

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I:

RECITALS

Instrument # 209797

STATE OF IDAHO, COUNTY OF WASHINGTON

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SHARON WIDNER

Ex-Officio Recorder Deputy

Index to: MSC RECORDING

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Lisa McKnight

WHEREAS, the undersigned, Grantors are the owners of certain land, in Washington County, Idaho, more particularly described as:

A parcel of land situated within Section 17, Township 10 North, Range 5 West, Boise Meridian, within Sunnyside Orchard Tract as the same is shown on the official plat thereof on file in the Office of the County Recorder of Washington County, Idaho, more particularly described as follows:

All of Lots 93, 94, 95, 96, 97, 98, 99, 100 and 101 of said Sunnyside Orchard Tract;

SAVE AND EXCEPT that portion of said Lot 93 north of the following described line;

Beginning at the northeast corner of Lot 91 of Sunnyside Orchard Tract as the same is shown on the official plat thereof on file in the office of the County Recorder of Washington County, Idaho;

Thence South 0°07'50"E, a distance of 1129.77 feet along the east line of said Lots 91, 92 and 93 of said Sunnyside Orchard Tract to the TRUE POINT OF BEGINNING;

Thence N 89°58'10"W, a distance of 321.87 feet;

Thence S 50°29'34"W, a distance of 50.45 feet;

Thence S 7°03'25"W, a distance of 122.62 feet;

Thence N 87°34'51"W, a distance of 282 feet, more or less, to a point on the westerly line of said Lot 93 and POINT OF ENDING.

AND

All of the land lying between the Westerly boundary line of the above-described parcel and the high water mark of the main channel of the Snake River.

SUBJECT TO a 40 foot wide ingress-egress and utility easement, between 20 feet wide on each side of the centerline of an existing roadway extending south from the intersection of County roads known as Airport Road and Hansen Road to a point on the high water mark of the bank of the Snake River. This easement is subject to an existing irrigation ditch along the West side of said roadway and is appurtenant to adjacent Lots of said Sunnyside Orchard Tract and access to existing irrigation pump on the South side of said Lot 101.

WHEREAS, the Property will be developed pursuant to the ordinances of Washington County, Idaho, for residential uses; and

WHEREAS, the Grantors desire to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations, and equitable servitude herein set forth to insure the proper design development, improvement and use of the Property by the Grantors and all other persons or entities who may subsequently acquire an interest in the Property.

ARTICLE II:

DECLARATIONS

SPECIAL CONDITIONS: The following conditions specific to above-described parcels of land apply:

The Grantors hereby declare that all Property located within the above-described parcels of land which is described herein together with all descriptions in any Exhibits and attachments, and each lot, tract or parcel thereof (hereafter called "Lot" unless specified to the contrary), is and shall be held, sold, conveyed, encumbered, leased, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude (hereafter collectively called "Covenants and Restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the above-described parcels of land and each Lot therein, and to enhance the value, desirability and attractiveness thereof. The covenants and conditions set forth herein shall run with the land and each estate therein, and shall be binding upon all persons having or acquiring any right, title or interest in the above-described parcels of land or any Lot therein, and shall insure to the benefit of and be binding upon the Grantors and each Owner, and each successor in interest of each, and may be enforced by the Grantors and by any Owner, as hereafter provided. Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to prevent or limit the Grantors' right to complete

development of above-described parcels of land in accordance with the plans therefore as the same exists or may be modified from time to time by the Grantors. No development or construction activities of the Grantors shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided the same are actively, efficiently and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of this Declaration may be granted by the Architectural Control Committee (ACC), provided that such waiver shall be for a reasonable period of time. Any such waiver need not be recorded and shall not constitute an amendment to this Declaration. Farming is to be allowed on any of the unsold Lots owned by the Grantors.

ARTICLE III:

DEFINITIONS

As used in this Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

ACC: The Architectural Control Committee for the above-described parcels of land.

Building: A structure constructed on a Lot, on a temporary or permanent basis, and which unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith.

