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Michael Horan  
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CANYON COUNTY RECORDER  
BY [Signature]

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
VIEW RIDGE ESTATES SUBDIVISION

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THIS DECLARATION is made on the date hereinafter set forth by H & G Development, LLC, an Idaho limited liability company, hereafter referred to as "Declarant".

WITNESSETH

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

VIEW RIDGE ESTATES SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 200538784 on the 7th day of July, 2005, records of Canyon County, Idaho; and

WHEREAS, Declarant desires to subject the above-described Properties to 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 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 hereof, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

The following terms shall have the following meanings:

Section 1. "ASSESSMENT" shall mean a payment required of Association members, including Initiation, Annual, Special and Limited Assessments as provided for in this Declaration.

Section 2. "ASSOCIATION" shall mean and refer to the View Ridge Estates Homeowners Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 3. "COMMON AREA" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners. The initial Common Area to be owned by the Association is described as Lots 15 and 27, Block 1, View Ridge Estates Subdivision, according to the official plat thereof. The Common Area shall be improved with a system of private roads constructed by Declarant and owned and operated by the Association in accordance with the provisions of this Declaration.

Section 4. "DECLARANT" shall mean and refer to H & G Development, LLC, an Idaho limited liability company, and subject to the provisions of Article XV Section 4, its successors, heirs and assigns.

Section 5. "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 Canyon County, State of Idaho.

Section 6. "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 adjoining or adjacent thereto, and all projections therefrom.

Section 7. "IMPROVEMENT" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Properties, including but not limited to buildings, fences, streets, drives, driveways, sidewalks, bicycle paths, curbs, landscaping, signs, lights, mail boxes, electrical lines, pipes, pumps, ditches, waterways, recreational facilities, and fixtures of any kind whatsoever.

Section 8. "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.

Section 9. "LOT" or "LOTS" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

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.

Section 12. "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 13. "PLAT" shall mean a final subdivision plat covering any real property in View Ridge Estates Subdivision, as recorded in the office of the county recorder, Canyon County, Idaho, as the same may be amended by duly recorded amendments thereto.

Section 14. "PROPERTIES" shall mean and refer to that certain real property hereinabove described.

#### ARTICLE II: PROPERTY RIGHTS

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 levy reasonable assessments for the maintenance of any landscaping improvement or other facilities situated upon the Common Area.
- B. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities; and, in aid thereof, to place a mortgage or trust deed thereon, which shall be a first and prior lien thereagainst; 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 the Common Area shall be subject to and subordinate to rights of ingress and egress of an Owner to his/her Lot.
- C. 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 facilities may be alienated, released, transferred, hypothecated or otherwise encumbered without the written approval of all First Mortgagees and 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.
- D. The right of the Directors of the Association to promulgate reasonable rules and regulations governing such right of use, from time to time, in the interest of securing maximum safe usage 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 said property, including without being limited thereto reasonable regulations and restrictions regarding vehicle parking.

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 and facilities to the members of his family, his tenants or contract purchasers, provided they reside on the Properties at the time of use.

Section 3. Rights Reserved by Declarant: Notwithstanding anything to the contrary contained in this Declaration, Declarant expressly reserves unto:

- A. Himself, his employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees, easements and rights-of-way on, over and across all or any part of the private roads for vehicular and pedestrian ingress and egress to and from any part of the Properties, or any adjacent real property owned by Declarant, or his successors or assigns;
- B. Himself, his employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements, access and rights-of-way on, over, under and across all or part of the Common Area and utility easements on, over and under all Lots and Common Area as provided on any recorded Plat of the Property for installation, use, maintenance and repair of all lines, wires, pipes, pumps, water wells, facilities, and other things necessary for all such services, provided that any installation, maintenance or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and
- C. Himself, his employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees, the right to use the Common Area or any Lot owned by him, where applicable, to facilitate and complete the development of the Properties, and any annexed property, including without limitation the use of the Common Area or any Lot owned by him, where applicable, for:
  1. Construction, excavation, grading, landscaping, parking and/or storage;
  2. Maintenance and operation of a sales office and model units for sales purposes;
  3. The showing to potential purchasers of any unsold Lot, unit or improvements within the Properties;
  4. Display of signs to aid in the sale of any unsold Lots and units, or all or part of the Properties; and
  5. Construction, operation and maintenance of all or any portion of any Common Area by Declarant, his successors or assigns.

### ARTICLE III: HOMEOWNERS ASSOCIATION

Section 1. Membership: Every Owner of a Lot 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.

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 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 the Declarant who shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- B. On the expiration of ten (10) years from the date on which the first Lot is sold to an Owner, whichever occurs first.

