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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE THUNDER SPRING DEVELOPMENT

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE THUNDER SPRING DEVELOPMENT**

THIS DECLARATION (the "Declaration") dated for reference purposes October 26 2000, shall be effective upon recordation and is made by Thunder Spring, a Delaware limited liability company (the "Declarant"). Declarant is the owner of certain real property in Blaine County, Idaho, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"). Declarant hereby makes the following grants, submissions, and declarations:

ARTICLE 1. IMPOSITION OF COVENANTS

Section 1.1 Purpose. The purpose of this Declaration is to create a condominium project known as the Thunder Spring Planned Unit Development (the "Condominium Project") by submitting the Property to the condominium form of ownership and use pursuant to the Idaho Condominium Act, Idaho Code §§ 55-1501 *et seq.*, as amended and supplemented from time to time (the "Act").

Section 1.2 Intention of Declarant. Declarant desires to protect the value and desirability of the Condominium Project, to further a plan for the improvement, lease, sale and ownership of the Units in the Condominium Project, to create a harmonious and attractive development and to promote and safeguard the health, comfort, safety, convenience, and welfare of the Owners of Units in the Condominium Project.

Section 1.3 Condominium Declaration. To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances, and facilities relating to or located on the Property now and in the future, to condominium ownership under the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved subject to the provisions of this Declaration.

Section 1.4 Covenants Running With the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, all Unit Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

ARTICLE 2. DEFINITIONS

The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

Section 2.1 "Act" means the Idaho Condominium Act as defined in Section 1.1 hereof. In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable to this Declaration.

Section 2.2 "Allocated Interests" means the undivided interest in the Common Elements and the Common Expense Liability and the votes in the Association allocated to each of the Units in the Condominium Project. The formulas used to establish the Allocated Interests are described in Article 4. The Allocated Interests for each Unit are set forth on Exhibit B.

Section 2.3 "Articles of Incorporation" means the Articles of Incorporation of Thunder Spring Owners' Association as filed with the Idaho Secretary of State, a copy of which is attached hereto as Exhibit C.

Section 2.4 "Assessments" means the annual, special and default Assessments levied pursuant to this Declaration.

Section 2.5 "Association" means the Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit corporation, and its successors and assigns.

Section 2.6 "Board of Directors" means the governing body of the Association, as provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association and in the Act.

Section 2.7 "Bylaws" means any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including the amendments thereto, copies of which are attached hereto as Exhibit D.

Section 2.8 "Commercial Unit" means any Unit designated with the prefix "C" on the Map or designated as a Commercial Unit in this Declaration for business or commercial uses.

Section 2.9 "Common Elements" means all of the Condominium Project, other than the Units, but including, without limiting the generality of the foregoing, the following components:

- (a) the Property; and
- (b) the Improvements (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, patios, balconies, entrances and exits, and the mechanical installations of the Improvements consisting of the equipment and

materials making up any central services such as power, light, gas, hot and cold water, sewer, cable television, and heating and central air conditioning which exist for use by one or more of the Unit Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith), except for the Units; and

(c) the yards, sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, gardens, parking areas, and related facilities upon the Property; and

(d) the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and equipment of the Improvements existing for use of one or more of the Unit Owners; and

(e) in general, all other parts of the Condominium Project designated by Declarant as Common Elements and existing for the use of one or more of the Unit Owners.

The Common Elements shall be owned by the Unit Owners of the separate Units, each Unit Owner of a Unit having an undivided interest in the Common Elements as allocated in Exhibit B.

Section 2.10 "Common Expenses Liability" means the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

Section 2.11 "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

(a) expenses of administration, insurance, operation, and management, repair or replacement of the Common Elements except to the extent such repairs and replacements are responsibilities of a Unit Owner as provided in this Declaration;

(b) expenses declared Common Expenses by the provisions of this Declaration or the Bylaws;

(c) all sums lawfully assessed against the Units by the Board of Directors;

(d) expenses agreed upon as Common Expenses by the members of the Association; and

(e) expenses provided to be paid pursuant to any Management Agreement.

Section 2.12 "Condominium Documents" means the basic documents creating and governing the Condominium Project, including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, the Map, and any procedures, Rules and Regulations, or policies relating to the Condominium Project adopted under such documents by the Association or the Board of Directors.

Section 2.13 "Condominium Map" or "Map" means that part of this Declaration that depicts all or any portion of the Condominium Project in three dimensions, is executed by the Declarant and is recorded in the Records. A Map and a Plat may be combined in one instrument. In a Map, a "Horizontal Boundary" means a plane of elevation relative to a described benchmark that defines either a lower or upper dimension of a Unit such that the real estate respectively below or above the defined plane is not part of the Unit. In a Map, a "Vertical Boundary" means the defined limit of a Unit that is not a Horizontal Boundary of that Unit.

Section 2.14 "Condominium Project" or "Project" means the term as defined in Section 1.1 hereof.

Section 2.15 "Condominium Unit" means the fee simple interest in and to a Unit, together with the undivided interest in the Common Elements appurtenant to the Unit, as allocated in Exhibit B.

Section 2.16 "Costs of Enforcement" means all monetary fees, fines, late charges, interest, expenses, costs, including receiver's and appraiser's fees, and reasonable attorneys' fees and disbursements, including legal assistants' fees, incurred by the Association in connection with the collection of Assessments or in connection with the enforcement of the terms, conditions and obligations of the Condominium Documents.

Section 2.17 "Declarant" means Thunder Spring, a Delaware limited liability company, its successors and assigns.

Section 2.18 "Declaration" means this Declaration, together with any supplement or amendment to this Declaration, and any other recorded instrument however denominated that exercises a Development Right, executed by Declarant and recorded in the Records. The term Declaration includes all Maps and Plats recorded with this Declaration and all amendments to the Declaration and supplements to the Maps and Plats without specific reference thereto.

Section 2.19 "Deed" means each initial Warranty Deed recorded after the date hereof by which Declarant conveys a Unit.

Section 2.20 "Development Rights" means all of the expansion rights and the development rights, if any, set forth in this Declaration.

Section 2.21 "Eligible First Mortgagee" means a First Mortgagee that has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in Article 19 entitled "Mortgagee Protections".

Section 2.22 "First Mortgagee" means a holder of a Security Interest in a Unit that has priority over all other Security Interests in the Unit.

