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DOCUMENT TITLE:                   DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF COTTAGE FARMS, A RESIDENTIAL COMMUNITY

DECLARANT:                            ALLWEST, LLC, a Washington Limited Liability Company

LEGAL DESCRIPTION:

ASSESSOR'S TAX PARCEL NO.:

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DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS OF  
COTTAGE FARMS, A RESIDENTIAL COMMUNITY

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF COTTAGE FARMS, A RESIDENTIAL COMMUNITY (hereinafter referred to as the "Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, 2013, by ALLWEST, LLC, a Washington Limited Liability Company (hereinafter referred to as the "Declarant").

A.       WHEREAS, the Declarant owns fee title to the real property located in Kittitas County, Washington and legally described as: Lots 1-17 of the Allwest LLC Plat recorded in Book \_\_\_ of Plats at Page \_\_\_\_\_, under Auditor's File No. \_\_\_\_\_, records of Kittitas County, State of Washington, being a portion of Section 7, Township 17 North, Range 18 East, W.M (hereinafter referred to individually as a "Lot" or collectively as "The Allwest Plat" or "Plat"); and

B.       WHEREAS, Lots 1,2,3 and 4 having elected to utilize Susan Road as access as a result of certain election to use Easement recorded on \_\_\_\_\_, 2013 and recorded under Kittitas County Auditor's File No. \_\_\_\_\_ and as a result, Lots 1, 2, 3 and 4 are also bound by those certain Covenants, Conditions & Restrictions recorded under Auditor's File No. 2003\_\_\_\_\_ (hereinafter the "2003 Declaration); and

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C. WHEREAS, it is the intent of the Declarant that certain qualities and assets of the Property be preserved, and it is desirable to protect the present and future property values and the enjoyment thereof and, to that end, the Declarant desire a means to preserve and protect the intended character of the Property.

NOW, THEREFORE,

Declarant declares that all of the Lots, as defined in paragraph 1.4 below, shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and reservations, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. These covenants, conditions, restrictions and reservations shall run with the Lots and shall be binding upon all persons or entities now having or hereafter acquiring any right, title, or interest in and to the Lots, or any of them, shall be binding upon their respective heirs, successors, and assigns, and shall inure to the benefit of each individual and/or entity having or hereafter acquiring any right, title, or interest in and to the Lots, or any of them, and their heirs, successors, and assigns.

## I. DEFINITIONS

1.1 The word "Declarant" shall mean Allwest LLC, a Washington Limited Liability Company, its successors and/or assigns.

1.2 The phrase "Development Period" shall mean the period of time during which the property shall be developed by Allwest, LLC, which period shall terminate when Declarant sells the last of Lots 1 to 16.

1.3 The Phrase "KRD" shall mean the Kittitas Reclamation District and its successors and assigns.

1.4 The word(s) "Lot(s)" shall mean Lots 1 through 17 of the Plat.

1.5 The word(s) "Lot Owner(s)" or "Owner(s)" shall mean any person or entity that holds fee title or a vendee's interest under a real estate contract of any Lot. The word Lot Owner shall also be construed to include any person or entity that has, or claims to have, a legal or equitable interest in a Lot, including but not limited to, lien claimants, Deed of Trust beneficiaries, mortgagees, easement holders, tenants or other persons in possession. Regardless of the number of persons or entities which may qualify as a Lot Owner as defined herein, each Lot shall be entitled to only one vote in any situation in which this Declaration requires the vote of or approval by Lot Owners.

1.6 The word Plat shall mean that certain Final Plat of Allwest, LLC Plat dated \_\_\_\_\_, 2012 and recorded in Book \_\_\_\_ of Plats, Pages \_\_\_\_\_, under Kittitas County Auditor's File No. \_\_\_\_\_, being a portion of Section 7, Township 17 North, Range 18 East, W.M.

1.7 The word "Property" shall mean and refer to all the real property described in Recital A above.

1.8 The word "Excluded Property" shall mean Lot 17 of the Plat.

## II. PROPERTY SUBJECT TO DECLARATION

2.1 The covenants, conditions, restrictions and reservations herein are to run with Lots 1 through 16, inclusive of the Plat, and shall be binding upon all the Owners of Lots 1 through 16, their successors and assigns. This Declaration does not encumber Lot 17; provided, however, Lot 17 is benefitted by this Declaration and therefore has the authority and ability to enforce the terms and conditions of this Declaration.