Section 3. Assessments: Each Owner of any Lot, by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association an Initiation Assessment, Annual Assessments, Special Assessments and Limited Assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided:

- A. Initiation and Transfer Assessments: Upon the initial conveyance of each lot, the purchaser thereof shall pay an initiation assessment in the amount of \$250.00. Upon each subsequent conveyance of each Lot, the purchaser thereof shall pay to the Association a transfer assessment in the amount of \$250.00.
- B. Annual Assessments: The Annual Assessment levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Owners, for the operation, maintenance, repair and improvement of the Common Area and facilities 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 Bylaws of the Association, and for any other purpose reasonably authorized by the Board of Directors of the Association. 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. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment shall be \$250.00. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall thereafter 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.

- C. Special Assessments: In addition to the Initiation and Annual Assessments authorized above, the Board of Directors of 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 an improvement upon the Common Area or other Association owned property, or for any unanticipated expenses or obligations, provided that any such assessment intended to pay the cost of initial construction of any new facility or improvement 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. Written notice of any meeting called for the purpose of taking any action authorized under this paragraph above, shall be sent to all members not 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 forty percent (40%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may 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. Any Special Assessment shall be payable over such a period as the Board of Directors shall determine.
- D. Limited Assessments: The Association shall have the power to incur expenses for the maintenance and repair of any Lot or Improvement, for the repair of damage to the Common Area caused by the negligence or willful misconduct of an Owner or his family, guests, invitees, agents, employees, or contractors, or for the correction of any violation of this Declaration, if the responsible Owner has failed or refused to perform such maintenance or repair or to correct such violation after written notice of the necessity thereof has been delivered by the Board of Directors to the responsible Owner. The Board of Directors shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such maintenance, repair or corrective action, together with any other cost or expense, including attorney's fees, arising out of or incident to such maintenance, repair or corrective action or the collection of the assessment therefor. Any such Limited Assessment shall be due within fifteen (15) days of the date written notice thereof is delivered to the

responsible Owner. The notices required in this paragraph shall be delivered personally to such Owner or sent by first class or certified mail to the last known address of such Owner as shown on the records of the Association.

- E. Uniform Rate of Assessment: The Initiation, Annual and Special Assessments (but not Limited Assessments) must be fixed at a uniform rate for non-exempt Lots.
- F. Creation of Lien and Personal Obligation of Assessments: The Initiation, Annual, Special and Limited Assessments, together with interest, 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 interest, 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.
- G. Effect of Nonpayment of Assessments; Remedies of Association: Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. 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.
- H. 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 of 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 or from the lien thereof.
- I. Certificate of Payment: 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 a 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.
- 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. All properties owned by the Declarant or an Association;

3. All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

#### ARTICLE IV: DOMESTIC WATER

Declarant is under no obligation to deliver domestic water or furnish rights of way in connection with the delivery of domestic water to any Lot in the subdivision. Each Owner is required to provide such domestic water by the drilling and installation of a domestic water well on the Lot owned, or have a well sharing agreement for a well(s) providing water to more than one Lot. Each such domestic water well and the location thereof shall comply in all respects with the regulations and health standards of any governmental entity having jurisdiction thereof. To the extent that it is practical and feasible, individual wells servicing lot(s) shall be located as near as practicable and reasonable to access roads servicing the individual lots on which the well is located. Each well site shall be subject to the prior approval of the Southwest District Health Department. There is no irrigation water appurtenant to the Properties and no irrigation water will be supplied to any Lot.

#### ARTICLE V: PRIVATE ROADS

Section 1. Access: Access to each Lot is provided by a system of private roads located on the Common Area as described herein and depicted on the Plat. The said private roads are dedicated and restricted to the perpetual and indefeasible right of ingress and egress to and from the Lots for the use and benefit of the Owners and residents of all Lots, their guests and invitees. The perpetual right of ingress and egress over and upon said private roads may not be terminated or extinguished without the written consent of all Owners, the Association, and any and all parties having any interest in the Properties.

Section 2. Maintenance: The Association shall be responsible for the maintenance and repair of the private roads within the Properties, including any associated storm drainage facilities. The costs incurred by the Association in fulfilling these obligations shall be included in the Association's Annual and, as necessary, Special Assessments.

Section 3. Damage: Each Owner shall be individually responsible for the repair of any damage to the private roads caused by the negligence or willful misconduct of such Owner, his family, guests, invitees, agents, employees or contractors. In the event an Owner shall fail to promptly repair any such damage to the reasonable satisfaction of the Board of Directors of the Association, the Association may, after fifteen (15) days' written notice to such Owner of its intention to do so, undertake to make such repairs and seek reimbursement of the costs thereof from such Owner. If such Owner shall fail to reimburse the Association for such costs within ten (10) days after demand therefor, the Association shall be authorized to levy a Limited Assessment therefor in accordance with the provisions of Article III, Section 3, above.