Declaration: This instrument as it may be amended from time to time.

Development: The Project to be undertaken by the Grantors resulting in the improvement of above-described parcels of land, including amenities, roads and utility services elected by the Grantors.

Grantors: The undersigned Owners of the land described on Exhibit A.

Home Owners Association: An organization formed to operate the irrigation system and private roads which lie within the boundaries of the above-described parcels of land and any other duties as provided for in the Articles of Incorporation.

Improvements: All structures and appurtenances thereto of all kinds and types, including, but not limited to: buildings, houses, barns, utility buildings, temporary buildings, roads, driveways, sidewalks, walkways, walls, fences, gates, screens, landscaping, poles, signs, and lighting. Improvements shall not include those items which are located totally on the interior of a building and cannot be observed

when outside thereof.

Lot: A portion of the above-described parcels of land which is a legally described tract or parcel of land within the above-described parcels of land or which is designated as a lot on any recorded subdivision plat relating to the above-described parcels of land.

Mortgage: Any mortgage or deed of trust or other security instrument securing an interest in land located in the above-described parcels of land, to secure performance of an obligation.

Occupant: Any person, association, corporation, or other entity, including their heirs, personal representatives, successors and assigns, or a lessee thereof, who has leased, rented, been licensed or is otherwise legally entitled to occupy and use any Building of Improvement on a Lot, whether or not such right is exercised.

Owner: A person or persons, or other legal entity or entities, including the Grantors, holding fee simple title to a Lot in the above-described parcels of land, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including any Mortgagee or other security holder, provided said Mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such Mortgagee or other security holder by purchase at a foreclosure sale or otherwise.

Plat: A final subdivision plat or plats covering any real property in the above-described parcels of land, as recorded from time to time in the office of the County Recorder, WASHINGTON County, Idaho, as the same may be amended by duly recorded amendments thereto.

Residential Lot: A Lot used for single-family residential purposes and uses incidental thereto, as limited by this Declaration.

Subdivision: The whole of the land described on Exhibit A as amended from time to time with the platting of additional phases of the development. A reference in this Declaration to the above-described parcels of land shall include all Lots shown on the Plat for the above-described parcels of land.

ARTICLE IV:

PURPOSE

The above-described parcels of land are hereby made subject to the covenants and restrictions contained in this Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, or any portion of a lot or parcel, and shall apply to each and every Owner and Occupant thereof and their

respective successors in interest, except as otherwise exempted herein, to insure proper design, development, improvement, use and maintenance of the above-described parcels of land for the purpose of:

- (a) Insuring Owners, and Occupants of buildings, of such quality in design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and Improvements.
- (b) Prevention of the erection within the above-described parcels of land of Improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction.
- (c) Encouraging and assuring the erection of high-quality and attractive Improvements, appropriately located within the above-described parcels of land.
- (d) Securing and maintaining proper set-backs from streets, and adequate free spaces between Improvements.
- (e) Designating and maintaining private wildlife areas to enhance wildlife habitat and use.

ARTICLE V:

PERMITTED USES

Section 5.01. Use: The lots within the above-described parcels of land shall be used for the following purposes:

- (a) All lots in the above-described parcels of land shall be used exclusively as residential lots.

Section 5.02. Approval of Use and Plans: No Improvements shall be built, constructed, erected, placed or materially altered within the above-described parcels of land after the date of this Declaration, unless and until the plans, specifications and site plan therefore have been reviewed in advance and approved by the ACC in accordance with the provisions of Article VI, below.

Section 5.03. Prohibited Buildings: NO TRAILER HOUSE, MOBILE HOME, OR SO-CALLED DOUBLE-WIDE MOBILE HOME SHALL BE MAINTAINED OR INSTALLED UPON ANY LOT AS A RESIDENCE OR FOR ANY OTHER PURPOSE. No structure of a temporary character, camp trailer, basement, tent or shack shall be used on any Lot at any time as a residence, except as temporary living quarters while a permanent dwelling is under

construction. Any such temporary structure will be permitted on the Lot for a maximum of six months, after which it must be removed or properly garaged. No working or commercial vehicle, one and one half ton in capacity or greater, or trailer of any sort, shall regularly or as a matter of practice be parked on any Building Site, nor on the street adjacent thereof, unless properly garaged.