2.2 As set forth above in Recital C, Lots 1, 2, 3 and 4 are also bound by the 2003 Declaration and, in the event this Declaration conflicts with the 2003 Declaration, in that event, the 2003 Declaration shall control.

### III. PROPERTY RESTRICTIONS

3.1 Each Lot Owner shall use their respective Lot exclusively for residential purposes and in such a manner as to not interfere with the reasonable use and enjoyment of a Lot by the other respective Lot Owners or otherwise constitute a nuisance to the other Lot Owners.

3.2 No dwelling shall be erected, altered, placed, or permitted to remain on the Lots other than one (1) single-family residence. No Lot shall be used for any purpose other than a single-family residence, except as allowed herein.

3.3 No commercial activity shall be conducted on any Lot except as can be and is conducted totally within the residence located on the Lot and which does not involve members of the general public coming to the residence in furtherance of the commercial activity. For purposes of this Declaration, "commercial activity" shall not include agricultural activity. Agricultural activity shall not be allowed on Lots 1-16. Agricultural activity, includes, but is not limited to, the (i) breeding and raising of livestock and other farm animals; (ii) swine, poultry, birds or water fowl shall not be permitted to be bred and/or raised, and (iii) the growing and harvesting of crops. The processing of any agricultural products and container storage shall not be permitted. No feedlot operations of any kind shall be permitted.

3.4 No Lot Owner shall carry on any activity of any nature whatsoever on any Lot that is in violation of laws and statutes of the United States of America, the State of Washington, Kittitas County or any other applicable governing body now existing or hereafter created.

#### 3.5 Structures on Lots.

3.5.1 Plan Submission and Approval. No Improvements, including, but not limited to, residences, outbuildings, barns, garages or other structures, shall be erected, placed, altered, maintained or permitted to remain on any Lot by any Owner until final plans and specifications ("Plans"), together with a written contract with the Owner's contractor who will construct the Improvements, shall have been submitted to and approved by the Declarant or the Declarant's designee. Such Plans shall be submitted by the authorized agent, by the builder of such Improvements and by the Lot Owner. The following information shall be a part of such Plans submitted to the Committee: (a) the location of the proposed structure upon the Lot in relation to the lot lines and other structures on the lot; (b) the elevation of the structure with reference to the existing and finished Lot grades ("Site Plan"); (c) the general design; (d) the interior layout; (e) the exterior finish materials and color, including roof materials; (f) any other or supplemental information required to determine whether the structure conforms with Community standards; and (g) a copy of the construction contract between Owner and Owner's contractor. The Plans shall contain no less detail than required by the appropriate governmental authority for the issuance of a building permit.

3.5.2 Basis for Approval. The Declarant's approval shall be based upon the conditions of approval for the Plat and the restrictions set forth in this Declaration. The Declarant may, however, with respect to approval of the contractor Owner hires, withhold its approval of the contractor and require the Owner to use a different contractor. The Declarant shall have the right to disapprove any Plans submitted hereunder on any reasonable grounds.

3.5.3 Variances. The Declarant shall have the authority in its sole discretion to approve Plans which do not conform to the restrictions described herein to (a) overcome practical difficulties; or (b) prevent undue hardship from being imposed on an Owner. However, such variation shall only be approved In the event that the variation will not (a) detrimentally impact the Community or its attractive development; or (b) adversely affect the character of nearby Lots. Granting such a waiver shall not constitute a waiver of the restrictions described herein.

3.5.4 Approval. The Declarant may approve Plans as submitted, or as altered or amended, or it may grant its approval to the same subject to specific conditions. Upon approval or conditional approval by the Declarant of any Plans submitted, a copy of such Plans, bearing such approval together with any conditions, shall be returned to the applicant submitting the same. The Declarant shall have the right to waive the requirement that Plans be reviewed for any Improvements to be constructed by the Declarant.