#### ARTICLE VI: EASEMENTS

Section 1. Drainage and Utility Easements: This Declaration shall be subject to all easements heretofore or hereafter granted by Declarant for the installation and maintenance of



utilities and drainage facilities and easements that are set forth on the Plat, or as may be required for the development of the Properties. In addition, Declarant hereby reserves for the benefit of any Association the right to grant additional easements and rights-of-way over the Properties, as appropriate, to utility companies and public agencies as necessary or expedient for the proper development of the Properties until close of escrow for the sale of the last Lot in the Properties to a purchaser.

Section 2. Improvement of Drainage and Utility Easement Areas: The Owners of Lots are hereby restricted and enjoined from constructing any Improvements upon any drainage or utility easement areas as shown on the Plat or otherwise designated in any recorded document which would interfere with or prevent the easement from being used for such purpose.

Section 3. General Easement for Maintenance: An easement is hereby reserved to the Association, its contractors and agents, to enter those portions of Lots, for the purpose of installing, maintaining, replacing and restoring any Association owned or controlled Improvements, including but not limited to the private roads and fences. Such activity shall include, by way of illustration and not of limitation, grading, paving and re-paving, sealing, cleaning, snow removal and such other activities within the Properties as the Association shall determine to be necessary from time to time.

Section 4. Access Easement: A private access easement providing secondary access to Lots 28 through 48, Block 1, is hereby granted and reserved for the benefit of said Lots, in the location depicted on the plat. This private access easement is for convenience access for homeowners only and will not be maintained or used for frontage or emergency access. Primary access to all Lots shall be from the private road system described in Article V, above. The said easement area shall be improved with a twelve foot (12') wide gravel road and each Owner shall be responsible to maintain that portion thereof which is located on such Owner's Lot.

Section 5. Fence Easement: An easement is hereby reserved to the Association, its contractors and agents, for the construction, installation, maintenance and repair of a fence to be located on the easterly boundary of Lots 14, 16, 26 and 28 and along the common boundary between said Lots and the private roads adjacent thereto. Any such fences shall be owned and maintained by the Association as provided for in this Declaration.

#### ARTICLE VII: MAINTENANCE RESPONSIBILITY

Section 1. Association Responsibility: The Association shall provide maintenance to and be responsible for the Common Area and improvements located thereon and any Association owned fences as described in this Declaration. In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests, invitees, employees, agents or contractors the costs of such maintenance or repairs shall be assessed to such Owner as set forth in Article III, Section 3, above. The Association reserves an easement for ingress, egress and maintenance as may be reasonably necessary to perform the maintenance duties of the Association.

Section 2. Owner's Responsibility: Each Owner shall be responsible for maintaining and keeping in good order and repair the exterior of his Dwelling Unit and other Improvements,

including outbuildings, and any private decks, fences, courtyards, landscaping and lawn contiguous to his Dwelling Unit. Each Owner shall further be responsible to cut or otherwise control the weeds and other noxious plants on his Lot so as to avoid any unsightly condition or hazard or nuisance to the neighborhood. 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 one hundred eighty (180) days of the damage or destruction, subject to reasonable delays caused by inclement weather.

**Section 3. Failure of Owner to Maintain:** If the Owner fails to perform his maintenance responsibilities as set forth herein, the Association shall, upon fifteen (15) days' prior written notice to the Owner, have the right to correct such condition, to enter upon the Owner's Lot for the purpose of doing so, and seek reimbursement of the cost thereof in accordance with the provisions of Article III, Section 3, above.

#### **ARTICLE VIII: PROPERTY USE RESTRICTIONS**

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

- A. **Lot Use:** All Lots shall be used for single-family residential purposes and such uses as are customarily incidental thereto. No Lot shall be used at any time for commercial or business purposes except for such business purposes as shall be conducted and maintained solely within a residential Dwelling Unit; provided that no signs relating to said business activities shall be displayed where visible from any road within the subdivision; and further provided that such business purposes shall not generate more than an average of three customer visits in non-commercial vehicles per day calculated over a five day work week; and further provided that such business purposes shall not cause or result in the parking of vehicles on any road within the Properties; and further provided that such business does not employ more than one person not living within the Dwelling Unit constructed on the said Lot. Notwithstanding the foregoing, the Declarant, or persons authorized by the Declarant, may use a Lot or Lots for development and sales activities relating to the subdivision, including but not limited to use of Lots for model homes or a real estate marketing and sales office.
  
