

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

IRON MOUNTAIN RIDGE SUBDIVISION

THIS DECLARATION is made on the date hereafter set forth by Todd Campbell Construction Inc., hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in Ada County, State of Idaho, hereinafter referred to as "the properties," more particularly described as follows:

IRON MOUNTAIN RIDGE SUBDIVISION, according to the official plat thereof, recorded in book of plats at pages _____ as Instrument No. _____ records of Ada County, Idaho; and

WHEREAS, Declarant desires to subject the above described properties, certain protective covenants, conditions, restrictions, reservations, easements, liens and charges for the benefit of the properties and their present and subsequent owners as hereinafter specified, and will convey the properties subject thereto;

NOW, THEREFORE, Declarant hereby declares that all of the properties above described thereof shall be held, sold and conveyed upon and subject to the easements, conditions, covenants, restrictions, and reservations hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of, and which shall run with the properties and be binding on all parties now or hereafter having any right, title or interest therein or to any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

The following terms shall have the following meaning:

Section 1. "ASSOCIATION" shall mean and refer to the Iron Mountain Ridge Homeowners Association, Inc., a nonprofit corporation organized under the laws of the State of Idaho, its successors and assigns, which said association may not be dissolved without the express written consent of the City of Star.

Section 2. "PROPERTIES" shall mean and refer to that certain real property hereinabove described.

Section 3. "COMMON AREA" shall mean all real property (including the improvements thereon) owned by the association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot shall be as indicated on the official plat of the properties filed in the office of the County Recorder, Ada County, State of Idaho, and shall consist of Lot 1 Block 1, Lot 8 Block 1, Lot 10 Block 1, Lot 22 Block 1, Lot 28 Block 1 and Lot 35 Block 1.

Section 4. "LOT" or "LOTS" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property, with the exception of the Common Area.

Section 5. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "DECLARANT" shall mean the undersigned.

Section 7. "DECLARATION" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions applicable to the Properties recorded in the Office of the County Recorder of Ada County, State of Idaho.

Section 8. "DWELLING UNIT" shall mean that portion or part of any structure intended to be occupied by one family as a dwelling unit, together with the vehicular parking garage next thereto, and all projections therefrom

Section 9. "PLAT" shall mean a final subdivision plat covering any real property in Iron Mountain Ridge Subdivision, as recorded in the office of the county recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto.

Section 10. "MORTGAGE" shall mean any mortgage, deed of trust or other security instrument by which a Dwelling Unit or any part thereof is encumbered.

Section 11. "MORTGAGEE" shall mean any person or any successor to the interest of such person named as the mortgagee, trust beneficiary or creditor under any mortgage, as mortgage is defined in Section 10.

Section 12. "FIRST MORTGAGEE" shall mean any Mortgagee, as defined in Section 11, possessing a lien on any Dwelling Unit first and prior to any other Mortgage, as that term is defined in Section 10.

Section 13. "INSTITUTIONAL HOLDER" shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company or any federal or state agency.

ARTICLE II: COMMON AREA

Section 1. Enjoyment of Common Area: Each owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject, however, to the following provisions:

- A. The right of the Association to charge reasonable maintenance and other fees for the use and maintenance of any landscaping improvement situated upon the Common Area.
- B. The right of the Association to suspend the voting rights and right to use of the Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- C. The right of the Association to promulgate reasonable rules and regulations governing such right of use, from time to time, in the interests of securing maximum safe use of any of the Common Area by the members of the Association without unduly infringing upon the privacy or enjoyment of the Owner or occupant of any part of the Properties, including without being limited to, rules restricting persons under or over designated ages from using certain portions of the Common Area during certain times, rules regarding use by an Owner's guests, and reasonable regulations and restrictions regarding vehicle parking.
- D. The rights of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and, in aid thereof, to place a mortgage or trust deed thereon, which shall be a first and prior lien there against; provided that the Common Area may not be mortgaged or conveyed without the consent of at least 66-2/3 % of the Owners (excluding Declarant), and that any conveyance or mortgage of Common Area shall be subject to and subordinate to rights of ingress and egress of an Owner to his/her Lot.
- E. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that except as to the Association's right to grant easements for utilities and similar or related purposes, no part of the Common Area and recreational facilities may be alienated, released, transferred, hypothecated or otherwise

encumbered without the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly held for this purpose.