Section 5.04. Setbacks - Residential Lots: Any building constructed on a residential Lot shall comply with the minimum setbacks set out in the Washington County Code.

Section 5.05. Easements: There is hereby reserved for the use and benefit of the Grantors and granted for the use and benefit of each Lot, and for the benefit of each Owner and Occupant and their successors and assigns, for the purposes incident to such use, development and maintenance of the above-described parcels of land, an easement(s) for the installation and maintenance of public utility facilities of all kinds, including but not limited to an irrigation system, radio, television and transmission cables, and the easements designated on the recorded Plat. Any variance to setbacks must have ACC approval in writing. Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of Washington County, the governmental entity having jurisdiction over the above-described parcels of land require setbacks different than those provided herein, the more restrictive shall control.

Section 5.06. Animals / Pets: Animals, livestock or poultry may be raised, bred or kept on a Lot as provided for herein: An occupant may have one (1) horse or one (1) cow per irrigated acre. There shall be no swine. Dogs, cats, or other household pets shall be allowed, provided those pets do not unreasonably bother or constitute a nuisance to others. Running beyond the boundaries of an owner's lot shall be a nuisance. A property owner must notify the owner of any animal considered to be a nuisance to remove said animal, pet or livestock from their property. Recourse against a "nuisance animal" does not include the shooting of any animal, unless it becomes a last resort.

In the event an Owner constructs or maintains a kennel or other restraining area upon a Lot, such shall:

- (a) be located on a Lot in a manner to avoid any endangerment of or nuisance to adjacent Lot Owners and Occupants; and,
- (b) at all times be kept in a clean and odor-free condition; and
- (c) be geographically as far as is reasonable from a neighboring property.

Section 5.07. 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 and reasonably sized sign on a residential Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on a residential Lot during the construction of Improvements. All lighted, moving or flashing signs for any purpose are prohibited.

Section 5.08. Fences: Fences constructed on any Lot must have the plans and specification therefore, including the location, material and color thereof, have been approved in writing by the ACC prior to construction or installation. All fences shall be constructed in a substantial manner and shall be maintained at all times in good repair. All fences constructed along subdivision boundaries shall be of Wrought Iron Privacy, barbed wire, New Zealand pasture fence, or semi-privacy vinyl fencing, pole, board (no maintenance) or cedar. There shall be no chain link (except for dog kennels), woven wire or pig-wire fencing. Fencing shall not be constructed out of discarded materials. It is the intent of the ACC to require uniformity in new boundary fencing to the extent reasonably possible. Fences running on an east-west axis shall not interfere with the migration or movement of deer. Fences enclosing lawns or gardens may be built to exclude wild game, including deer.

Section 5.09. Irrigation Water: The Grantors shall provide facilities to deliver irrigation water to each Lot via a central pump station and concrete ditch irrigation delivery system, utilizing water rights in the Snake River. Operation of the pumps and irrigation system shall be the responsibility and cost of the Owners Association. Water use shall be on a rotation basis, to be worked out among the users. Distribution systems within each Lot shall be the responsibility of each homeowner. The supply of irrigation water to the Lots shall be included in the water rotation agreed to by the Owners. The costs and expenses incurred for the operation and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII, below.

Section 5.10. Sewage Disposal: Each lot owner shall develop their own septic system and have the same approved by the South West District Health authority or its successor in interest.

Section 5.11. Maintenance: The following provisions shall govern the maintenance of Lots and all improvements thereon: Each Owner of a Lot shall maintain all improvements located thereon in good and sufficient repair, and shall keep the improvements thereon painted or stained, lawns cut, shrubbery trimmed, rubbish and debris removed, weeds cut, noxious weeds eradicated and otherwise maintain the same in a neat and aesthetically pleasing condition (but not to interfere with wildlife habitat). Pending the construction of improvements, each Owner shall keep the Lot in a neat condition, and shall not permit an unreasonable accumulation of rubbish and debris.