- B. **Animals:** An Owner shall be permitted to keep and maintain a total of three (3) dogs and/or cats in any combination on their Lot, provided that such animals are not kept, maintained or bred for any commercial purpose and are kept and maintained in such a manner as not to constitute a nuisance or otherwise be offensive to other Owners. No other animals may be kept or maintained within the Properties, except small domestic pets which are kept within an Owner's Dwelling Unit. Any animals not on an Owner's Lot must be accompanied by the Owner or other responsible person and must be on a leash or other appropriate tether, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings. Each Owner shall be further responsible for any damage caused by any such Owner's animals. No kennel or other area intended to restrain or

enclose animals shall be constructed without the approval of the Architectural Committee and, if approved, shall not be located on the Lot in such a fashion as to create a nuisance for any adjacent Lot Owner and shall at all times be kept in a clean and odor free condition.

- 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 a sanitary container. Any incinerators or other equipment for the storage or disposal of such material must not violate setback restrictions, must be enclosed with an aesthetic screen or fence, as may be approved by the Architectural Committee, shall be kept in a clean and sanitary condition, and must be used and maintained in accordance with all applicable laws, ordinances and regulations.
- D. Nuisance: No noxious, offensive or unsightly conditions (including but not necessarily limited to sights and sounds) 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. All exterior lighting shall be placed in such a manner to minimize glare and excessive light spillage onto neighboring Lots.
- E. Outbuildings: 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. Antennas: Antennas, satellite dishes, or other devices for the transmission or reception of television, radio or electric signals or any other form of electromagnetic radiation shall not be erected on any Lot except as may be approved by the Architectural Committee.
- G. Parking and Storage of Vehicles and Equipment: Parking or storage of boats, trailers, motorcycles, trucks, truck campers, motorhomes, recreational vehicles, and like equipment, shall not be allowed on any Lot, except in fully enclosed buildings or screened from view from the street fronting the lot in a manner approved in writing by the Architectural Committee; provided, however, that boats, trailers, campers, motorhomes or similar recreational vehicles may be parked on a Lot for a period not to exceed 48 hours while in immediate use by and Owner, being prepared for use, or being prepared for storage after use. All other parking or storage of any other equipment, including junk cars and other unsightly vehicles, shall be prohibited, except as approved in writing by the Board of Directors of the Association. Any vehicle awaiting repair or being repaired shall be removed from the Properties within 48 hours.
- H. Commercial Machinery and Equipment: No commercial machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment that is usual and customary in connection with

the development, maintenance or construction of a residence, appurtenant structures, or other Improvements.

- I. 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 any adopted rules and regulations, 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 or any portion of a Lot (including a month-to-month rental agreement); and all such leases shall be in writing. Leases of all or part of a Lot for agricultural purposes may be permitted so long as the agricultural use undertaken on that Lot does not conflict or interfere with the residential character of the Properties. Other than the foregoing, there is no restriction on the right of any Owner to lease his Dwelling Unit.
- J. Sewer Restrictions: Until public sewer facilities are available to the Properties, if ever, all sewage disposal for each Lot shall be in a private septic tank system which shall be designed, constructed and installed in accordance with the requirements of the governmental entities having jurisdiction thereof. The Declarant shall have no obligation for the construction or approval of any sewage disposal system or the connection thereof. Drainage from a septic tank located on a Lot shall be kept within the boundaries of the Lot on which it is located unless the Owner of the adjoining Lot has consented thereto. All bathroom, sink and toilet facilities shall be located inside the Dwelling Unit or other suitable appurtenant building.
- K. Fences: No fence of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, height, design, material and color thereof have been approved in writing by the Architectural Committee prior to construction or installation. No fence or hedge located on a Lot shall (a) be composed of barbed wire, (b) be of solid (as opposed to open) design, or (c) have a height greater than six feet above the surface of the ground upon which it is located. Three rail vinyl or wrought iron fencing is encouraged. The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited upon all Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times in good repair. It is the intent of the Declarant that the Architectural Committee shall have the authority to regulate all fences within the subdivision to the end that the location, type and size of each fence and the materials used therein shall, to the extent reasonably possible, present a reasonably coordinated appearance and be appropriate in a rural atmosphere. Nothing herein contained shall be construed to require the construction of any fences, nor shall any Lot owner have the right of contribution from any other Lot owner for the construction of a fence along a common boundary line. The provisions of this paragraph are not intended to apply to privacy screens or walls which have been incorporated into and are a part of the Dwelling Unit.