Section 2. Delegation of Use: Any member may delegate, in accordance with the rules and regulations adopted from time to time by the directors, his right of enjoyment to the Common Area to the members of his family, his tenants or contract purchasers, provided they reside on the property.

ARTICLE III: HOMEOWNERS ASSOCIATION

Section 1. Membership: Every Owner of a Lot which is subject to assessment shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the payment of an obligation Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Such ownership shall be the sole qualification for membership and shall automatically commence upon a person becoming such Owner and shall automatically terminate and lapse when such ownership in said property shall terminate or be transferred. Absolute liability is not imposed on Owners/members for damage to Common Areas or Lots in the subdivision.

Section 2. 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 Declarant, 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 Class A members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional votes shall not be allowed. The vote applicable to any said Lot being sold under contract of purchase shall be exercised by the contract seller, unless the contract expressly provides otherwise.

Class B: Class B member(s) shall be Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the sale of all lots in the subdivision.

Section 3. Assessments

A. Creation of Lien and Personal Obligation of Assessments: Each Owner of any Lot, by acceptance of a deed therefor (whether or not is shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association:

1. Regular annual or other regular periodical assessments or charges; and
2. Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The regular and special assessments, together with late fees, costs of collection and reasonable attorney's fees shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with late fees, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successors in title, unless expressly assumed.

B. Purpose of Assessments: The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties, for the operation, maintenance, repair and improvement of the Common Areas and other improvements located thereon, for the reasonable expenses incurred in the operation of the affairs of the Association, for the expenses incurred by the Association in connection with any of its obligations contained in this Declaration or in the 4 bylaws of the Association, and for any other purpose reasonably authorized by the Directors of the Association.

- C. Maximum Annual Assessments: Until May 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessments shall be \$650.00. With a \$250.00 Association setup fee.
1. From and after May 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%), or the maximum percentage increase allowable by Federal National Mortgage Association, if any (whichever is greater), above the maximum assessment as set forth above.
 2. From and after May 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the amount set forth in the preceding paragraph by a vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
 3. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum; and said assessments shall be payable to the Association in regular monthly, quarterly or annual installments as may be determined by the Board of Directors.
- D. Special Assessments for Capital Improvements: In addition to the regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, the storm drainage facilities, or for any of the Associations' obligations set forth in Article VII below, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Any such special assessment shall be payable over such a period as the Association shall determine.
- E. Notice and Quorum for Any Action Authorized Under Sections 3C and 3E: Written notice of any meeting called for the purpose of taking any action authorized under Section 3C or 3B, above, shall be sent to all members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- F. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all Lots except those which are exempt as provided for in paragraph J, below, and may be collected on a monthly, quarterly or annual basis as may be determined by the Board of Directors.
- G. Date of Commencement of Annual Assessments; Due Dates: The annual assessments provided for herein shall commence as to a Lot sold on the first day of the month following the initial conveyance of the said Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.
- H. Effect of nonpayment of Assessments; Remedies of Association: In the event any assessment is not paid within thirty (30) days after the due date, the Owner shall be subject to a late fee in

the amount of \$25.00 for each month or part thereof that the assessment shall be delinquent, which said late fee shall be added to and become a part of the assessment provided for in this Section. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

- I. Subordination of the Lien to Mortgages The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due of or from the lien thereof.
- J. Exempt Property: The following property subject to this Declaration shall be exempt from the assessments created herein:
 1. All property expressly dedicated to and accepted by a local public authority;
 2. The Common Area;
 3. All other properties owned by Declarant or the Association;
 4. All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

ARTICLE IV. EASEMENTS

Section 1. Future Easements: The association shall have the future right to provide for such easements across, upon and under the surface of Common Area as platted herein as may be reasonably necessary to serve the interests and convenience of the property owners of this subdivision for public or private ways, public utilities (including cable television), drainage access, subterranean irrigation lines, cave and balcony overhangs.