Section 2.23 "Improvement(s)" means the building(s) (including all fixtures and improvements contained within it) located on the Property in which Units or Common Elements are located.

Section 2.24 "Limited Common Elements" means those parts of the Common Elements that are limited to and reserved for the use in connection with one or more, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements shall include the common or party wall shared by adjoining Units which are owned by the same Person, any balcony, deck, patio, courtyard or porch appurtenant to and accessible only from a Unit, any shutters, awnings, window boxes, doorsteps, stoops, porch, balcony or patio designated or designed to serve a single Unit but located outside the Unit's boundaries, storage spaces, parking spaces, and ski lockers outside Units designated as Limited Common Elements in this Declaration or on the Map, if any. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Limited Common Elements also include any portion of the Common Elements allocated by this Declaration or on the Map as Limited Common Elements. All Limited Common Elements shall be used in connection with the appurtenant Unit(s) to the exclusion of the use thereof by the other Unit Owners, except by invitation. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, ceilings and floors of any balcony or of any other Limited Common Elements appurtenant to and accessible only from the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. No reference to Limited Common Elements need be made in any instrument of conveyance or encumbrance in order to convey or encumber the Limited Common Elements appurtenant to a Unit.

Section 2.25 "Majority of Owners" means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

Section 2.26 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Directors relative to the operation, maintenance, and management of the Condominium Project.

Section 2.27 "Managing Agent" means a person, firm, corporation or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.28 "Occupant" means any member of a Unit Owner's family or a Unit Owner's guests, invitees, servants, tenants, employees, or licensees who occupy a Unit or are on the Common Elements for any period of time.

Section 2.29 "Period of Declarant Control" means the maximum period of time defined and limited by Section 8.6 of this Declaration during which the Declarant may, at its option, control the Association.

Section 2.30 "Person" means an individual, association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision or any combination thereof.

Section 2.31 "Plat" means that part of a Declaration that is a land survey plat as set forth in Idaho Code § 50-1301, as amended, depicts all or any portion of the Condominium Project in two dimensions, is executed by the Declarant, and is recorded in the Records.

Section 2.32 "Property" means the real property described in the attached Exhibit A.

Section 2.33 "Real Estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance. Real Estate includes parcels with or without Horizontal Boundaries and spaces that may be filled with air or water.

Section 2.34 "Records" means the Office of the Clerk and Recorder in Blaine County, Idaho, and each other county in which any portion of the Condominium Project is located.

Section 2.35 "Residential Unit" means any Unit which is not a Commercial Unit.

Section 2.36 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors for the management, preservation, safety, control, and orderly operation of the Condominium Project in order to effectuate the intent and to enforce the obligations set forth in the Condominium Documents, as amended and supplemented from

time to time. Separate Rules and Regulations may be promulgated to apply only to Commercial Units or Residential Units or any combination thereof.

Section 2.37 "Security Interest" means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The terms includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.38 "Special Declarant Rights" means those rights reserved by Declarant in Article 15 of this Declaration.

Section 2.39 "Unit" means a physical portion of the Condominium Project which is designated for separate ownership or occupancy and the boundaries of which are described in or determined by this Declaration. Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Condominium Project as more specifically set forth on Exhibit B. If walls, floors or ceilings are designated as boundaries of a Unit in this Declaration, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit and all other portions of the walls, floors or ceilings are a part of the Common Elements. Subject to Section 2.24, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

Section 2.40 "Unit Owner" or "Owner" means the Declarant or any other person who owns record title to a Unit (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Unit unless such person has acquired record title to the Unit pursuant to foreclosure or any proceedings in lieu of foreclosure.

ARTICLE 3. DIVISION OF PROJECT INTO CONDOMINIUM OWNERSHIP

Section 3.1 Division Into Condominium Units. The Property is hereby divided into that number of Condominium Units described in Exhibit "B", as amended from time to time, including separately designated Commercial Unit(s), each consisting of a fee simple interest in a Unit and an undivided fee simple interest in the Common Elements in accordance with the respective undivided interests in the Common Elements as set forth in Exhibit B. Such undivided interests in the Common Elements are hereby declared to be appurtenant to the respective Units. The total of the undivided interests in the

Common Elements set forth in Exhibit B, rounded to the nearest 1%, shall be deemed to equal one hundred percent (100%) for purposes of this Declaration.

Section 3.2 Delineation of Unit Boundaries. The boundaries of each Unit are delineated and designated by an identifying number on the Map, and those numbers are set forth in Exhibit B.

Section 3.3 Inseparability of Condominium Unit. Except as provided in Section 3.5 below, and in Article 15: (a) no part of a Condominium Unit or of the legal rights comprising ownership of a Condominium Unit may be partitioned or separated from any other part thereof during the period of condominium ownership prescribed in this Declaration; (b) each Condominium Unit shall always be conveyed, transferred, devised, bequeathed, encumbered, and otherwise affected only as a complete Condominium Unit; and (c) every conveyance, transfer, gift, devise, bequest, encumbrance other disposition of a Condominium Unit or any part thereof shall be presumed to be a disposition of the entire Condominium Unit, together with all appurtenant rights and interests created by law or by this Declaration, including the Unit Owner's membership in the Association.

Section 3.4 Non-partitionability of Common Elements. The Common Elements shall be owned in common by all of the Unit Owners and shall remain physically undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. By acceptance of a deed or other instrument of conveyance or assignment to a Unit, each Unit Owner shall be deemed to have specifically waived such Unit Owner's right to institute or maintain a partition action or any other cause of action designed to cause a division of the Common Elements, and this Section may be pleaded as a bar to the maintenance of such an action. Any Unit Owner who shall institute or maintain any such action shall be liable to the Association and hereby agrees to reimburse the Association for the Costs of Enforcement in defending any such action.

Section 3.5 Alterations and Subdivision of Units; Relocation of Boundaries Between Adjoining Units. Unit Owner(s) shall have the right to alter their Units, subdivide their Units and relocate boundaries between their Unit and an adjoining Unit, combine adjoining Units and alter and improve Limited Common Elements and reallocate Limited Common Elements between or among Units, subject to the provisions and requirements of this Declaration and of the Act.