- L. Drilling and Exploration: No oil or mining exploration or development of any kind or nature nor any structures in connection therewith shall be permitted to be erected, maintained or used on any Lot and no minerals shall be permitted to be extracted on any Lot. Nothing herein contained shall be construed to prohibit the drilling and use of a water well on a Lot.
- M. Signs: No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a Dwelling Unit and Lot for sale by displaying a single, neat sign of not more than six (6) square feet on a Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on a Lot during construction of improvements. One entry sign may be placed on each Lot naming the property or the owner thereof, provided the plans and specifications therefor, including the location, design, material and color thereof have been approved in writing by the Architectural Committee prior to installation.
- N. Subdividing: No Lot may be further subdivided, nor may any easement or other interests therein less than the whole be conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prohibit an Owner from transferring and selling a 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. The provision of this section shall not apply to the division of any Lot between adjoining Lots.
- O. Discharge of Firearms: The discharge of firearms within the Properties for recreational purposes is prohibited.
- P. Parking Rights: Any automobile or other vehicle used by any Owner shall be parked in the driveway or garage which is a part of his Dwelling Unit.
- Q. View Corridors: No Improvements, including landscaping improvements, may be constructed or maintained on any Lot which the Architectural Committee shall determine, in its reasonable discretion, may interfere with any views or view corridors on, across, over or through any Lot. It is Declarant's intention to grant the Architectural Committee with such discretion as may be reasonable and necessary in order to preserve and protect views and view corridors on, across, over or through any Lot.

#### ARTICLE IX. BUILDING RESTRICTIONS

Section 1. Minimum Area: Subject to the right of the Architectural Committee to approve the construction of any Improvement upon a Lot, no building intended for use in a single family residence shall be erected, altered, placed or permitted to remain on any Lot containing less than 2,000 square feet of living area; provided, however, that if the building intended for use as a single family residence contains more than one story, the minimum square footage thereof shall be no less than 2,200 square feet, with at least 1,400 square feet on the ground level. The square footage of living area shall be based on the exterior dimensions of the building living space at or above the

grade of the Lot, exclusive of basement, porches, patios and garages. No building or other structure shall be allowed within the subdivision containing more than two stories, unless the same is approved in writing by the Architectural Committee. No building or other structure shall be permitted to be constructed or maintained on Lots 16 through 21 and 28 through 48, Block 1 which exceed twenty-five (25) feet in height, measured from the finished grade of the Lot along the side of the foundation which most nearly parallels the roadway fronting the Lot to the peak of the roof. No mobile home, prefabricated home, trailer, modular home or other pre-built or pre-manufactured home shall be permitted on any Lot.

Section 2. Setbacks: Subject to the right of the Architectural Committee to approve the site plan for any building to be constructed upon a Lot, any building shall be constructed within the building envelope shown for each Lot on the Plat and in accordance with the applicable setbacks of the governmental entities having jurisdiction over the Properties.

Section 3. Obligation to Complete Construction: Following the date of commencement of construction, the Owner shall be obligated to diligently and continuously proceed therewith to completion of the entire exterior of the dwelling within six (6) months, except for incidental items which cannot be completed because of adverse weather, provided that such items shall be completed promptly when weather permits. Prior to the date of commencement of construction, the Owner shall maintain such Owner's Lot free of accumulation of trash or debris and vegetation that may create a fire hazard or which is unsightly.

Section 4. Construction Requirements: The exterior surfaces of each Dwelling Unit shall be composed of such materials and have such colors as may be approved by the Architectural Control Committee; provided however that at least fifteen (15) percent of the front elevation of each Dwelling Unit shall be covered in brick, stone or manufactured or synthetic stone; and further provided that the Architectural Control Committee shall have the right to waive the requirement for brick, stone or manufactured or synthetic stone if it determines, in its discretion, that the Dwelling Unit has sufficient architectural appeal without such materials. All roofs shall be comprised of wood shingles, tile or 25 year laminate shingles (of such colors and specifications as may be approved by the Architectural Committee) with a minimum 5/12 pitch. No window frames composed of white vinyl shall be permitted. All fireplace chimneys must be of masonry or metal and, if metal, shall be wrapped with the same materials as exist on other areas of the exterior of the unit to within one-foot (1') of the top cap. Each Dwelling Unit shall include a garage, either attached or detached, of sufficient size to accommodate at least three (3) vehicles and, unless otherwise approved by the Architectural Committee, shall be designed and constructed to be side entry (that is, so that the doors thereto do not face toward the street providing access to the Lot). Each Dwelling Unit must have at least two (2) exterior lights illuminating the garage door openings and one exterior light for the front entryway. All exterior lighting shall be directed downward; provided, however, that there shall be sufficient lighting of house numbers to aid in the response of emergency services. Garage, accessory and outbuildings to be located on a Lot shall be architecturally and visually compatible and harmonious with the principal building on the Lot as to style and exterior colors and shall not be higher than ten feet above the roof line of the principal building on the Lot. Mailboxes shall be of a consistent design and color throughout the Properties, as approved by the Architectural Committee.