Section 2. Encroachments: In the event that, by reason of the construction, settlement or shifting of the building, any part of any unit or drainage water from any Lot or Unit encroaches or shall hereafter encroach upon any part of the Common Area or any adjacent Lot, easements for the maintenance of such encroachment and for such use of the areas encroached upon are hereby established and shall exist for the benefit of said unit, so long as all or any part of the buildings shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Area or adjacent units be created in favor of any Owner of such encroachment or use if it is detrimental to or interferes with the reasonable use and enjoyment of the property by other Owners and if it occurred due to the willful conduct of any Owner.

Section 3. Easement for Maintenance: The Association shall have a permanent easement to go upon the privately owned property of Owners in this subdivision to perform its maintenance obligations as set forth herein, including, but not limited to utility service and drainage system maintenance, private street maintenance and perimeter fence maintenance, together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easements hereby reserved, and all rights and privileges incident thereto, including the right from time to time to cut, trim and remove trees, brush, overhanging branches and other obstructions which may injure or interfere with the use, occupation or enjoyment of the reserved easement and the operation, maintenance and repair of utility service connections and drainage systems.

ARTICLE V: MAINTENANCE RESPONSIBILITY

Section 1. Association Responsibilities: The Association shall have the responsibility to repair and maintain the following elements of the Properties: (a) the Common Areas and improvements thereon, (b) any storm drainage facilities located outside of the public right of way; in accordance, the approved operations and maintenance manual for the Iron Mountain Ridge Subdivision. (c) the perimeter fence installed by the Declarant. In the event the need for maintenance and repair is caused through the willful or negligent act of an

Owner, his family, guests or invitees, the costs of such maintenance or repairs shall be added to and become part of the assessment to which the Owner's Lot is subject.

Section 2. Owner's Responsibility: Each owner shall maintain and keep in good order and repair the exterior of his Dwelling Unit, any private decks, fences, and courtyards contiguous to his Unit, and all landscaping areas within their lot. In the event any Owner fails to comply with its duties as set forth herein, the Association shall have the right to take such legal action as may be necessary in order to compel such compliance. In the event of damage or destruction of a Dwelling Unit by fire or other casualty, the owner must complete repair and/or replacement of the Dwelling Unit within ninety (180) days of the damage or destruction.

Section 3. Ada County Highway District Rights of Maintenance of Drainage Facilities: Notwithstanding that the Association is obligated to maintain the storm drainage facilities (facilities") located in the Common Area, the Ada County Highway District (hereinafter ACHD) may elect to maintain any part of the facilities in the event that ACHD determines, in its sole discretion, that the Association is not adequately doing so. In such an event, ACHD shall, before undertaking any such maintenance activities, provide thirty (30) days advance written notice to the Association describing what maintenance activities are required and advising the Association that if the required maintenance is not completed within thirty (30) days of the date of that notice, then the Ada County Highway District may cause the required maintenance to be performed in accordance with this paragraph. In the event the Association shall fail to complete the necessary maintenance work within the prescribed time period, then ACHD may cause the required maintenance to be performed in which event ACHD shall be entitled to collect its costs and expenses incurred in connection therewith, together with interest at the rate which accrues on judgements and all costs of collection thereof by assessing all Lots which are subject to this Declaration and certifying those assessments in the manner provided for the assessment and collection of real property taxes. This paragraph shall not be amended nor shall the Association be dissolved or relieved of its responsibility to maintain the storm drainage facilities described herein without the prior written approval of ACHD.