ARTICLE 4. ALLOCATED INTERESTS

Section 4.1 Allocation of Interests. The Allocated Interests assigned to each Unit are set forth on Exhibit B. These interests have been allocated in accordance with the formulas set out in Section 4.2 below. These formulas are to be used in reallocating interests if Units are added to the Condominium Project or if Units are converted to Common Elements or Limited Common Elements.

Section 4.2 Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated by the following formulas:

(a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based upon the relative value of each Unit as compared to the value of all Units in the Condominium Project.

(b) Common Expenses Liability. The percentage of Common Expenses Liability allocated to each Unit is based on the relative value of each Unit as compared to the value of all Units in the Condominium Project.

(c) Votes. The vote allocated to each Unit is based upon the relative value of each Unit as compared to the value of all Units in the Condominium Project. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Condominium Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Exhibit B.

Section 4.3 Rounding Convention. Any Allocated Interest, stated as a fraction, shall be rounded to the nearest one percent (1%). The total of all Allocated Interests shall be deemed to equal to one hundred percent (100%) for purposes of this Declaration.

Section 4.4 Basis for Valuation. The value of each Unit and of all Units in the Condominium Project has been determined by Declarant in the exercise of its discretion based on factors it considers relevant. No appraisal or other method for arriving at the value of Units was used nor is any contemplated. After the Period of Declarant's Control, the Association may, from time to time, adopt policies and procedures for determining the value of Units.

ARTICLE 5. CONDOMINIUM MAP

The Map shall be filed in the Records. Any Map filed subsequent to the first Map shall be termed a supplement to such Map, and the numerical sequence of such supplements shall be shown thereon. The Map shall be filed following substantial completion of the Improvement(s) depicted on the Map and prior to the conveyance of any Unit depicted on the Map to a purchaser. The Map shall include a Plat which shows the following:

(a) the name and a general schematic map of the entire Condominium Project;

(b) the location and dimensions of all Real Estate not subject to Development Rights, and the location and dimensions of all existing improvements within that Real Estate;

(c) a legally sufficient description of any Real Estate subject to Development Rights, labeled to identify the rights applicable to it;

(d) the extent of any existing encroachments across any Condominium Project boundary;

(e) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Condominium Project; and

(f) the distance between any noncontiguous parcels of Real Estate comprising the Condominium Project.

The Map shall also show the following:

(a) the location and dimensions of the vertical boundaries of each Unit and that Unit's identifying number;

(b) horizontal Unit boundaries, if any, with reference to all established data and that Unit's identifying number;

(c) any Units in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately;

(d) the approximate location and dimensions of all Limited Common Elements; and

(e) the number, size and location of any sales offices, management offices and models to be maintained by Declarant.

The Map shall contain a certificate of a registered and licensed surveyor certifying that the Map was prepared subsequent to the substantial completion of the improvements and contains all information required by this Declaration and the Act. Each supplement shall set forth a like certificate when appropriate. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries.

ARTICLE 6. LEGAL DESCRIPTION AND TAXATION OF UNITS

Section 6.1 Contracts to Convey Entered into Prior to Recording of Condominium Declaration and Map. A contract or other agreement for the sale of a Unit entered into prior to the filing of this Declaration in the Records may legally describe such Unit in substantially the manner set forth in this Article 6 and may indicate that this Declaration and Map are to be recorded.

Section 6.2 Contracts to Convey and Conveyances Subsequent to Recording of Declaration and Map. Subsequent to the recording of the Declaration and Map, contracts to convey, instruments of conveyance of Units, and every other instrument affecting title to a Unit shall be in substantially the following form with such omissions, insertions, recitals of fact, or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority, practice or usage or requirement of law with respect thereto:

(Condominium) (Commercial) Unit _____, according to the Declaration of Covenants, Conditions and Restrictions for the Thunder Spring Development, recorded _____, 19____, as (Instrument No. _____) and the Condominium Map recorded _____, 19____, as (Instrument No. _____) in the office of the Recorder of Blaine County, Idaho.

Section 6.3 Conveyance Deemed to Describe an Undivided Interest in Common Elements. Every instrument of conveyance, Security Interest, or other instrument affecting the title to a Unit which legally describes the Unit substantially in the manner set forth above shall be construed to describe the Unit, together with the undivided interest in the Common Elements appurtenant to it, and together with all fixtures and improvements contained in it, and to incorporate all the rights incident to ownership of a Unit and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Elements.

Section 6.4 Separate Tax Assessments. Upon the filing for record of this Declaration and the Map in the Records, Declarant shall deliver a copy of this Declaration to the assessor of each county specified in the Records as provided by law. The lien for taxes assessed shall be confined to the Unit(s). No forfeiture or sale of any Unit for delinquent taxes, assessments, or other governmental charge shall divest or in any way affect the title to any other Unit.

ARTICLE 7. UNIT OWNERS' PROPERTY RIGHTS IN COMMON ELEMENTS

Section 7.1 Common Elements. Every Unit Owner shall have a perpetual right and easement of access over, across, and upon the Common Elements for the purpose of access to and from the Unit from public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Unit; provided, however, that such right and easement shall be subject to the following:

- (a) the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, and the Map;

(b) the right of the Association from time to time to assign on an equitable basis portions of the Common Elements such as parking spaces or storage spaces for the exclusive use of the Unit Owner of a particular Unit by an appropriate instrument in writing;

(c) the right of the Association to adopt, from time to time, any and all rules and regulations concerning vehicular traffic and travel upon, in, under, and across the Condominium Project; and

(d) the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Condominium Project as the Association may determine is necessary or prudent for the management, preservation, safety, control, and orderly operation of the Condominium Project for the benefit of all Unit Owners, and for facilitating the greatest and most convenient availability and use of the Units and Common Elements by Unit Owners.

Section 7.2 Limited Common Elements. Subject to the provisions of this Declaration, every Unit Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit.

