement

Area or any other property maintained by the Association include exterior painted surfaces, and for the maintenance, repair or replacement of other items the Board of Directors, in its discretion, may deem appropriate. The Reserve Fund need not include items that could reasonably be funded from operating assessments. The reserve study shall include:

- (i) Identification of all items for which reserves are to be established;
- (ii) The estimated remaining useful life of each item as of the date of the reserve study;
- (iii) An estimated cost of maintenance, repair or replacement of each item at the end of its useful life;
- (iv) A thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

(d) Use of Reserve Fund. The Reserve Fund shall be used only for maintenance, repair and replacement of the Common Area and the Common Easement Area and other property maintained by the Association for which the reserves have been established and shall be kept separate from other funds. After the turnover meeting described in Section 8.7, however, the Board of Directors 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 Annual Assessments, Special Assessments, or Emergency Assessments. Nothing in this section shall prohibit prudent investment of the reserve account. Following the second year after the turnover meeting, future Assessments for the Reserve Fund may be reduced, eliminated or decreased by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Association. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

10.10 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Property, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay 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 Association Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 11.5, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Such Assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 11 below.

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10.11 Voluntary Conveyance. In a voluntary conveyance of a Lot the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Lot up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser, the Board of Directors of the Association shall make and deliver a statement of the unpaid Assessments against the prospective grantor or the Lot, and the grantee in that case shall not be liable for, nor shall the Lot when conveyed be subject to, a lien filed thereafter for any unpaid Assessments against the grantor in excess of the amount set forth in the statement.

ARTICLE 11

ENFORCEMENT

11.1 Violation of General Protective Covenants. In the event any Owner constructs or permits to be constructed on his Lot an Improvement contrary to the provisions of this Declaration, or shall violate any provisions of this Declaration, the Bylaws of the Association or the rules and regulations, then the Association acting through its Board of Directors 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 its Board of Directors, 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 Lot 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 rules and regulations to be towed and impounded at the Owners' expense;

(d) Suspend the voting rights for the period that the violations remain unabated;

and

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(e) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

11.2 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 voting rights 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 his Lot.

(b) The Association shall have a lien in accordance with ORS 94.709 against each Lot for any Assessment levied against the Lot, including any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot.

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

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

11.3 Reports to First Mortgagees. In response to a written request of any first mortgagee of a Lot, the Association shall report to such mortgagee whether such Lot is current or past due with respect to Assessments.

11.4 Subordination of Lien to Mortgages. The lien of the Assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the Assessment lien, but the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a decree of foreclosure thereunder or any deed or proceeding, deed or assignment in lieu of foreclosure shall extinguish any lien of an Assessment notice of which was recorded after the recording of the mortgage or trust deed. The unpaid Assessments as a result of such foreclosure or sale shall become a common expense of all Owners, including the mortgagee or purchaser, and such sale or transfer shall not release the Lot from liability for any Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

11.5 Interest, Late Charges and Expenses. 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 three percentage points per annum above the prevailing Portland, Oregon prime rate as of the due date, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board of Directors of the Association not to exceed thirty percent (30%) of such Assessment. 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 of Directors of the Association.

11.6 **Costs and Attorneys' Fees.** In the event the Association shall bring any suit or action to enforce this Declaration, the Bylaws of the Association or the Rules and Regulations, or to collect any money due hereunder 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, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy remedies.

11.7 **Nonexclusiveness and Accumulation 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.

ARTICLE 12

MISCELLANEOUS PROVISIONS

12.1 **Amendment and Repeal.** This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of Owners representing not less than seventy-five percent (75%) of the Lots, based upon one vote for each such Lot, together with the written consent of the Class B member, if such Class B membership has not been terminated as provided in this Declaration. Any such amendment or repeal shall become effective only upon recordation in the Deed Records of Washington County, Oregon, 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. Declarant may not amend this Declaration after the sale of the first Lot unless owners representing seventy-five percent (75%) of the total vote, other than Declarant, agree to the amendment. In no event shall an amendment under this section create, limit or diminish special

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Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment.

12.2 **Regulatory Amendments.** Notwithstanding the provisions of Section 12.1 above, until the turnover meeting described in Section 8.7 has occurred, Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of any applicable statute, ordinance or regulation or of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community. After the turnover meeting, any such amendment shall require the approval of a majority of the voting rights of the Association voting in person, by proxy or by ballot at a meeting or ballot meeting of the Association at which a quorum is represented.

12.3 **Joint Owners.** In any case in which two or more persons share the ownership of any Lot, 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 vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

12.4 **Lessees and Other Invitees.** Lessees, employees, invitees, contractors, family members and other persons entering the Property 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 Lot and other areas within the Property. 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 the Owner himself.