ARTICLE VI: PROPERTY USE RESTRICTIONS

The following restrictions shall be applicable to the Properties and shall be for the benefit of and limitation upon all present and future Owners of said property, or of any interest therein:

- A. Lot Use: No Lot shall be used except for residential purposes in accordance with applicable conditional use permits and zoning ordinances in effect from time to time. Construction of separate principle buildings on any Lot is prohibited. No Lot or Common Area shall be used for the conduct of any trade, business or professional activity. All Lots and improvements constructed thereon must comply with all applicable governmental rules, ordinances, laws, statutes and regulations.
- B. Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of said property, except that two dogs, cats or other household pets may be kept within a Unit. Any animals outside a Unit must be on leashes, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings.
- C. Garbage and Refuse Disposal: No part of said property shall be used or maintained as a dumping ground for rubbish, trash or other waste. No garbage, trash or other waste shall be kept or maintained on any part of said property except in the sanitary containers approved by the Association for that purpose. Any equipment for the storage or disposal of such material must be kept in the Owner's garage or behind a fence except on regular trash pick-up day.
- D. Nuisance: No noxious or offensive or unsightly conditions shall be permitted upon any part of said property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No exposed radio antenna or satellite dishes shall be erected on the properties without the prior approval of the Architectural Control Committee, which approval may be withheld in its sole discretion. Garage doors shall, to the extent possible, remain closed at all times that the garage is not in active use by the Owner or occupant.

- E. Outbuildings: Any structure, shed or other outbuilding must be approved in writing by the ACC before beginning the project. (See Article VII section 2). No trailer, truck camper, tent, garage, barn, shack or other outbuilding shall at any time be used as a residence temporarily or permanently on any part of said properties.
- F. Screening of Automobiles, and Vehicles and Equipment. The primary purpose of the garage required on each Lot is for the parking and storage of Automobiles. The Owner shall provide sufficient garage space or other enclosed parking approved by the ACC for all Automobiles, Vehicles, RVs, Motorcycles and other equipment used by the Occupants of a Lot, which, whether operative or non-operative, shall be kept within the garage on a Lot, except for the following: (i) actual use; and/or (ii) temporary periods of no more than seventy two (72) consecutive hours in connection with actual use. Vehicles, RVs, Motorcycles and other equipment are allowed to be stored behind privacy fencing only when said vehicles do not exceed the height of the fencing. At no time shall any such Vehicles or Equipment be parked or stored on a Lot in public view or on a public or private right of way within the Property except: (i) when in actual use; and/or (ii) for a temporary period of no more than seventy two (72) consecutive hours in connection with actual use.
- G. Sight Distance at Intersections: No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property line connecting them at points twenty-five feet (25') from the intersection of the street lines, or in the case of rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten feet (10') from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
- H. Leasing Restrictions: Any lease (as defined below) between an Owner and his tenant shall provide that the terms of the lease shall be subject in all respects to the provisions contained in this Declaration, the Association's Articles of Incorporation and its Bylaws, and that any failure by said tenant to comply with the terms of such documents shall be a default under such lease. For the purposes of this Declaration, a "lease" shall mean any agreement for the leasing or rental of a Dwelling Unit (including a month-to-month rental agreement); and all such Leases shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Dwelling Unit.
- I. Sewer Restrictions: All bathroom, sink and toilet facilities shall be located inside the Dwelling Unit or other suitable appurtenant building, and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each Lot. All recorded Lots within this subdivision shall be subject to and restricted by the following recorded subdivision covenants:
1. A monthly sewer charge must be paid after connection to the Star City public sewer system, according to the ordinances and laws of Star City.
 2. Owner shall submit to inspection by either the Department of Public Works or the Department of Building whenever a subdivided Lot is to be connected to the sewage system constructed and installed on and within its property.
 3. The applicant/Owner of this subdivision or Lot or Lots therein hereby does vest in Boise City the right and power to bring all actions against the owner of the premises hereby conveyed or any part thereof for the collection of any charges herein required and to enforce the conditions herein stated. This covenant shall run with the land.
- J. Parking Rights: Any automobile or other vehicle used by any Owner or occupant of a Dwelling Unit shall be parked in the garage or driveway which is a part of his Dwelling Unit or on the street in a legal parking lane. No vehicle shall be left unattended in a shared

driveway. Standing or broken-down vehicles will be subject to a fine from the home owner's association in the amount agreed to by the board of directors.