ARTICLE 8. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 8.1 Association Membership. The Association's Articles of Incorporation shall be filed no later than the date the first interest in a Unit in the Condominium Project is conveyed to a purchaser. Every Unit Owner shall be a member of the Association and shall remain a member for the period of the Unit Owner's ownership of a Unit. No Unit Owner, whether one or more persons or entity, shall have more than one membership per Unit owned, but all of the persons or entities owning a Unit shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Unit. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. If title to a Unit is held by more than one individual, by a firm, corporation, partnership, association or other legal entity or any combination thereof, such individuals, entity or entities shall appoint and authorize one person or alternate persons to represent the Unit Owners of the Unit. Such representative shall be a natural person who is a Unit Owner, or a designated board member or officer of a corporate Unit Owner, or a general partner of a partnership Unit Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Unit Owners as a member of the Association, and serve on the Board of Directors if elected, subject to the provisions of and in accordance with the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if only one of the multiple Unit Owners of a Unit is present at a meeting of the Association, such Unit Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Unit Owners are present and there is no written designation of an authorized representative, the vote allocated to that Unit

may be cast only in accordance with the agreement of a majority in interest of the Unit Owners, which majority agreement may be assumed for all purposes if any one of the multiple Unit Owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners of the Unit.

Section 8.2 Voting Rights and Meetings. Each Unit in the Condominium Project shall have the votes allocated in Section 4.2(c); provided, however, no vote allocated to a Unit owned by the Association may be cast. Class voting by Commercial Unit Owner(s) or Residential Unit Owner(s), or combinations thereof, shall be allowed on issues specified in Section 8.10. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board of Directors, or by Unit Owners having twenty-five percent (25%), or any lower percentage specified in the Bylaws, of the votes in the Association. Not less than ten (10) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Unit Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Directors. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast twenty percent (20%) of the votes which may be cast for election of the Board of Directors are present, in person or by proxy, at the beginning of the meeting.

Section 8.3 Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Unit Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures (both ordinary and capital) and reserves for the Association's next fiscal year as proposed by the Board of Directors. A summary of the proposed budget approved by the Board of Directors shall be mailed to the Unit Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than ten (10) nor more than fifty (50) days after mailing of the summary to the Unit Owners. Unless at the meeting a Majority of Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed budget, the budget is ratified whether or not a quorum is present at the meeting. In the event the proposed budget is rejected, the budget last ratified by the Unit Owners continues until such time as the Unit Owners ratify a subsequent budget proposed by the Board of Directors as provided above.

Section 8.4 Unit Owners' and Association's Addresses for Notices. All Unit Owners of each Unit shall have one and the same registered mailing address to be used by the Association or other Unit Owners for notices, demands, and all other communications regarding Association matters. The Unit Owner or the representative of the Unit Owners of a Unit shall furnish such registered address to the secretary of the

Association within ten days after transfer of title to the Unit to such Unit Owner or Unit Owners. Such registration shall be in written form and signed by all of the Unit Owners of the Unit or by such persons as are authorized to represent the interests of all Unit Owners of the Unit. If no address is registered or if all of the Unit Owners cannot agree, then the address of the Unit shall be deemed their registered address until another registered address is furnished as required under this Section 8.4. If the address of the Unit is the registered address of the Unit Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Unit Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the Condominium Project or such other address as the Board of Directors may designate from time to time by notice to the Unit Owner(s).

Section 8.5 Transfer Information. All Persons who acquire Unit(s) other than from Declarant shall provide to the Association written notice of the Person's name, address, Unit owned, date of transfer, and name of the former Unit Owner within ten (10) days of the date of transfer. The Person shall also provide a true and correct copy of the recorded instrument conveying or transferring the Unit or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Units. The Association or Managing Agent shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Association.

Section 8.6 Declarant Control of the Association. There shall be a Period of Declarant Control of the Association, during which a Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of Directors. The Period of Declarant Control shall commence upon filing of the Articles of Incorporation of the Association and shall terminate no later than the earlier of:

- (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than a Declarant; or
- (b) two (2) years after Declarant's last conveyance of a Unit in the ordinary course of business.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period, but in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 8.7 Required Election of Unit Owners. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant. Not later than the termination of any Period of Declarant Control, the Unit Owners shall elect a Board of Directors of at least five (5) members, at least a majority of whom shall be Unit Owners other than the Declarant or designated representatives of Unit Owners other than Declarant. In order to assure representation of Owners of the Commercial Unit(s) and the Residential Unit(s) in the affairs of the Association and to protect the valid interests of the Commercial Unit(s) and Residential Unit(s) in the operation of the Condominium Project, the Owner(s) of the Commercial Unit(s), voting as a class, shall be entitled to elect one of the members of the Board of Directors, and the Owner(s) of the Residential Unit(s), voting as a Class, shall be entitled to elect one member of the Board of Directors. The Board of Directors shall elect the officers. The members of the Board of Directors and officers shall take office upon election.

Section 8.8 Removal of Members of the Board of Directors. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice and an opportunity to be heard as required by this Declaration and the Act, the Unit Owners, by sixty-seven percent (67%) vote of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a member of the Board of Directors with or without cause, other than a member appointed by the Declarant.

Section 8.9 Requirements for Turnover of Declarant Control. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

(a) the original or a certified copy of the recorded Declaration as amended, the Association's articles of incorporation, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;

(b) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally

accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;

- (c) the Association funds or control thereof;
- (d) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;
- (e) a copy, for the non-exclusive use of the Association, of any plans and specifications used in the construction or renovation of the Improvements;
- (f) all insurance policies then in force, in which the Unit Owners, the Association or its members of the Board of Directors and officers are named as insured persons;
- (g) copies of any certificates of occupancy that may have been issued with respect to the Improvements;
- (h) any other permits issued by governmental bodies applicable to the Condominium Project and which are currently in force or which were issued within one year prior to the date on which Unit Owners other than the Declarant took control of the Association;
- (i) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (j) a roster of Unit Owners and First Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;
- (k) employment contracts in which the Association is a contracting party; and
- (l) any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

Section 8.10 Issues for Class Voting. Any issue relating solely to the Commercial Units or Residential Units shall be decided by the Owner(s) of the particular Unit(s) voting as a Class on the issue. The decision on whether an issue relates solely to

only one type of Unit shall be determined in the sole discretion of the Board of Directors. Any issue relating to a Limited Common Element appurtenant to more than one type of Unit, but not appurtenant to all types of Units shall be decided by the Owner(s) of the Units to which the Limited Common Elements are appurtenant, voting as a Class. The decision on whether an issue relates solely to Limited Common Elements appurtenant to less than all types of Units shall be decided in the sole discretion of the Board of Directors.

Section 8.11 Agent for Service of Process. The Association's initial agent for service of process as contemplated by the Act shall be the person identified as such in the Articles of Incorporation.