Section 5. Landscaping: Within one hundred twenty (120) days of the earlier of substantial completion or occupancy of the Dwelling Unit located thereon, each Lot shall have installed the following landscaping improvements: (i) in the front yard thereof a rolled sod lawn, at least two (2) conifer trees a minimum of eight feet (8') in height or deciduous trees a minimum of two and one-half inches (2 ½") caliper and six (6) shrubs or bushes, a minimum of five (5) gallon in size planted in planter beds consisting of a minimum of twenty percent (20%) of the total square footage of the front yard; (ii) in the rear yard thereof a rolled sod lawn and at least two (2) conifer trees, a minimum of eight feet (8') in height or deciduous trees, a minimum of two and one-half inches (2 ½") caliper, and six (6) shrubs or bushes a minimum of five (5) gallon in size planted in planter beds consisting of a minimum of fifteen percent (15%) of the total square footage of the backyard; and (iii) in the street side yard of a corner lot six (6) shrubs or bushes, a minimum of five (5) gallon in size planted in planter beds consisting of a minimum of twenty percent (20%) of the total square footage of the side yard. No trees, shrubs or other plantings shall be placed or maintained on any Lot which, at maturity, have or is expected to have a height in excess of the peak of the roof on the Dwelling Unit located on the said Lot. The limitation contained in the preceding sentence shall prevail over any approvals which the Architectural Committee may grant. A fully automatic underground sprinkler system shall be installed throughout the landscaped areas of each Lot. A landscape plan showing the location, type and size of trees, plants, groundcover, shrubs, berms and mounding, grading, drainage, sprinkler system, fences, free-standing exterior lights, driveways, parking areas and walkways shall be submitted to and approved by the Architectural Control Committee prior to commencement of any landscaping work.

Section 6. Utilities: The connection to all utility facilities shall be underground and shall be inspected and approved by the appropriate governmental entity having jurisdiction thereof and the company providing the utility service, if required. Utility meters, heat pumps, and the ancillary exterior equipment shall be placed in an unobtrusive location where possible. Each Owner shall be responsible to pay for any extension of electrical service or facilities for the placement of a meter or a transformer beyond that provided for such Lot.

Section 7. Driveway: Each Owner shall install a concrete driveway from the edge of the private street to the Dwelling Unit or garage on the Lot, together with a culvert of suitable size and design, in a location approved by the Architectural Committee. Each Owner may also install additional driveway areas to provide access to approved outbuildings, which said driveway areas shall be asphalt if located in the front yard or compacted gravel with a dust abatement surface if located to the rear of the front plane of the dwelling unit located on the Lot. No driveway or parking area shall be permitted which creates a dust nuisance.

Section 8. Maintenance During Construction: The following requirements shall apply during the construction of improvements on a Lot:

- A. All debris shall be removed from the Lot prior to each weekend;
- B. No materials shall be placed or kept on any adjoining Lots;

- C. Vehicles belonging to workmen or used in the construction of the improvements shall not be parked in front of occupied Dwelling Units or interfere with traffic on public streets or private roads;
- D. Utilities, including water, shall not be taken from any other Lot without the approval of the Owner thereof;
- E. A receptacle for trash and debris shall be located on the subject Lot and shall not be overfilled;
- F. Each Owner shall be responsible to repair any damage which may occur during the construction period to any road, mailbox, utility facility or other on-site or off-site Improvement caused by the Owner or Owner's agents.

Section 9. Disturbed Slopes: In order to guard against erosion, in the event any soil is disturbed on a slope of greater than ten percent (10%) on any Lot, the Owner thereof shall seed the same at the Owner's expense to promote the growth of natural vegetation.

#### ARTICLE X. ARCHITECTURAL CONTROL

Section 1. Creation. Within thirty (30) days of the date on which the Declarant first conveys a Lot to an Owner, Declarant shall appoint three (3) individuals to serve on the Architectural Committee ("Architectural Committee"). Each member shall hold office until such time as such member has resigned or has been removed, or such member's successor has been appointed, as provided herein. A member of the Architectural Committee need not be an Owner. Members of the Architectural Committee may be removed by the person or entity appointing them at any time without cause.

Section 2. Declarant's Right of Appointment. For so long as Declarant owns any Lots, Declarant shall have the exclusive right to appoint and remove all members of the Architectural Committee. Thereafter, the Association Board shall have the right to appoint and remove all members of the Architectural Committee. If a vacancy on the Architectural Committee occurs and a permanent replacement has not yet been appointed, Declarant or the Board, as the case may be, may appoint an acting member to serve for a specified temporary period not to exceed one (1) year.