- K. Exterior Materials and Colors. All exterior materials and colors shall be selected to be compatible with other Buildings on the Lot and on neighboring Lots to the end that all such Buildings will present a unified and coordinated appearance. All exterior finishes and/or colors shall be approved by the ACC and shall be in accordance with the ACC Rules/ACC Standards.
- L. Garage Doors. Garage doors shall be closed except when open for a temporary purpose.
- M. Exterior Energy Device. No energy production device including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any Lot without the prior written approval of the ACC, except for heat pumps or similar appliances shown on the plans approved by the ACC.
- N. Subdividing. No Lot may be further subdivided, nor may any easement or other Interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of the ACC; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or require the approval of the ACC therefor. In addition, the conveyance of an insignificant portion(s) of a Lot to the Owner of the Lot which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose, shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.
- O. Fences. No fence or wall of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design, material and color thereof, have been approved in writing by the ACC prior to the construction or installation. The allowed fence is Evergaurd Estate Privacy manufactured by Merchants Metals. The approved color is Evergaurd Tan. It is the intent of the Grantor that all such privacy fencing shall present, to the extent reasonably practicable, a uniform appearance throughout the Property. All fences and/or walls constructed on a Lot shall be in compliance with the ordinances of the City of Star, Idaho, applicable to the Property.
- P. Landscaping. The following provisions shall govern the landscaping of Lots within the Property:
1. The Owner shall prepare a landscape plan and shall submit the same to the ACC as provided in Article XI, below. The ACC shall approve said landscape plan prior to the installation and/ or construction of landscaping on a Lot. The use of berms and sculptures planting areas is encouraged. Landscaping of a Lot shall be in accordance with the approved plan.
 2. Any alterations to landscaping must also be approved in writing by the ACC before the project begins. Detailed plans for the proposed changes shall be submitted to the ACC and include existing plan and proposed changes.
- Q. **Irrigation Watering Days:** In order to ensure proper water pressure for all Lots each owner must adhere to the following irrigation watering schedule. Lots 2-9 will complete watering between 2-4am and 4-6pm. Lots 11-18 shall complete watering between 4-6am and 6-8pm. Lots 19-27 shall complete watering between 6-8am and 8-10pm. Lots 28-35 shall complete watering between 8-10am and 10pm-Midnight. Please ensure that the entire watering cycle is completed during your allotted time. Common lots are exempt from the watering schedule.

ARTICLE VII. ARCHITECTURAL CONTROL

Section I. Architectural Control Committee: In order to protect the quality and value of the homes built on the Properties, and for the continued protection of the Owners thereof an Architectural Control Committee is hereby established consisting of three or more members to be appointed by the Board of Directors of the Association. The Board of Directors of the Association shall appoint members to the Architectural Control Committee at each annual meeting of the Board.

Section 2. Approvals Required: No building, shed, fence, wall, patio cover, window awning or landscaping improvements of any type shall be commenced, built, constructed, placed, or maintained upon any Lot, Common Area or other property, nor shall any exterior addition, change or alteration of existing improvements be made, until the plans specifications showing the nature, kind, shape, configuration, height, materials, location and such other detail as the Architectural Control Committee may require, shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with requirements of this Declaration. In the event the Architectural Control Committee fails to approve, disapprove, or specify the deficiency in such plans, specifications and location within thirty (30) days after submission to the Architectural Control Committee in such form as they may require, it shall be deemed approved.

The Architectural Control Committee shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations which, in its opinion, are not suitable or desirable for any reason, aesthetic or otherwise. In so passing on such design, the Committee shall have the privilege in the exercise of its discretion to take into consideration the suitability of the proposed structure or alteration, the materials of which it is to be built, and the exterior color scheme in relation to the site upon which it is proposed to be erected. The Architectural Control Committee may also consider whether the design of the proposed structure or alteration is in harmony with the surroundings, the effect of the structure or alteration when viewed from the adjacent or neighboring property, and any and all other facts which, in the Architectural Control Committee's opinion, shall affect the desirability of such proposed improvement, structure or alteration. Actual construction shall comply substantially with the plans and specifications approved.

Section 3. Submission: Requests for approval of the Architectural Control Committee shall consist of such documents and other materials as may be reasonably requested by the Architectural Control Committee including, without limitation, the following:

- A. Two complete sets of plans and specifications, one of which shall be returned to the one making the submission: and
- B. Manufacturer's color samples for all exterior colors, including colors for siding, trim, roof coverings and masonry.