ARTICLE 9. ASSOCIATION POWERS AND DUTIES

Section 9.1 Association Management Duties. Subject to the rights and obligations of Declarant and other Unit Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Condominium Project and for the exclusive management, control, maintenance, repair, replacement, and improvement of the Common Elements and the Limited Common Elements, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The expenses, costs, and fees of such management, operation, maintenance, and repair by the Association shall be part of the Assessments, and prior approval of the Unit Owners shall not be required in order for the Association to pay any such expenses, costs, and fees. The Association shall establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair, or replacement of those Common Elements that must be replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures, and reserves which will be the basis for collection of Assessments for Common Expenses from Unit Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Unit Owner and such Unit Owner's authorized agents.

Section 9.2 Association Powers. The Association shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Condominium Project which shall include, but not be limited to, the power to:

- (a) adopt and amend Bylaws and Rules and Regulations;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect assessments for Common Expenses from Owners;

- (d) hire and discharge managing agents;
- (e) hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Condominium Project;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) cause additional improvements to be made as part of the Common Elements;
- (j) acquire, hold, encumber, and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act;
- (k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;
- (l) impose and receive a payment, fee, or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;
- (m) impose a reasonable charge for late payment of Assessments, recover Costs of Enforcement for collection of Assessment and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for preparation of statements of unpaid Assessments;
- (o) provide for the indemnification of the Association's officers and Board of Directors and maintain Board of Directors' and officers' liability insurance;

(p) assign the Association's right to future income, including the right to receive Assessments;

(q) by resolution, establish committees of the Board of Directors and/or Unit Owners, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee;

(r) exercise any other powers conferred by this Declaration or the Bylaws;

(s) exercise any other power that may be exercised in Idaho by legal entities of the same type as the Association; and

(t) exercise any other power necessary and proper for the governance and operation of the Association.

Section 9.3 Actions by Board of Directors. Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board of Directors may act in all instances on behalf of the Association.

Section 9.4 Board of Directors Meetings. All meetings of the Board of Directors, at which action is to be taken by vote, will be open to the Unit Owners and agendas for meetings of the Board of Directors shall be made reasonably available for examination by all members of the Association or their representatives, except that meetings of the Board of Directors may be held in executive session(s), without giving notice and without the requirement that they be open to Unit Owners, in the following situations:

(a) matters pertaining to employees of the Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Association;

(b) consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;

(c) investigative proceedings concerning possible or actual criminal misconduct;

(d) matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;

(e) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

Section 9.5 Right to Notice and Hearing. Whenever the Condominium Documents require that an action be taken after "notice and hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, a committee, an officer, the Managing Agent, etc.) shall give notice of the proposed action to all Unit Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally and/or in writing, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Unit Owner having a right to notice and hearing shall have the right to appeal to the Board of Directors from a decision of a proposing party other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after being notified of the decision. The Board of Directors shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 9.6 Payments to Working Capital Account. In order to provide the Association with adequate working capital funds, the Association may collect from purchasers at the time of the initial sale of each Unit by Declarant an amount equal to three months' worth of annual Assessments based on the Association's budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments.

ARTICLE 10. ASSESSMENTS

Section 10.1 Commencement of Annual Assessments. Until the Association makes an Assessment for Common Expenses, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

Section 10.2 Annual Assessments. The Association shall levy annual Assessments to pay for the Common Expense Liability allocated to each Unit pursuant to this Declaration. The total annual Assessments shall be based upon a budget of the Association's cash requirements for upkeep of the Condominium Project including maintenance, repair and replacement of the Common Elements as required by the Act and

the Condominium Documents. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be credited to the Unit Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments for Common Expenses.

Section 10.3 Apportionment of Annual Assessments. The total annual Assessment for any fiscal year of the Association shall be assessed to the Units in proportion to their Percentage of Common Expenses Liability set forth on Exhibit B, subject to: (a) Common Expenses which are separately metered or assessed to the Units by third parties; (b) Common Expenses associated with the maintenance, repair or replacement of Limited Common Elements which shall be assigned equally or on such other equitable basis as the Board of Directors shall determine to the Units to which the specific Limited Common Elements are appurtenant; (c) Common Expenses or portions thereof benefitting fewer than all of the Units which shall be assessed exclusively against the Units benefitted; (d) any increased cost of insurance based upon risk which shall be assessed to Units in proportion to the risk; (e) any Common Expense caused by the misconduct of any Unit Owner(s), which may be assessed exclusively or on such other equitable basis as the Board of Directors shall determine against such Unit Owner(s); and (f) any expenses which are charged equally to the Units. All such allocations of Common Expenses Liability to the Commercial Unit and Residential Units on a basis other than the Units' Percentage of Common Expenses Liability shall be made by the Board of Directors. In making the allocations, the Board of Directors shall use as a guide the assignment of various Common Expenses to the following categories: utilities (unless separately metered or disproportionately benefitting fewer than all Units), insurance, exterior building maintenance and repairs, and reserves.

Section 10.4 Special Assessments. In addition to the annual Assessments authorized above, the Board of Directors may at any time and from time to time determine, levy, and assess in any fiscal year a special Assessment applicable to that particular fiscal year (and for any such longer period as the Board of Directors may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, renovation or maintenance of the Condominium Project, specifically including any fixtures and personal property related to it. Any amounts determined, levied, and assessed pursuant to this Declaration shall be assessed to the Units pursuant to the provisions in Section 10.3 entitled "Apportionment of Annual Assessments" set forth above.

Section 10.5 Due Dates for Assessment Payments. Unless otherwise determined by the Board of Directors, the Assessments which are to be paid in installments shall be paid quarterly in advance and shall be due and payable to the Association at its office or as the Board of Directors may otherwise direct in any Management Agreement, without notice (except for the initial notice of any special Assessment), on the first day of each month. If any such installment shall not be paid within thirty (30) days after it shall have become due and payable, then the Board of Directors may assess a late charge, default

interest charge (not to exceed the rate from time to time allowed by law), fee, or such other charge as the Board of Directors may fix by rule from time to time to cover the extra expenses involved in handling such delinquent Assessment installment. A Unit Owner's Assessment shall be prorated if the ownership of a Unit commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period. However, if the Common Expenses Liability is re-allocated, any installment(s) of an assessment not yet due shall be recalculated in accordance with the re-allocated Common Expenses Liability.