Section 3. Review of Proposed Construction. The Architectural Committee shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Committee. The Board shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of Improvements shall be submitted for Architectural Committee review and approval. The Architectural Committee shall have the power to hire an architect, licensed with the State of Idaho, to assist the Architectural Committee in its review of proposals or plans and specifications submitted to the Architectural Committee. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions



contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association. The Architectural Committee shall have the authority to establish such rules, regulations and limitations on the construction of any Improvements on a Lot, including landscaping improvements, which the Architectural Committee shall deem, in its reasonable discretion, are necessary in order to preserve any views or view corridors on, across, over or through any Lot.

Section 3.1 Conditions of Approval. The Architectural Committee may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, and/or upon the agreement of the Owner submitting the same ("Applicant") to grant appropriate easements to an Association for the maintenance thereof, and/or upon the agreement of the Applicant to reimburse an Association for the cost of maintenance, and may require submission of additional plans and specifications or other information before approving or disapproving material submitted.

Section 3.2 Architectural Committee Rules and Fees. The Architectural Committee also may establish rules and/or guidelines setting forth procedures for and the required content of the applications and plans submitted for approval. Such rules may require a fee to accompany each application for approvals or additional factors which it will take into consideration in reviewing submissions. The Architectural Committee shall determine the amount of such fee in a reasonable manner. Such fees shall be used to defray the costs and expenses of the Architectural Committee, including the cost and expense of hiring an architect licensed by the State of Idaho, as provided above, or for such other purposes as established by the Board, and such fee shall be refundable to the extent not expended for the purposes herein stated. If plans submitted are the same or substantially similar to plans previously approved by the Architectural Committee, fees may be reduced for such application approvals. Such rules and guidelines may establish, without limitation, specific rules and regulations regarding design and style elements, landscaping and fences and other structures such as animal enclosures as well as special architectural guidelines applicable to Lots located adjacent to public and/or private open space.

Section 3.3 Detailed Plans. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, landscape plans, drainage plans, elevation drawings and descriptions or samples of exterior material and colors. Until receipt by the Architectural Committee of any required plans and specifications, the Architectural Committee may postpone review of any plan submitted for approval.

Section 3.4 Architectural Committee Decisions. Decisions of the Architectural Committee and the reasons therefor shall be transmitted by the Architectural Committee to the Applicant at the address set forth in the application for approval within twenty (20) days after filing all materials required by the Architectural

Committee. Any materials submitted pursuant to this Article X shall be deemed approved unless written disapproval by the Architectural Committee shall have been mailed to the applicant within twenty (20) days after the date of filing said materials with the Architectural Committee. The Architectural Committee may also restrict the length of time within which the construction of the approved structure must be completed.

Section 4. Meetings of the Architectural Committee. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time by resolution unanimously adopted in writing, designate an Architectural Committee representative (who may, but need not be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to Section 9. In the absence of such designation, the vote of any two (2) members of the Architectural Committee, or the written consent of any two (2) members of the Architectural Committee taken without a meeting, shall constitute an act of the Architectural Committee.

Section 5. No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

Section 6. Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder and except as otherwise agreed by the Board.

Section 7. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

Section 7.1 Notice of Completion. Upon the completion of any work for which approved plans are required under this Article X, the Owner shall give written notice of completion to the Architectural Committee.

Section 7.2 Architectural Committee Inspection; Non-Compliance. Within thirty (30) days thereafter, the Architectural Committee or its duly authorized representative may inspect such Improvement. If the Architectural Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance within such thirty (30) day period, specifying the particular non-compliance, and shall require the Owner to remedy the same.

Section 7.3 Failure to Remedy any Non-Compliance. If upon the expiration of thirty (30) days from the date of such notification, or any longer time the Architectural Committee determines to be reasonable, the Owner shall have failed to

remedy such non-compliance, the Architectural Committee shall notify the Board in writing of such failure. Upon notice and hearing, as provided in the Bylaws, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a non-compliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of the announcement of the Board ruling unless the Board specifies a longer time as reasonable. If the Owner does not comply with the Board ruling within such period, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the owner to the Association, the Board shall levy a Limited Assessment against such Owner for reimbursement pursuant to this Declaration.

Section 7.4 Failure to Provide Notice of Non-Compliance Constitutes Approval. If for any reason the Architectural Committee fails to notify the Owner of any non-compliance within thirty (30) days after receipt of the written notice of completion from the Owner, the work shall be deemed to be in accordance with the approved plans.

Section 8. Non-Liability of Architectural Committee Members. Neither the Architectural Committee nor any member thereof, nor its duly authorized Architectural Committee representative, shall be liable to any Association, or to any Owner or Grantee for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee. The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Property generally. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 9. Variances. The Architectural Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. However, no variances will be granted for construction of structures or Improvements, including without limitation manicured lawns, in the Common Area. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Committee, and shall become effective upon recordation in the office of the County Recorder of Canyon County. If such variances are granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and

particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting such Owner's use of the Lot, including but not limited to zoning ordinances or requirements imposed by any governmental or municipal authority.