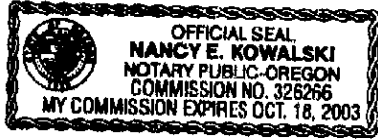
12.5 **Nonwaiver.** Failure by the Association or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

12.6 **Construction; Severability; Number; Captions.** This Declaration shall be liberally construed as an entire document to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed

DEC 09 2003

STATE OF ~~WASHINGTON~~)
OREGON)ss.
County of WASHINGTON)

The foregoing instrument was acknowledged before this 17 day of November,
1999, by Mark A. Nielsen, Member/Manager of Pahlisch Duncan Homes, LLC, on its behalf.



Nancy E. Kowalski
Notary Public for PAHLISCH DUNCAN HOMES LLC
My commission expires: 10-18-2003

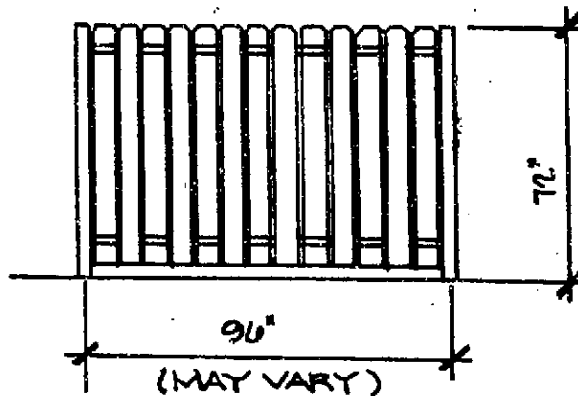
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EXHIBIT "A"

TO:

STOLLER FARMS NO. 2 - SUBDIVISION

Covenants, Conditions and Restrictions

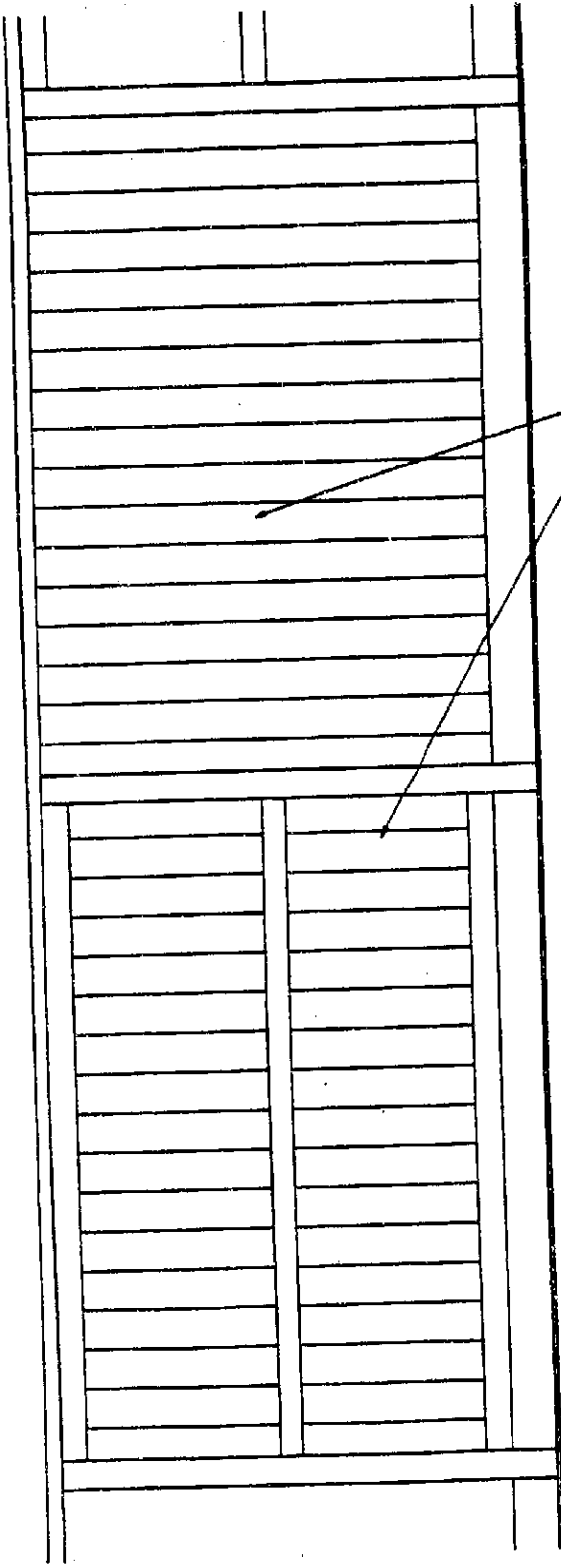


Yard Perimeter Fencing

- Materials:** 1x8 #1 Cedar tight knot uprights, or
1x6 #1 Cedar tight knot uprights
4x4 #1 Cedar posts with 2x4 braces or
4x4 Pressure-treated posts with 2x4 braces
All wood materials can be left natural or owner can apply clear sealer or cedar tint color sealer
- Style:** Beveled top finish not required
- Maintenance:** Property owners are to keep fencing in good repair. Broken or decayed fencing must be brought up to "new" condition in a timely manner.