3.5.5 Construction Without Approval. If any Improvement shall be altered, erected, placed or maintained upon any Lot, or any new use commenced upon any Lot, other than in accordance with the approval of the Declarant pursuant to the provisions of the Declaration, such alternation, erection, placement, maintenance or use shall be deemed to have been undertaken in violation of this Declaration and, upon written notice from the Declarant, any such Improvement so altered, erected, placed, maintained or used upon any Lot in violation of this Declaration shall be removed or altered and/or such use shall have ceased so as to conform to this Declaration. Should such removal or alternation not be accomplished within 30 days after receipt of such notice, then the party in breach of this Declaration shall be subject to the enforcement procedures set forth in this Declaration.

3.6 No dwelling or other structure shall be maintained, constructed, located, modified or repaired on any Lot in violation of the requirements of any applicable governmental agency.

3.7 No structure shall be maintained, constructed, located, modified, or repaired on any Lot without the Lot Owner or the Lot Owner's contractor obtaining a building permit and any other permits required by any and all governmental agencies.

3.8 No pre-manufactured home, mobile home, modular home, trailer home, or relocated house shall be allowed to be placed on or erected on any Lot, whether temporary or permanent.

3.9 All single family homes must contain 1,600 square feet or more of living space, shall not exceed two stories nor be taller than 35 feet in height or exceed applicable county height limits, whichever is less. All single family homes must contain 1200 sq. ft. or more of living space on the ground floor plus an attached, fully enclosed, two or three car garage; provided that a detached and enclosed garage may be allowed so long as the ground floor area of the residence is a minimum of 1,600 square feet.

3.10 Exterior siding shall be wood, brick, stone, stucco, Hardiplank© siding or plaster. No aluminum, or substantially similar exterior siding materials shall be allowed on any structure constructed on a Lot. Roofing materials, including composition materials, must be of architectural grade, provided that rough-cut plywood siding with bats is allowed.

3.11 Exterior colors, including roofing materials and trim, shall be earth tones or shades, which shall be defined as follows: All large areas of color, such as walls and roofs shall be restricted to tones or shades in earth colors with a range of value between value 7 and value 4 on the 1 - 10 value scale. Any difference in color or change in color between walls, roofs and trim of the structure must have a contrasting hue which keeps different color tones and shades at relative equal values (by example, and only by example, if the base color is a brown (a tone or shade of red) at a mid-value 5, then the trim must be another hue of equal value 5).<sup>1</sup>

3.12 No part of any building shall be located on any Lot nearer than 25 feet from any Lot line, even in the event the adjacent Lot is under the same ownership. No Lot Owner may apply to Kittitas County or to the appropriate governmental authority for a variance from the legal setback requirements in the zone, now existing or hereinafter adopted. Houses, garages and outbuildings may only be located on the portion of the lots identified on

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<sup>1</sup> The terms hue and value are defined in Munsell, Albert H. Color Notation. The terms tint, shade and tone are defined in Birren, Faber. History of Color in Painting. (1965).

the site plan submitted pursuant to Paragraph 3.5 for Declarant's approval, which site plan shall define the area within each lot upon which structures may be located.

3.13 Garages and outbuildings that are allowed to be constructed on a Lot subject to Paragraph 3.5 and shall be consistent with the single family residence constructed on a Lot as to the exterior finish, style, and color scheme used. Garages and outbuildings shall conform with the exterior color and roofing material requirements of paragraphs 3.10 and 3.11.

3.14 All single-family residences and other structures erected on any Lot shall be completed within twelve (12) months from the commencement of work. The commencement of work occurs when excavation for the foundation for a structure is begun. Any reconstruction or repair work of any such structures shall be prosecuted diligently and continuously from commencement until completion.

3.15 All driveways shall be hard surface from the paved access road to the garage. Crushed rock may be approved for limit outbuilding access if approved pursuant to paragraph 3.5.

3.16 All utility wires, conduits and utility conveyance facilities shall be installed and maintained underground; provided, however, a satellite dish of less than two (2) feet across necessary to receive television or internet service shall be permitted, but only if affixed to the residence or approved four (4) foot in height mounting stand adjacent to the residence

3.17 Each Lot shall be maintained in a clean, sanitary condition at all times and shall be kept free of all junk, trash, litter, rubbish, garbage, weeds, debris, containers, equipment (other than farm equipment), and building materials (temporary storage during construction phases excluded).