(a) In the event that all or any portion of the improvements on a Lot are Damaged or destroyed by fire or other casualty, or

any transfer-in-lieu thereof, the Owner shall reconstruct or cause to reconstruct Lot improvements to an architectural whole in accordance with the requirements of this Declaration.

(b) All structures, facilities, equipment, objects and conditions, as determined by the ACC in its sole discretion, reasonably exercised, to be offensive, or which creates a visual blight within the above-described parcels of land shall be removed or enclosed within an ACC-approved structure, or appropriately screened from public view.

Section 5.12. Nuisances: No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot within the above-described parcels of land, and no odor shall be permitted to arise therefrom so as to render any Lot unsanitary, unsightly, offensive or detrimental to any other Lot therein or in the vicinity thereof, or to its occupants. No noise or other nuisance shall be permitted to exist, operate upon or originate from any Lot so as to be offensive or detrimental to any other Lot within the above-described parcels of land. No unlicensed or non-functioning motor vehicle shall be kept on any lot, except that the same shall be enclosed within a building.

Section 5.13. Boats, Campers and Other Vehicles: Any trailer, mobile home, truck larger than a standard pickup, motor-home, boat, tractor, vehicle (other than automobiles), camper and garden or maintenance equipment, when not in actual use, shall at no time be parked or stored on a public or private right-of-way within the above-described parcels of land. Each Lot owner is allowed only one each of the above-named vehicles, boats, campers, etc., unless stored in a covered building or screened from view.

Section 5.14. Minimum Areas: No building intended for use as a one story, single-family residence shall be erected, altered, placed or permitted to remain on any residential Lot, if the structure does not contain at least eighteen hundred (1,800) square feet of enclosed living space, excluding any garages, carports, porches, decks, patios, or basements. For two story residences, the ground floor shall contain at least 1,600 minimum total square feet of living area.

Section 5.15. Construction Standards: The following standards and requirements shall apply to the construction and/or installation of any improvements within the above-described parcels of land:

(1) Utilities: The connection to all utility facilities shall be underground and shall be inspected and approved by both the appropriate governmental entity having jurisdiction thereof.

(2) Landscaping: As a general guideline for the landscaping of each Lot, and as shall be shown on the landscape plan to be submitted to the ACC under Section 6.07c Wildlife habitat landscaping is encouraged.

(3) Roofs: The roof of each building on a residential Lot shall be covered with minimum 25-year architectural composition shingles and shall be approved by the ACC under Article VI, below. Steel or tile roofing which matches the exterior coloring of the structure shall also be allowed.

(4) Exterior Colors: All buildings constructed in the Property shall be of neutral or earth-toned color, and must be approved by the ACC in writing, prior to commencement of construction. There shall be no bright colors used on the exteriors of homes.

(5) Construction Materials: All houses constructed in the above-described parcels of land shall be frame houses or log homes with a minimum of a 10" house log, built on-site, in a conventional method. There shall be no modular homes, pre-fabricated homes, mobile homes, trailer homes or other homes, which are built off-site and transported to the subdivision for placement or assembling.

(6) Tracks: There shall be no motorcycle, go-cart, race tracks or tracks of any kind built in the above-described parcels of land.

ARTICLE VI.

ARCHITECTURAL CONTROL COMMITTEE

Section 6.01. Architectural Control Committee. The Architectural Control Committee ("ACC") shall consist of three (3) members who shall be appointed initially by the homeowners association.

Section 6.02. Homeowners Association. The homeowners association is the entity ultimately responsible for the administration of the Lots. Each lot owner is a member of the homeowners association and is entitled to one (1) vote.

Section 6.03. Non-Liability: Neither the ACC, nor any member thereof, nor the Grantors, shall be liable to any Owner or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance in connection with the approval or disapproval or failure to approve an application. Every person who submits an application to the ACC for approval of plans and specifications agrees by submission of such application, and every Owner or Occupant of any Lot agrees, by acquiring title thereto or an interest therein not to bring any action or suit against the ACC or any member thereof, or the Grantors to recover any.