Section 10.6 Default Assessments. All Costs of Enforcement assessed against a Unit Owner pursuant to the Condominium Documents, or any expense of the Association which is the obligation of a Unit Owner pursuant to the Condominium Documents shall become a default Assessment assessed against the Unit Owner's Unit. Notice of the amount and demand for payment of such default Assessment shall be sent to the Unit Owner prior to enforcing any remedies for non-payment hereunder.

Section 10.7 Covenant of Personal Obligation for Assessments. Declarant, by creating the Units pursuant to this Declaration, and all other Unit Owners, by acceptance of the deed or other instrument of transfer of his Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to personally covenant and agree, jointly and severally, with all other Unit Owners and with the Association, and hereby do so covenant and agree to pay to the Association the (a) annual Assessments, (b) special Assessments, and (c) default Assessments applicable to the Unit Owner's Unit. No Unit Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Elements or the facilities contained in the Common Elements or by abandoning or leasing his Unit.

Section 10.8 Lien for Assessments; Assignment of Rents. The annual, special, and default Assessments (including installments of the Assessments) arising under the provisions of the Condominium Documents shall be burdens running with the specific Unit to which such Assessments apply. The Association may impose a lien upon a specific Unit, by preparing a written lien notice setting forth the description of the Unit, the amount of Assessments on the Unit unpaid as of the date of such lien notice, the rate of default interest as set by the Rules and Regulations, the name of the Unit Owner or Unit Owners of the Unit, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Board of Directors, an officer of the Association, or the Managing Agent and shall be recorded in the Records. Upon any default in the payment of annual, special, or default Assessments, the Association shall also have the right to appoint a receiver to collect all rents, profits, or other income from the Unit payable to the Unit Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Unit Owner, by ownership of a Unit, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of annual, special, or default Assessments.

Section 10.9 Remedies for Nonpayment of Assessments. If any annual, special, or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment, (b) the Association may declare due and payable all unpaid installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred, (c) the Association may thereafter bring an action at law or in equity, or both, against any Unit Owner personally obligated to pay the same, (d) the Association may proceed to foreclose its lien against the particular Unit pursuant to the power of sale granted to the Association by this Declaration or in the manner and form provided by Idaho law for foreclosure of real estate mortgages and (e) the Association may suspend the Owner's right to vote in Association matters until the Assessment is paid. An action at law or in equity by the Association (or counterclaims or cross-claims for such relief in any action) against a Unit Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Unit acquired in such proceedings.

Section 10.10 Purchaser's Liability for Assessments. Notwithstanding the personal obligation of each Unit Owner to pay all Assessments on the Unit, all purchasers shall be jointly and severally liable with the prior Unit Owner(s) for any and all unpaid Assessments against such Unit, without prejudice to any such purchaser's right to recover from any prior Unit Owner any amounts paid thereon by such purchaser. A purchaser's obligation to pay Assessments shall commence upon the date the purchaser becomes the Unit Owner of a Unit. For Assessment purposes, the date a purchaser becomes the Unit Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a purchaser becomes the Unit Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure a purchaser shall be deemed to become the Unit Owner of a Unit upon the execution and delivery of the deed or other instruments conveying or transferring title to the Unit, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a purchaser shall be deemed to become the Unit Owner upon the execution and delivery of the deed or other instruments conveying or transferring title of the Unit, irrespective of the date the deed is recorded. However, such purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named purchaser pursuant to the provisions of this Declaration.

Section 10.11 Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument of transfer of a Unit, each Unit Owner irrevocably waives the homestead exemption provided by Idaho Code § 55-1001, as amended. The Association's lien on a Unit for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) real property ad valorem taxes and special assessment liens duly imposed by an Idaho governmental or political subdivision or special taxing district, or any other liens made superior by statute;
- (b) liens recorded prior to this Declaration unless otherwise agreed by the parties thereto; and
- (c) the lien of any First Mortgagee except to the extent Idaho law grants priority for Assessments to the Association.

Any First Mortgagee who acquires title to a Unit by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Unit free of any claims for unpaid Assessments and Costs of Enforcement against the Unit which accrue prior to the time such First Mortgagee acquires title to the Unit except to the extent the amount of the extinguished lien may be reallocated and assessed to all Units as a Common Expense and except to the extent the Act grants lien priority for Assessments to the Association. All other persons not holding liens described in this Section and obtaining a lien or encumbrance on any Unit after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's lien for Assessments and Costs of Enforcement as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Sale or other transfer of any Unit, (a) except as provided above with respect to First Mortgagees, (b) except in the case of foreclosure of any lien enumerated in this Section, and (c) except as provided in the next Section, shall not affect the Association's lien on such Unit for Assessments due and owing prior to the time such purchaser acquired title and shall not affect the personal liability of each Unit Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the purchaser of a Unit from liability for, or the Unit from the lien of, any Assessments made after the sale or transfer.

Section 10.12 Statement of Status of Assessments. On or before fourteen (14) calendar days after receipt of written notice to the Managing Agent or, in the absence of a Managing Agent, to the Board of Directors and payment of a reasonable fee set from time to time by the Board of Directors, any Unit Owner, holder of a Security Interest,

prospective purchaser of a Unit or their designees shall be furnished a statement of the Unit Owner's account setting forth:

- (a) the amount of any unpaid Assessments then existing against a particular Unit;
- (b) the amount of the current installments of the annual Assessment and the date that the next installment is due and payable;
- (c) the date(s) for payment of any installments of any special Assessments outstanding against the Unit; and
- (d) any other information, deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of this Declaration.

Upon the issuance of such a certificate signed by a member of the Board of Directors, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith.

Section 10.13 Liens. Except for Assessment liens as provided in this Declaration, mechanics' liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Security Interests, there shall be no other liens obtainable against the Common Elements or against the interest of any Unit Owner in the Common Elements except a Security Interest in the Common Elements granted by the Association pursuant to the requirements of the Act.

ARTICLE 11. MAINTENANCE RESPONSIBILITY

Section 11.1 Unit Owner's Rights and Duties with Respect to Interiors. Except as may be provided in the purchase and sale agreement or other conveyancing documents executed by Declarant in connection with sales to initial purchasers of the Units, each Unit Owner of a Unit shall have the exclusive right and duty to paint, tile, paper, or otherwise decorate or redecorate and to maintain and repair the interior surfaces of the walls, floors, ceilings, windows and doors forming the boundaries of such Unit Owner's Unit and all walls, floors, ceilings, and doors within such boundaries. Notwithstanding the foregoing, no Unit Owner shall be permitted to install any hardwood floor or other hard surface improvements in his Unit that might affect adjoining Units by increasing noise or vibrations, without the prior written approval of the Association, which approval may be denied, or conditioned, in the Association's sole discretion.