Section 4. Rules and Regulations: The Architectural Control Committee is hereby authorized to Adopt rules and regulations to govern its procedures and the requirements for making submissions and obtaining approval as the Committee deems appropriate and in keeping with the spirit of due process of law. The Architectural Control Committee is further hereby empowered to adopt such rules and regulations as it shall deem appropriate, consistent with the provisions of this Declaration, pertaining to matters of design, materials, colors, and aesthetic interests. Any such rules and regulations may be amended from time to time, in the sole discretion of the Architectural Control Committee. The failure of the Architectural Control Committee to adopt any such rules and regulations shall not form the basis for an attack upon the exercise of Architectural Control Committee's discretion, it being the intent of this Declaration to provide the Architectural Control Committee with as broad discretion as is permissible under the law.

Section 5. Fees: The Architectural Control Committee may establish, by its adopted rules, a fee schedule for an architectural review fix to be made by each Owner submitting plans and specifications for approval. No submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Control Committee for the cost of professional review of submittals and services of a consultant to administer the matter to its completion, including inspections which may be required.

Section 6. Waivers: The approval of any plans, drawings or specifications for any structure, improvement, or alteration, or for any matter requiring the approval of the Architectural Control Committee,

shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications or matters subsequently submitted for approval.

Section 7. Liability: Neither the Architectural Control Committee nor any member thereof shall be liable to the Association, any Owner, or any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control Committee or any members thereof, so long as the Architectural Control Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

Section 8. Certification by Secretary: The records of the Secretary of the Association shall be conclusive evidence as to all matters shown by such records and the issuance of a certificate of completion and compliance by the Secretary or Assistant Secretary of the Association showing that the plans and specifications for the improvements have been made in accordance therewith, or a certificate as to any matters relating to and within the jurisdiction of the Association by the Secretary thereof, shall be conclusive evidence that shall fully justify and protect any title company certifying, guaranteeing or insuring title to said property, or any portion thereof or any lien thereon and/or any interest therein as to any matters referred to in said certificate, and shall fully protect any purchaser or encumbrancer from any action or suit under this Declaration. After the expiration of one (1) year following the issuance of a building permit therefor by municipal or other governmental authority, any structure, work, improvement or alteration shall, as to any purchaser or encumbrancer in good faith and for value and as to any title company which shall have insured the title thereof, be deemed to be in compliance with all the provisions hereof unless a notice of noncompliance executed by the Association shall have appeared of record in the office of the County Recorder of Ada County, State of Idaho, or unless legal proceedings shall have been instituted to enforce completion or compliance.

Section 9. Construction and Sales Period Exception: During the course of construction of any permitted structures of improvements and during the initial sales period, the restrictions (including sign restrictions) contained in this Declaration or in any Supplemental Declaration shall be deemed waived to the extent necessary to permit such construction and the sale of all Dwelling Units; provided that, during the course of such construction and sales, nothing shall be done which will result in a violation of these restrictions upon completion of construction and sale. Further, Declarant shall have the right to select and use any individual Dwelling Units owned by it as models for sales purposes.

ARTICLE VIII: INSURANCE AND BOND

Section 1. Required Insurance: The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required in such amounts and in such forms as the Association may deem appropriate from time to time.

- A. A comprehensive policy of public liability insurance covering all of the common areas, commercial spaces and public ways in the properties. Such insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of a Dwelling Unit Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.
- B. Workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

Section 2. Optional Insurance: The Association may obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho.

- A. Liability insurance affording coverage for the acts, errors and omissions of its directors and officers, including members of the Architectural Control Committee and other committees as may be appointed from time to time by the Board of Directors of such association in such amount as may be reasonable in the premises.

- B. The Association may obtain bonds and insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any personal property of the Association located thereon, its directors, officers, agents, employees and association funds.