Section 6.04. Approval Required: No construction, alteration, modification, removal or destruction of any improvements of any nature whatsoever which materially alters

the exterior appearance of the improvements on a Lot, shall be initiated or be permitted to continue or exist within the above-described parcels of land, without prior express written approval of the ACC.

Section 6.05. Basis of Approval: Approval by the ACC shall be based, among other things, on: the adequacy of the Lot dimensions; the conformity and use of external design with neighboring improvements; the effect of location and use of improvements on neighboring Lots; the relationship of the improvements to topography, grade, finished ground elevation, drainage, and the relation of floor elevations to flood elevations as defined by government entities.

Section 6.06. Variances: The ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Declaration, or any prior approval when, in the sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or environmental consideration or hardship may so require. Such a variance must be evidenced in writing, and signed by at least two (2) members of the ACC. If a variance is granted as provided herein, no violation of this Declaration or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted.

Section 6.07. Application: To request ACC approval for the construction, alteration, modification, removal or demolition of any improvements within the above-described parcels of land, the Owner shall submit a written application in a form required by the ACC, which must be signed by the Owner, and must contain all information requested, and be accompanied by other material hereafter provided. The ACC shall have the right to require an Owner to pay a fee, not to exceed \$250.00 to reimburse the ACC for any actual out-of-pocket expenses incurred by the ACC with respect to the review of an application, plans and specifications and/or its decision thereon. Normal applications for plan approvals are on a no-charge basis. All applications must contain, or have submitted therewith, the following material (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards:

- a) Site Plan: A site plan showing the location of the building(s) and all other structures and improvements, including fences and walls on the Lot, Lot drainage and all setbacks, and other pertinent information relating to the improvements.
- b) Building Plan: A building plan which shall consist of preliminary or final Blueprints, elevation drawings of the north, south, east and west sides, and detailed exterior specifications which shall be indicated by sample, if required by the ACC, for all exterior colors, materials and finishes, including roofing material to be used.

- c) Contractor: Such information concerning the qualifications of the general contractor selected by the Owner to construct the building and related improvements on the Lot, as may be reasonably requested by the ACC to permit an informed determination whether the contractor is qualified and possesses the experience required by Section 5.15 above.
- d) Wildlife Plan: It is the intent of the developers of the above-described parcels of land to help provide a home for wildlife. A wildlife plan shall accompany each full application.

Section 6.08. Decision: Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within ten (10) days after receipt of a properly submitted application. The decision of the ACC can be in the form of an approval, a conditional approval or a denial. A conditional approval shall set forth with particularity the conditions upon which the application is approved and a denial shall state with particularity the reasons for such denial.

Section 6.09. Other responsibilities: Until the organization of a homeowner's association for the above-described parcels of land, the ACC shall have such other rights and responsibilities necessary, required of convenience to carry out and enforce the provisions of their declaration, including the right to bring suit in its name or the name of one or all of its members.

ARTICLE VII.

ASSESSMENTS

Section 7.01. Lots Subject to Assessment: The Lots which are subject to assessment under this Article are the above-described parcels of land Lots 94-101.

Section 7.02. Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a Lot, covenants and agrees to pay when due, the assessments provided for in this Article.

Section 7.03. Assessment Lien: All assessments levied and assessed hereunder, together with interest, costs and reasonable attorney fees, which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon each applicable Lot within the above-described parcels of land, and shall also be the personal obligation of the Owner of such Lot at the date the assessment becomes due and payable. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. The assessment lien created hereunder may be enforced in the same manner as provided

in the statutes of the State of Idaho for the enforcement of liens and mortgages. The lien herein created shall at all times be junior and subordinate to the lien of the first Mortgage or Deed of Trust encumbering the Lot.

Section 7.04. Initial and Annual Assessments: Certain dues and assessments payable by Lot Owners to the above-described parcels of land are provided for in this section.