Section 11.2 Responsibility of the Unit Owner. The Unit Owner of any Unit shall, at the Unit Owner's expense, maintain and keep in repair all fixtures, equipment,

and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit. A Unit Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of the Improvement(s), or impair any easement or hereditament. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, floors, ceilings, windows and doors of any balcony or of any other Limited Common Elements appurtenant to the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. A Unit Owner shall not be responsible for repairs occasioned by casualty due to the act or negligence of the Unit Owner or Occupant of the Unit except as provided in Article 17.

Section 11.3 Unit Owner's Negligence. In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of a Unit Owner or Occupant, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Unit Owner; and, if the Unit Owner fails to repay the expenses incurred by the Association within seven days after notice to the Unit Owner of the amount owed, then the failure to so repay shall be a default by the Unit Owner, and such expenses shall automatically become a default Assessment determined and levied against such Unit, enforceable by the Association in accordance with this Declaration.

Section 11.4 Responsibility of the Association. The Association, without the requirement of approval of the Unit Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all of the Condominium Project not required in this Declaration to be maintained and kept in good repair by a Unit Owner or by Declarant.

ARTICLE 12. MECHANICS' LIENS

Section 12.1 Mechanics' Liens. Subsequent to recording of this Declaration and the filing of the Map in the Records, no labor performed or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Unit Owner or the Unit Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Unit Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Unit Owner for whom such labor shall have been performed or such materials shall have been furnished. Each Unit Owner shall indemnify and hold harmless each of the other Unit Owners and the Association from and against any liability or loss arising from the claim of any mechanics' lien or for labor performed or for materials furnished in work on such Unit Owner's Unit, against the Unit of another Unit Owner or against the Common Elements, or any part thereof.

Section 12.2 Enforcement by the Association. At its own initiative or upon the written request of any Unit Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of this Article 12 by collecting from the Unit Owner of the Unit on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanics' lien, to pay all costs and reasonable attorneys' fees incidental to the lien, and to obtain a release of such lien. If the Unit Owner of the Unit on which the labor was performed or materials furnished refuses or fails to indemnify within five (5) days after the Association shall have given notice to such Unit Owner of the total amount of the claim, then the failure to so indemnify shall be a default by such Unit Owner under the provisions of this Section 12.2, and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Unit, and enforceable by the Association pursuant to this Declaration.

ARTICLE 13. USE RESTRICTIONS

Section 13.1 Use of Units. Except for uses reserved to Declarant in Article 15 entitled "Special Declarant Rights and Additional Reserved Rights", and except for Commercial Units, if any, all Units shall be used for dwelling and lodging purposes only. Unit Owners of the Units may rent or lease such Units to others for these purposes and may use these Units for home occupations which do not cause unreasonable disturbance to other Unit Owners and which are permitted by applicable zoning codes.

Section 13.2 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements by any Unit Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Elements by any Unit Owner without the prior written approval of the Association.

Section 13.3 Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would result in the cancellation of the insurance on all or any part of the Condominium Project or in an increase in the rate of the insurance on all or any part of the Condominium Project over what the Association, but for such activity, would pay, without the prior written approval of the Association. Nothing shall be done or kept in any Unit or in or on the Common Elements which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body having jurisdiction over the Condominium Project. No damage to or waste of the Common Elements shall be committed by any Unit Owner or Occupant, and each Unit Owner shall indemnify and hold the Association and the other Unit Owners harmless against all loss resulting from any such damage or waste caused by him or an Occupant of his Unit. Failure to so indemnify shall be a default by such Unit Owner under this Section. At its own initiative or upon the written request of any Unit Owner (and if the

Association determines that further action by the Association is proper), the Association shall enforce the foregoing indemnity as a default Assessment levied against such Unit.

Section 13.4 Structural Alterations and Exterior Appearance. No structural alterations to any Unit, including the construction of any additional skylight, window, door or other alteration visible from the exterior of the Unit or to any Common Element shall be made or caused to be made by any Unit Owner without the prior written approval of the Declarant during the Period of Declarant Control and, thereafter, the Association. No window coverings or other improvements, alterations or decorations visible from outside a Unit shall be added by a Unit Owner without the prior written approval of the Declarant during the Period of Declarant Control and, thereafter, the Association. Except for interior decorations not visible from outside a Unit and alteration or relocation of walls constituting Limited Common Elements, no alteration or subdivision of Units or relocation of boundaries between adjoining Units shall be made by the Unit Owners without the prior written approval of the Declarant during the Period of Declarant Control and, thereafter, by the Association. The Association shall promulgate Rules and Regulations establishing procedures for the approvals required by this Section 13.4. Such Rules and Regulations shall include, but shall not be limited to, requirements that the applicant submit (a) plans and specifications showing the nature, kind, shape, height, color, materials, and location of the proposed alterations in sufficient detail for the Association and Declarant to review them; and (b) processing and/or review fees, which may include any professional fees the Association or Declarant might incur in retaining architects or engineers to review the plans and specifications. The Rules and Regulations shall specifically consider the impact of the alteration on the harmony of external design and location in relation to surrounding structures and topography.

Section 13.5 Use Restrictions. No animal pens, sheds, fences or other outbuildings or structures of any kind shall be erected by any Unit Owner. No activity shall be allowed which interferes unduly with the peaceful possession and proper use of the Condominium Project by the Unit Owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed. No lights shall be emitted which are unreasonably bright or cause unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be emitted which is nauseous or offensive to others. The Association shall adopt Rules and Regulations pertaining to raising, breeding, or keeping animals of any kind on or in the Condominium Project. No animals, birds, insects, or livestock of any kind shall be raised, bred, or kept on or in the Condominium Project except as allowed by the Rules and Regulations.

Section 13.6 Limit on Timesharing. No Unit Owner, excluding Declarant, shall offer or sell any interest in such Unit under a "timesharing" or "interval ownership" plan, or any similar plan without the specific prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association.