X
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EXHIBIT "B" (04-09-99)



ALTERNATE FACE
EVERY OTHER POST

2 x 4 K.D. FIR
OR CEDAR

4 x 4 P.T. POST BEYOND
Ø 8'-0" O.C. IN 12" RND. x 16" FT'G

1 x 6 R/S CEDAR FENCING
(TIGHTKNOT #1)

2 x 4 K.D. FIR
OR CEDAR

2 x 4 K.D. FIR
OR CEDAR

FENCING

SCALE: 1/2" = 1'-0"

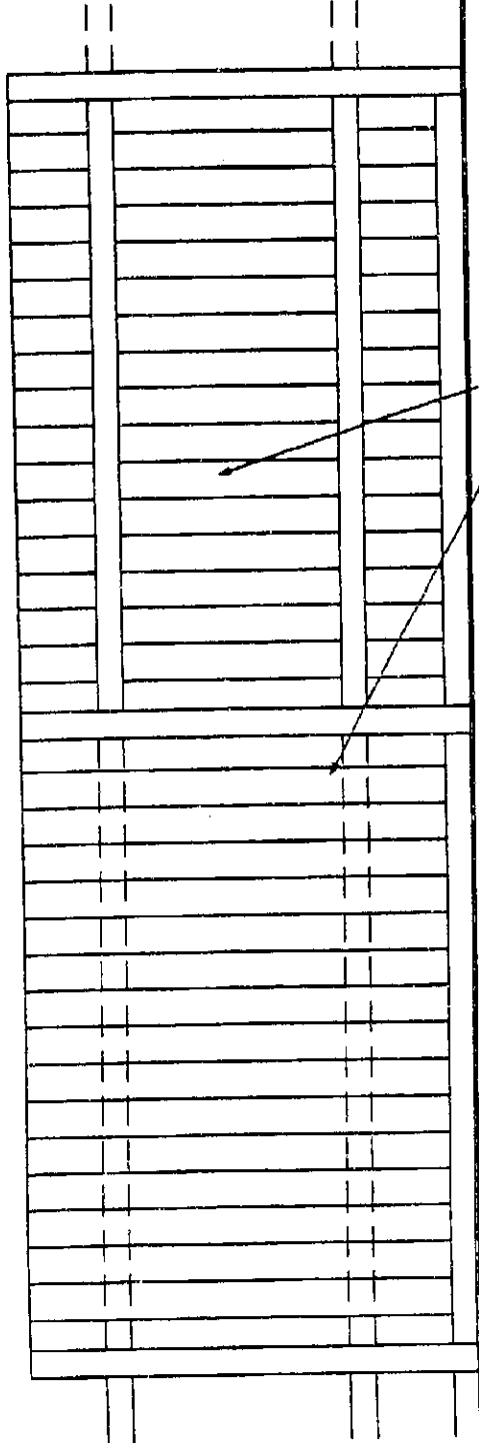
STYLE: "TOTAL PRIVACY" BOTH SIDES

MATERIALS: TIGHT KNOT #1 CEDAR

MAINTENANCE: PROPERTY OWNERS TO
MUST KEEP FENCE IN
GOOD REPAIR. BROKEN
OR DECAYING FENCING
MUST BE REPLACED TO
"AS NEW" CONDITION IN
A TIMELY MANNER.

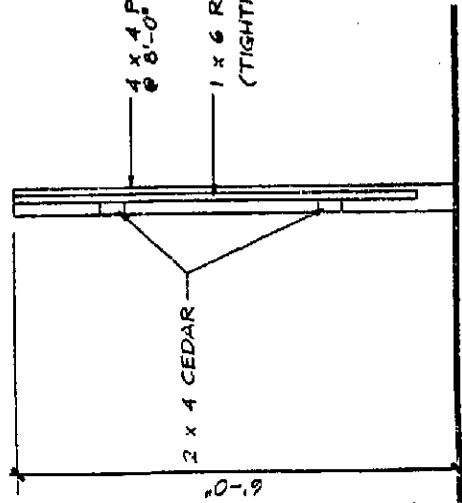
~~33~~

EXHIBIT "C"
COVENANTS, CONDITIONS AND RESTRICTIONS
STOLLER FARMS NO. 2



ALTERNATE FACE
EVERY OTHER POST

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4 x 4 P.T. POST BEYOND
8'-0" O.C. IN 12" RND. x 16" FT'G

1 x 6 R/S CEDAR FENCING
(TIGHTKNOT #1)

2 x 4 CEDAR

2'-0"

FENCING

SCALE: 1/2" = 1'-0"

STYLE: "Total Privacy: both sides

MATERIALS: Tight Knot #1 Cedar

MAINTENANCE: Property owners must keep fencing
in good repair. Broken or decaying
fencing must be replaced to "as new"
condition in a timely manner.

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