- (a) Owner Association Dues. Further, periodic Owners Association dues shall be paid by all Owners, as follows:
 - 1) All Lots shall be assessed dues to be determined as to costs to maintain Frontage Road, irrigation pump and water delivery ditch. See Section 7.07
 - 2) Each assessment shall be payable by an Owner to the Owners' Association, or to such other party as the Association shall direct, in advance or in arrears as determined by the Association.

Section 7.05. Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear interest at an annual rate as shall be set by the ACC from time-to-time, or if none is so set, at an annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment becomes due and payable. In addition to the interest charge, if an assessment is collected by the ACC with the assistance of an attorney or collection agency, whether or not suit or action is filed, the Owner shall pay to the ACC reasonable attorney fees or collection charges incurred by the ACC, and such fees or charges may be awarded in a judgment against the Owner.

Section 7.06. Purpose of Assessments: The Owners Association, or ACC if no Owners Association yet exists, shall use all funds from the assessments paid by the Owners for the purpose of:

- a) Maintaining, repairing, replacing, operating, insuring and otherwise in all respects caring for the irrigation water delivery system, any related fencing and improvements thereto, private road, including, but not limited to: the pumps, pump house, control panels, electrical systems and valves and fittings, except where the obligation to maintain the line is imposed upon an Owner(s) by this Declaration.
- b) Road Maintenance: Lots 98, 99, 100, and 101 front a private road. The owners of lots 98, 99, 100, and 101 will be responsible for the maintenance of the private road. Lots 93, 94, 95, 96, and 97 front a county road. The owners of lots 93, 94, 95, 96, and 97 are exempt from the road maintenance agreement. Frontage Road shall be maintained on behalf of the landowners by the homeowners association. Whenever any maintenance on a roadway is required, the homeowners association shall

notify the lot owners within the subdivision and inform the owners of any proposed upkeep, maintenance or road replacement and the projected cost of repair. If no emergency exists, the property owners can call a meeting of the landowners. If at a meeting of the landowners held within ten (10) days of the notice, by majority vote, the landowners choose to make the road repairs themselves, the homeowners association shall allow the members to perform such repair work as may be required. If there is not a majority vote to perform the necessary work, the homeowners association shall hire the work done.

Section 7.07. Adjustment of Assessments: The Owners Association, or ACC if no Owners Association yet exists, shall have the right to increase or decrease the amount of the annual assessment levied against the Lots within the above-described parcels of land, based on the actual and anticipated expenses of the Owners Association performing its obligations described in Section 7.07 above, including reasonable reserves for repairs and replacements.

Section 7.08. Limited Assessments: If maintenance, repair, cleaning, and/or upkeep is deemed necessary in the sole discretion of the Owners Association to bring such Owner and/or Lot into compliance with the requirements of this Declaration, and if the Owner of said Lot has refused to perform the same within a reasonable time after written notice of the necessity thereof has been delivered by the Owners Association to said Owner, the Owners Association shall have the right to perform or cause performance of the same and to levy a limited assessment against the lot owned by such Owner, for the amount of the costs and expenses incurred by the Owners Association in connection therewith, including attorney fees. The right of the Owners Association to incur costs and expenses with respect to a Lot, and to secure repayment thereof by the levying of a limited assessment, shall also relate to the correction of a violation of this Declaration which an Owner fails or refuses to correct within a reasonable time after written notice delivered to such Owner by the Owners Association.

Section 7.09. Non-Exclusive Remedy: The right of the Owners Association to levy a limited assessment as described in Section 7.09 above, shall not be deemed the exclusive remedy of the Owners Association, and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of the limited assessment, collect the amount due directly from the Owner responsible therefore, and/or pursue any other remedy available at law or equity. Nothing in this Declaration shall prohibit or limit the Owners Association or an Owner from pursuing any legal or equitable remedy for a violation of this Declaration.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Term: This Declaration and all covenants, conditions, restrictions, and easements contained herein shall run until December 31, 2020, unless amended as hereafter provided. After December 31, 2020 said covenants, conditions, restrictions and easements shall automatically extend for successive periods often (10) years each, unless extinguished by a written instrument executed by the Owners of at least seventy-five percent (75%) of the Lots in the above-described parcels of land, and such written instrument is duly recorded with the WASHINGTON County Recorder.