3.18 Garbage receptacles and trash cans shall be sanitary and in complete conformity with municipal sanitary rules and regulations. All garbage and trash containers must be stored in such a manner so that they are not visible from another Lot or from any county road and protected from animals. No trash, garbage, ashes, yard rakings, or other organic materials resulting from landscaping activities or other refuse shall be thrown, dumped, piled, stacked, or allowed to accumulate in any way on any Lot, street or driveway; provided, however, each Lot Owner shall be allowed to store organic material in a compost pile which shall not be located closer than 50 feet of a Lot line.

3.19 No vehicle repair work shall be performed for more than a twenty-four (24) hour period unless all such vehicles are contained in a fully enclosed garage or outbuilding.

3.20 No inoperable motor vehicles, machinery, equipment, camper, boat, boat trailer, recreational vehicle, or similar item shall be stored on any portion of any Lot except within an enclosed garage or outbuilding as allowed under this Declaration. No camper or recreational vehicle shall be used or occupied on any Lot for more than 14 days (cumulative) in any 365-day period.

3.21 No commercial vehicles having three axles or more or truck and trailer combination of any kind shall be parked on any Lot or any road fronting a Lot at any time.

3.22 No trees, now existing or planted in the future, over six inches (6") in diameter as measured three feet (3') above the average ground height six inches (6") from the base may be cut down, topped or branches trimmed in excess of ten percent (10%) per year of the total length and number of limbs, unless it is:

3.22.1 In order to build a home, patio, sidewalk or deck or other structure on a Lot.

3.22.2 In order to allow entry or garage access.

3.22.3 In order to protect Owners against a diseased or dangerous tree or trees.

3.22.4 In order to comply with any requirements of any governmental authority with jurisdiction over the Development; including those now in existence or to be made law in the future.

3.22.5 In order to install any and all utilities, roadways, irrigation conveyance systems, etc.

3.23 No trees or vegetation shall be planted in such a manner as to form a “fence” or tree line where such vegetation would directly block the views of the Stuart Mountain Range from neighboring properties. Trees that inadvertently block such views shall be trimmed by a professional licensed tree company at the expense of an offended property owner wishing to protect their view. Owners shall allow limited access for such maintenance of view protection. Nothing in this provision is intended to prevent lot owners from growing trees or other landscape vegetation associated with property enjoyment.

3.24 Weapons shall be permitted on the Lots but may not discharged except for reasons of self-defense or to protect livestock or property. No discharge of weapons shall be allowed such that it violates any law, endangers life, limb or property, or interferes with the use and enjoyment of the Property by any Lot Owners. Items considered to be weapons to be weapons shall be bows and arrows, cross bows, pistols, rifles, shotguns, slingshots, BB guns or pellet guns. No hunting shall be allowed on the Lots.

3.25 All animals on the Lots shall be properly restrained, fenced, maintained and otherwise kept so as to not interfere with any other Lot and/or so as to cause any threat or harm to any Lot Owner’s use of their Lot.

3.26 All fences shall be wood rails (three rail minimum) with wood posts or other kennel enclosures approved pursuant to paragraph 3.5.

3.27 Lots 1 through 16, inclusive, may not be divided further while this Declaration is in effect, regardless if allowed by local zoning and subdivision ordinances as they now exist or are hereafter amended.

3.28 No snowmobiles, ATVs, motorized dirt bikes and similar motorized vehicles may be used within a Lot. This is intended to specifically prohibit, among other activities, creation and maintenance of a “track” or “course” or path within a Lot or Lots over which such vehicles repeatedly travel for recreational purposes.

3.29 Signs. There shall be no signs erected or maintained on the property whatsoever including but without limitation commercial, political, and similar signs, visible from neighboring property, except:

- a) such signs as may be required by law or by any legal proceeding;
- b) signs not exceeding three square feet providing the name or number identification on a residential property, parking or storage area;
- c) during the time of construction of any structure, a job identification sign having a maximum face area of twenty square feet per sign;
- d) any owner wishing to sell or rent his property may place one sign not larger than six hundred (600) square inches advertising the property for sale.
- e) political signs supporting a candidate, levy request or initiative are allowed but may not be displayed prior to thirty (30) days prior to the election and must be removed within forty eight (48) hours after the election

3.30 All exterior lighting shall be full cut-off fixtures with the light source fully shielded, with the following exceptions:

- 3.30.1 Luminaries that have a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20 watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
- 3.31.2 Luminaries that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60 watt incandescent light) may be partially shielded, provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up.
- 3.32.3 Flood lights with external shielding may be angled provided that no light escapes above a 25 degree angle measured from the vertical line from the center of the light extended to the ground, and only if the light does not cause glare or light to shine on adjacent property or public rights-of-way. Flood lights with directional shielding are not allowed.
- 3.33.4 Holiday lights are exempt from the requirements of this Condition.
- 3.34.5 Sensor activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way or private road, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light is not triggered by activity off the property.