#### ARTICLE XI: 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 hereunder in such amounts and in such forms as the Association may deem appropriate from time to time.

- A. A multi-peril-type policy covering any Common Area improvements, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).
- B. A comprehensive policy of public liability insurance covering all operations of the Association and all of the common areas, commercial spaces and public ways in the properties, including broad form property damage. 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. The limits of liability under such policy shall be at least \$1,000,000 per occurrence, for personal injury and/or property damage.
- C. 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 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.
- 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.

## ARTICLE XII: CONDEMNATION

Section 1. Consequences of Condemnation: If at any time or times, all or any part of the property owned by the Association 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 having an interest in the condemned property 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 XIII: MORTGAGEE PROTECTION

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

- A. The Association shall maintain an adequate reserve fund for the performance of its obligations, including the maintenance, repairs and replacement of the Common Area and improvements thereon, and such reserve shall be funded by at least yearly assessments.
- B. The holders of first Mortgages shall have the right to examine the books and records of any Association and to require annual reports or other appropriate financial data.
- C. Any management agreement for the properties or any other contract providing for services of the developer, sponsor or builder, shall be terminable (i) by the contracting 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, no Association shall:
  - 1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. (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 an 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 property, 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 XIV: ANNEXATION

Section 1. Time for Annexation; Land Subject to Annexation: Declarant hereby reserves the right to annex any other real property into the project by recording a Notice of Annexation or Supplemental Declaration particularly describing the real property to be annexed and added to the project created by this Declaration, pursuant to the provisions of this Article.

Upon the recording of a Notice of Annexation containing the provisions set forth in this Section (which Notice may be contained within a Supplemental Declaration affecting such property), except as may be provided for therein, the covenants, conditions and restrictions contained in this Declaration shall apply to the added land in the same manner as if it were originally covered by this Declaration and originally constituted a portion of the Properties; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the added land shall be the same as with respect to the original land, and the rights, privileges, duties and liabilities of the Owners, lessees and occupants of Lots and Units within the added land shall be the same as in the case of the original land. Notwithstanding the foregoing, any Supplemental Declaration may provide a special procedure for amendment of any specified provision thereof, e.g., by a specified vote of only the owners of Lots within the area subject thereto. Any provision of a Supplemental Declaration for which no special amendment procedure is provided shall be subject to amendment in the manner provided in this Declaration.

Section 2. Procedure for Annexation: Any of the above-described real property may be annexed into the project by the recordation of a Notice of Annexation executed by Declarant and containing the following information:

- A. A reference to this Declaration, which reference shall state the date of recordation hereof and the Recorder's instrument number or the book and page of the official records of Canyon County where this Declaration is recorded;
- B. An exact legal description of the added land;
- C. A statement that the provisions of this Declaration shall apply to the added land, except as set forth therein; and
- D. A statement of the use restrictions applicable to the annexed property, which restrictions may be the same or different from those set forth in this Declaration.

ARTICLE XV: GENERAL PROVISIONS

Section 1. Enforcement: The Association or any Owner or the owner of any recorded mortgage upon any part 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. In the event the Association or an Owner is required to initiate any action to enforce the provisions of this Declaration, it shall be entitled to recover from the Owner against whom enforcement is sought, all attorney fees and costs incurred as a consequence thereof, whether or not any lawsuit is actually filed, and any such attorney fees and costs so incurred by the Association shall be added to and become a part of the assessment to which such Owner's Lot is subject.

Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgment 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, heirs, 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 the easements herein granted, may be amended at any time 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. 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 subject to the same obligations and duties as are given to and assumed by Declarant herein. All rights of Declarant hereunder reserved or created shall be held and exercised by Declarant alone, so long as he owns any interest in any portion of said Properties.

IN WITNESS WHEREOF, the Declarant has caused its name to be hereunto subscribed this 12<sup>th</sup> day of July, 2005.

H & G Development, LLC  
By Core Development, Inc., Manager  
By Michael S. Homan  
Michael S. Homan, President



STATE OF IDAHO

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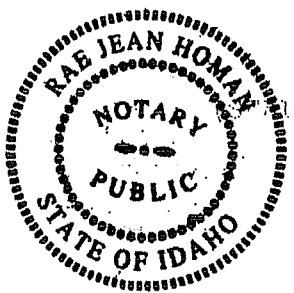
: ss.

County of Ada

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On this 12<sup>th</sup> day of July, 2005, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael S. Homan, known or identified to me to be the President of Core Development, Inc., the manager of H & G Development, LLC, the limited liability company that executed the foregoing instrument, and acknowledged to me that H & G Development, LLC executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Rae Jean Homan

Notary Public for Idaho

Residing at Boise, Idaho

My Commission Expires: 9/27/10