Section 8.02. Amendment: This Declaration may be amended as follows:

- (a) By Grantors: So long as the Grantors own fifty percent (50%) of the Lots within the above-described parcels of land, this Declaration may be amended or terminated by the Grantors, by recordation of a written instrument signed by the Grantors, and acknowledged, setting forth such amendment or termination as to such Lot not conveyed.
- (b) By Owners: Except where a greater percentage is required herein, the Provisions of this Declaration, other than this Section may be amended by an Instrument in writing, signed and acknowledged by the Owners, including the Grantors, owning at least seventy-five percent (75%) of the residential Lots within the above-described parcels of land, and such amendment shall be effective upon its recordation with the WASHINGTON County Recorder. Until the Grantors divest themselves of all interest in the subdivision, any amendment to this Section 8.02 shall require the vote or written consent of all Owners, including the Grantors.

Section 8.03. Non-Waiver: The failure of the Grantors or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements, or other provisions of this Declaration, or to exercise any right or option contained herein, or to serve any notice, or to institute any action shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

Section 8.04. Enforcement - Costs: This Declaration may be enforced by the ACC or by any Owner (including the Grantors) of a Lot. If suit or other action is filed to interpret or enforce this Declaration, or any provision thereof, the prevailing party shall be awarded reasonable attorney fees, in addition to the costs and disbursements allowed by law, including the same with respect to an appeal.

Section 8.05. Acceptance: Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement, or option, accepts the same subject to all the covenants, conditions, restrictions, easements and other provisions set forth in this Declaration, and agrees to be bound by the same.

Section 8.06. Severability: Each of the provisions hereof shall be deemed independent and severable or unenforceability of any provision or portion thereof shall not affect the validity of enforceability of any other provision.

Section 8.07. Interpretation: The provisions of this Declaration shall be liberally construed to affect the purposes hereof and shall be construed and governed in accordance with the laws of the State of Idaho. The singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall include the feminine, masculine and neuter. All captions and titles are intended solely for convenience of reference, and shall not affect that which is set forth in any of the provisions hereof.

IN WITNESS HEREOF the Grantors have executed this
Declaration as of the 7 day of July, 2008 ^{me}

GRANTORS

Michael Lee Weaver

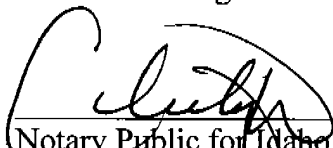
Martha D. Weaver

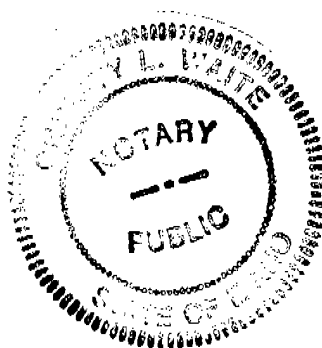
By Mike Weaver

Mike Weaver Atty in fact

STATE OF IDAHO)
)
 County of Washington) ss:


On this 7th day of July, 2008, before me, a notary public in and for the State of Idaho, personally appeared Michael Lee Weaver known or proven to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.


 Notary Public for Idaho
 Residing at: Laurel, ID
 Commission Expires: 11/4/09



STATE OF IDAHO)
)
 County of Washington) ss:

On this 7th day of July, 2008, before me, a notary public in and for the State of Idaho, personally appeared Mike Weaver known or proven to me to be the person whose name is subscribed to the within instrument as the attorney in fact of Martha D. Weaver and acknowledged to me that he subscribed the name of Martha D. Weaver thereto as principal and his own name as attorney in fact.


 Notary Public for Idaho
 Residing at: Laurel, ID
 Commission Expires: 11/4/09