3.35 No oil drilling, oil development operations, oil refining, coring or mining operations of any kind will be permitting upon any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in or under the property.

3.36 All permanent utility systems, including water, gas, electric, cable television, and telephone shall be underground exclusively.

3.37 No radio towers, cell phone towers, wind turbines, including wind turbines, regardless of whether said turbines are allowed or authorized by law, electrical generating facilities, satellite dishes, except as authorized in paragraph 3.5, or meteorological towers shall be constructed or placed on any lot; provided, however, television reception satellite dishes are allowed so long as they do not exceed four (4) feet in size and are mounted on a building and approved pursuant to paragraph 5.

#### **IV. SEWAGE**

4.1 Sewage. Sewage generated on any lot must be deposited into individual septic systems on each lot, and each individual septic system shall be installed at each Lot Owner's expense. Each Lot will need to be further tested and all septic systems shall be designed and installed in conformity with Douglas County Health Department rules and regulations now existing or as hereafter amended. No septic system shall be installed without first obtaining the proper permits from the governmental entity charged with regulating the installation of septic systems. Declarant makes no representations or warranties with respect to whether the property is capable of having a single family domestic septic system installed and/or permitted.

4.2 Tanks. No stove oil tanks, gas tanks, fuel tanks, above ground or below ground shall be allowed on any lot or any portion of the Property, except tanks specifically designed to hold propane, natural gas or home heating oil in storage for use in a single family residence. Any propane or natural gas tanks which are located on any Lot or any portion of the Property shall be buried or properly screened so that no portion of the tank is able to be viewed from any other Lot or from any other portion of the Property. Propane and natural gas tanks utilized to store propane and natural gas for use in a single family residence which are stored below ground are permitted so long as they are fully located beneath the surface of the Lot on which the single family residence that such tank provides propane or natural gas to is located and that they are installed in accordance with all applicable state, local and

federal guidelines established for the installation of propane or natural gas tanks below the surface except individual 5 gallon or less propane tanks associated with barbecue appliances, patio heaters, or other similar appliance uses. Any propane or natural gas tanks which are located below the surface must be clearly marked on the surface.

## **V. IRRIGATION WATER**

5.1 Water for outdoor irrigation is supplied to the Lots by the KRD subject to the terms and conditions of an amendatory contract between the United States of America and the Kittitas Reclamation District, dated January 20, 1949, and recorded in Book 82 of Deeds, Page 69, under Kittitas County Auditor's File No. 208267, as thereafter amended. KRD water can only be applied to property that is designated as irrigable by the KRD. The number of irrigable acres allocated to each Lot is set forth on the face of the Plat and in that certain Water Distribution Plan for \_\_\_\_\_ Property on file with the KRD, a copy of which is attached hereto and incorporated herein by reference as "Exhibit \_\_\_\_". For the purpose of determining which portions of the Lots are irrigable, the regulations and maps maintained by the KRD shall be determinative. All Lots and Lot Owners shall comply with all applicable rules, regulations and policies adopted by the Kittitas Reclamation District and the United States Bureau of Reclamation and the Reclamation Reform Act of 1992, as hereafter amended. Each Lot Owner is responsible for becoming familiar with such rules, regulations, policies and procedures. Each Lot Owner shall be separately responsible for any and all fees and costs charged and assessed against the Lot by the KRD now and in the future. The Lot Owners shall fully cooperate with the Water Master so that eligible Lots may receive the KRD water to which they are entitled. Declarant shall retain the right, but not the obligation, to be the Water Master for the Lots for as long as Declarant retains ownership of one or more Lots. In the event Declarant is unwilling or unable to act, the current Lot Owners shall elect, by majority vote, a Water Master each year. For purposes of this paragraph, each Lot shall have one vote for each irrigable acre as allocated by the KRD.