Section 3. Additional Provisions: The following additional provisions shall apply with respect to insurance:

- A. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.
- B. Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its officers, the Owners and their respective servants, agents and guests; that it cannot be canceled, suspended or invalidated due to the conduct of any agent, officer, or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.
- C. All policies shall be written by a company licensed to write insurance in the state of Idaho and all hazard insurance policies shall be written by a hazard insurance carrier holding financial rating by Best's Insurance Reports of Class VI or better.
- D. Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of the Federal Home Loan Mortgage Corporation.

Section 4. Owners individual insurance: The provisions for insurance contained in this Article are not intended to be construed as requiring the Association to secure insurance for the individual dwelling units contained within the Subdivision. Accordingly, each Owner shall obtain such fire, liability, and other insurance coverage as the said Owner may deem appropriate.

ARTICLE IX: CONDEMNATION

Section 1. Consequences of Condemnation: If at any time or times, all or any part of the Common Area shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

Section 2. Proceeds: All compensation damages, or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award," shall be payable to the Association.

Section 3. Apportionment: The condemnation award shall be apportioned among the Owners equally on a per-Lot basis. The Association shall, as soon as practicable, determine the share of the condemnation award to which each Owner is entitled. Such shares shall be paid into separate accounts, one account for each Lot, each such account shall remain in the name of the Association and shall be further identified by Lot number and the name of the Owner thereof. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens and the balance remaining to each respective Owner.

ARTICLE X: MORTGAGEE PROTECTION

Notwithstanding anything to the contrary contained in this Declaration or in the Articles or Bylaws of the Association:

- A. The Association may maintain a reserve fund for the performance of its obligations, including the maintenance, repairs and replacement of those common elements and improvements thereon, and such reserve shall be funded in such amounts and at such intervals as the Board of Directors may determine.

- B. The holders of First Mortgages shall have the right to examine the books and records of the Association and to require annual reports or other appropriate financial data.
- C. Any management agreement for the properties or Common Area or any other contract providing for services of the developer, sponsor or builder, shall be terminable (i) by the Association for cause upon thirty (30) days written notice thereof; and (ii) by either party without cause and without payment of a termination fee on ninety (90) days or less written notice thereof, and the term of any such agreement shall not exceed one (1) year.
- D. Any lien which the Association may have on any Dwelling Unit for the payment of assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any Mortgage on the Unit recorded prior to the date notice of such assessment lien is duly recorded.
- E. Unless all institutional holders of First Mortgages have given their prior written approval, the Association shall not:
 - 1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area property owned, directly or indirectly, by such Association for the benefit of the Owners. (The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area property shall not be deemed a transfer within the meaning of this clause.)
 - 2. Change the method of determining the obligations, assessments, dues or other charges which may be levied against the Owner.
 - 3. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwelling Units, the maintenance of the Common Area property, party walls, or common fences and driveways, or the upkeep of lawns and plantings in the subdivision.
 - 4. Fail to maintain fire and extended coverage on insurable Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).
 - 5. Use hazard insurance proceeds for losses to any Common Area property for other than the repair, replacement or reconstruction of such Common Area property.
 - 6. Amend materially this Declaration, the Association's Articles of Incorporation, or its Bylaws.

ARTICLE XI. GENERAL PROVISIONS

Section I. Enforcement: The Association or any Owner of said property, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment: The covenants and restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or the legal Owner of any Lot subject to this Declaration, their respective legal representatives, heir's successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. Except as otherwise provided herein any of the covenants and restrictions of this Declaration, except easements herein granted, may be amended by an instrument signed by members entitled to cast not less than sixty-six and two-thirds percent (66-2/3 %) of the votes of membership and shall require prior approval of the United States Department of Housing and Urban Development and/or the United States Department of Veterans Administration as long as there is a Class B Membership as provided for herein and provided that the said agencies then have an interest in the property which is the subject of the Declaration. Any amendment must be recorded.

Section 4. Assignment by Declarant: Any or all rights, powers and reservations of Declarant herein contained may be assigned to the Association or to any other corporation or association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned, and upon any such corporation or association evidencing its intent in writing to accept such assignment, have the same rights and powers and be

Notary Public for Idaho

My Commission Expires: _____