5.2 All of the Lots are served by an underground irrigation water delivery system, which will provide one (1) irrigation riser to each of the Lots. Each Lot Owner shall install, at its expense, a meter and buried underground irrigation system capable of distributing irrigation water to the Lot. The irrigation water delivery system on each Lot must be installed prior to the issuance of a Certificate of Occupancy for the first structure constructed on the Lot. All Lots shall provide for the separate measuring of irrigation water to their respective Lot.

5.3 No part of the lots are entitled to surface water diverted from Manastash Creek as confirmed under Yakima County Superior Court Cause No. 77-2-01484-5, State of Washington, Department of Ecology, Plaintiff, vs. James J. Acquavella, et al, Defendants, Court Claim Number 01968; however, such rights have been reserved by Declarant and are specifically not to be conveyed to any Lots. Upon conveyance of the Lots by Declarant.

5.4 If KRD rules and regulations allow, all unused KRD water that is available for delivery to a Lot that is not used by a Lot Owner shall be offered first to the owner of Lot 17 of the Allwest Cluster Plat who may use the Lot Owner's KRD water without compensating the Lot Owner. In the event the owner of Lot 17 does not desire to use the water, then in that event, subject to KRD rules and regulations, the Lot Owner may, on a once-yearly basis, offer the water to others. The owner of Lot 17 shall be the water master for deliveries until such time as 75% of the lots are sold by Declarant and the owner of Lot 17 wishes to assign by mutual consent a new water master by an owner within the Allwest Cluster Plat.

## **VI. HOMEOWNER'S ASSOCIATION**

No Homeowners' Association shall be formed that includes the Declarant at any time. An Association cannot be formed until 75% of the lots are owned by individuals other than the Declarant. The Declarant shall be exempt and held harmless from such Association activities. No assessments shall be permitted against the Declarant or other fees or costs, so long as the Declarant holds an interest in any lot of the Allwest Cluster Plat.



## **VII. OIL, GAS, MINING AND WIND**

No oil, gas or other mineral drilling (not including water), development operations, refining, coring, or other mining operations of any kind shall be permitted upon or in or under any Lot, nor shall wells, tanks, tunnels, or mineral excavations be permitted upon or under any Lot. No structure designed for use in boring for oil or natural gases shall be erected, maintained, or permitted upon any Lot. No wind turbine or other mechanical device which relies on the wind to generate electrical power shall be allowed on any Lot.

## **VIII. AGRICULTURAL CONDITION**

8.1 All Lot Owners understand and acknowledge they have been informed that the Property and the Lots are located in an active agricultural area in which specific right to farm laws exist. Irrespective of such laws and their validity now or in the future, all Lot Owners conclusively understand and agree that, in the normal management of agricultural or related activities, actions and conditions will or may exist from time to time that are or may be viewed as incompatible with one or more uses and the enjoyment of the Property and Lots.

8.2 The Lot Owners are on notice and are therefore aware and understand that, in the normal, non-negligent management of agricultural or related activities, there will be noise, dust, distribution of airborne particulate matter, offensive smells, lights and other effects from the operation of farm equipment, irrigation pumps and other equipment, the movement of agricultural equipment and/or livestock.

8.3 In an agricultural area, certain actions, practices and conditions occur from time to time, including, but not limited to, the maintenance of livestock of all kinds; the cultivation and harvesting of crops; the ground and aerial application of seed, fertilizers, conditioners, herbicides, insecticides, and related plant protection and development and that some of these actions, practices, conditions and materials may be harmful and/or offensive, even when conducted in a non-negligent manner.

8.4 Agricultural activities occur in both daylight and at night and are not limited to any particular time or day of the week. In addition, agricultural activities change over time, depending on the crop or the livestock raised and that certain agricultural activities may involve activities that are or can be a nuisance and that those activities may also change in the future as a result of changes in technology and changes to accepted agricultural practices.

8.5 By owning a Lot, the Property or a portion thereof, a Lot Owner is, or may be, subjected to any and all of the agricultural activities set forth in paragraphs 9.1 through 9.4 and possibly additional activities, conditions and/or situations that may be perceived as a nuisance but which are the result of normal, ongoing and non-negligent agricultural activities.

8.6 A county or State right to Farm law may protect some but not all agricultural activities. Regardless of whether an agricultural activity is protected by such right to farm law, as now exists or hereafter implemented or amended, all Lot Owners are prohibited and precluded from taking any action, whether direct or indirect, complaining about, objecting to, limiting, or restricting any normal and non-negligent agricultural activities occurring on or about the Property regardless of whether those agricultural activities existed prior to the effective date of these Covenants, Conditions and Restrictions or arise in the future. All Lot Owners are prohibited and precluded from commencing legal action of any kind in any court of competent jurisdiction seeking damages and/or seeking injunctive relief from the result of the impacts of normal and non-negligent agricultural activities regardless of whether those agricultural activities existed prior to the effective date of these Covenants, Conditions and Restrictions or arise in the future.

## **IX. TERM OF COVENANT**

The conditions, covenants and restrictions set forth in this Declaration shall run with and bind the Property for thirty-five (35) years from the date this Declaration is recorded, after which said covenants shall be automatically extended in perpetuity until terminated by any instrument terminating these covenants which has been signed by 75% of the Lot Owners of record at the time of the termination. This Declaration may be amended at any time so long as the amendment has been signed by at least 90% of the Lot Owners of record at the time of the amendment; provided, however, that Declarant must also approve and execute any such amendment during the Development Period and in any event, so long as Declarant retains any interest in any Lot, whichever is longer.

## **X. ENFORCEMENT**

10.1 If there is a violation of any of the provisions of this Declaration as herein set forth or as hereinafter amended the following shall have the ability to enforce the terms and conditions of these Covenants, Conditions and Restrictions:

10.1.1 The Declarant as defined in paragraph 1.1; provided, however, the right of enforcement by Declarant shall terminate 5 years from the date of this Declaration; provided however, that such termination shall not affect the rights of enforcement by Declarant as a Lot Owner if it is a Lot Owner at the time such an amendment is executed; and/or

10.1.2 A Lot Owner as defined in paragraph 1.6; and

10.1.3 After the expiration of the Development Period, as defined in paragraph 1.2, the Declarant shall have the right, but not the obligation, so long as the Declarant or Declarant's family owns the real property legally described on Exhibit B.

10.2 A person or entity with the ability to enforce these Covenants, Conditions and Restrictions shall have the right to proceed at law or in equity to collect damages or to compel compliance with the terms and conditions of this Declaration, or to prevent the violation or anticipated violation or breach of any covenant, condition, or restriction contained herein. The prevailing party in such litigation shall also be entitled to reasonable attorney fees and costs incurred in such litigation against the non-prevailing party. In the event any suit brought a person or entity with the ability to enforce these Covenants, Conditions and Restrictions to enforce the terms and conditions of this Declaration results in a monetary judgment against a Lot Owner, said judgment shall become a lien against that person or entity's Lot in addition to becoming the personal obligation of that Lot Owner. Said lien shall be foreclosed in the manner as provided by Washington State law. In addition to having the lien, the holder of a judgment against any Lot Owner for any monetary damages awarded as a result of a violation of this Declaration shall have the option of proceeding personally against the owner of a Lot or the option of foreclosing the lien in the Lot Owner's property. In the action foreclosing the lien, the same shall include a reasonable sum for attorney fees and all costs and expenses reasonably incurred in preparation for and in prosecution of such action in addition to taxable costs, all as permitted by law. Venue for such proceedings shall be in Kittitas County, Washington. Failure by a person or entity with the ability to enforce these Covenants, Conditions and Restrictions to enforce any restriction, condition or covenant of this Declaration shall in no event be deemed a waiver of the right of a person or entity with the ability to enforce these Covenants, Conditions and Restrictions to enforce any restriction, condition, or covenant of this Declaration in the future.

10.3 If any term, covenant or condition of this Declaration or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Declaration or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Declaration shall be valid and be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned being the Declarant has hereunto set its hand and seal as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**DECLARANT:**

ALLWEST, LLC:

\_\_\_\_\_  
By: Mitchell Williams, Manager

STATE OF WASHINGTON                    )  
  ) ss.  
County of Kittitas                        )

I certify that I know or have satisfactory evidence that Mitchell F. Williams, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of ALLWEST, LLC, a Washington Limited Liability Company, the corporation that executed this instrument as the free and voluntary act of corporation for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public in and for the State of Washington  
My commission expires: \_\_\_\_\_

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**Exhibit B**  
**Property Owned by Declarant**