Section 13.7 Restriction on Signs. No signs, billboards, posterboards, or advertising structure of any kind shall be displayed, erected, or maintained for any purpose whatsoever except such signs as have been approved by the Declarant during the Period of Declarant Control and, thereafter, the Association. Any signs which are permitted under the foregoing restrictions shall be erected or maintained on the Condominium Project only with the prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association, which approval shall be given only if such signs are of attractive design and as small a size as reasonably possible and shall be placed or located as directed or approved by the Association.

Section 13.8 Commercial Operations. Each Owner of a Commercial Unit must comply with the Rules and Regulations for commercial establishments as adopted from time to time by the Association; provided, however, that the Association shall not adopt Rules and Regulations that substantially impede or effectively prohibit lawful commercial and retail operations. Notwithstanding any contrary provision hereof, no Commercial Unit shall be used for any of the following purposes:

- (a) the sale or display of books, pictures, records or other articles catering primarily to a prurient interest in sex;
- (b) a billiard parlor or pool hall;
- (c) an amusement arcade or center having income from coin-operated games or other electronic devices;
- (d) massage parlor;
- (e) suntan parlor;
- (f) fruit stand (but a high-end specialty store, such as Burke & Burke, Dean & DeLuca, Balducci's, or similar use shall be permitted);
- (g) funeral parlor;
- (h) OTB betting parlor; or
- (i) on-premises dry cleaners (as opposed to a drop-off location).

The use of any Commercial Unit must conform to the terms and conditions of the then existing Certificate of Occupancy for such Unit and any and all applicable governmental and municipal regulations, including any applicable zoning requirements.

Section 13.9 Restrictions on Use of Parking and Storage Areas. No parking shall be permitted at any location on the Property unless specifically designated for parking by

the Association. No storage is permitted outside of Units except in specifically designated storage areas. No Owner may use any parking or storage space assigned to another. No Owner may use any parking space for storage or use any parking or storage space in any manner that obstructs or interferes with any other Owner's parking or storage rights or that constitutes a safety hazard. Without limiting the generality of the powers of the Association with respect to parking or storage, the Association is specifically authorized, but not obligated, to remove any vehicle parked in any area not designated for parking, or any vehicle parked in any space that is assigned to another person or reserved for a specific use, or any vehicle parked in an obstructing or hazardous manner, or any improperly stored or hazardous materials, in all cases at the expense of the Owner or Occupant that owns such vehicle or materials. Expenses incurred by the Association in connection with such removal (and storage, if necessary) shall be a personal obligation of such Owner and, if the Owner fails to pay such amount within seven (7) days after notice to the Owner of the amount owed, then the failure to pay shall be a default by the Owner and such expenses shall automatically become a default Assessment determined and levied against such Unit enforceable by the Association as provided in this Declaration.

ARTICLE 14. EASEMENTS

Section 14.1 Easement of Enjoyment. Every Unit Owner shall have a non-exclusive easement for the use and enjoyment of the Common Elements, which shall be appurtenant to and shall pass with the title to every Unit, subject to the easements set forth in this Article 14 and the easements and restrictions set forth in Article 7 entitled "Unit Owners' Property Rights in Common Elements".

Section 14.2 Delegation of Use. Any Unit Owner may delegate, in accordance with the Condominium Documents, the Unit Owner's right of enjoyment in the Common Elements to an Occupant of the Unit Owner's Unit.

Section 14.3 Recorded Easements. The Property shall be subject to any easements shown on any recorded plat affecting the Property, shown on the recorded Map or reserved or granted under this Declaration. The recording data for recorded easements and licenses appurtenant to or included in the Property or to which any part of the Property may become subject is set forth on the attached Exhibit E.

Section 14.4 Easements for Encroachments. The Condominium Project, and all portions of it, are subject to easements hereby created for encroachments between Units and the Common Elements as follows:

- (a) in favor of all Unit Owners, so that they shall have no legal liability when any part of the Common Elements encroaches upon a Unit;

(b) in favor of each Unit Owner, so that the Unit Owner shall have no legal liability when any part of his Unit encroaches upon the Common Elements or upon another Unit; and

(c) in favor of all Unit Owners, the Association, and the Unit Owner of any encroaching Unit for the maintenance and repair of such encroachments.

Encroachments referred to in this Section 14.4 include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the Improvements or any Unit constructed on the Property, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the Condominium Project. Such encroachments shall not be considered to be encumbrances upon any part of the Condominium Project; provided, however, that encroachments created by the intentional act of a Unit Owner shall not be deemed to create an easement on the Property and shall be considered an encroachment upon the Condominium Project. Such encroachment shall be removed at Unit Owner's expense immediately upon notice from the Association. In the event such encroachment is not timely removed, the Association may effect removal of the encroachment and the expense thereof shall be a default Assessment to the Unit Owner.

Section 14.5 Utility Easements. There is hereby created a general easement upon, across, over, in, and under all of the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, and a cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such utilities to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of other utilities, the Unit Owners, the Association, and Declarant; shall complete its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant during the Period of Declarant Control and, thereafter, the Association, shall have the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 14.5 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 14.6 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 14.7 Maintenance Easement. An easement is hereby granted to the Association and any Managing Agent and their respective officers, agents, employees and assigns upon, across, over, in, and under the Common Elements and a right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

Section 14.8 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Unit Owners and the Association shall have the irrevocable right, to be exercised by the Association as the Unit Owners' agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit. Unless caused by the negligent or willful act or omission of a Unit Owner or Occupant, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repair within another Unit at the instance of the Association or of the Unit Owners shall be a Common Expense.

Section 14.9 Easements Deemed Created. All conveyances of Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 14, even though no specific reference to such easements or to this Article 14 appears in the instrument for such conveyance.

ARTICLE 15. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS

Section 15.1 Special Declarant Rights. Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

(a) Completion of Improvements. The right to complete improvements indicated on Plats and Maps filed with this Declaration.

(b) Sales Management and Marketing. The right to locate, relocate and maintain sales offices, management offices, signs advertising the Condominium Project, and models within any Unit or Units owned by Declarant and in the Common Elements. Declarant shall have the right to show Units and the Common Elements to prospective purchasers and to arrange for the use of any recreational facilities within the Common Elements by prospective purchasers.

(c) Construction Easements. The right to create and use easements through the Common Elements for the purpose of making improvements within the Condominium Project. Declarant expressly reserves the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Units and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Unit Owner or First Mortgagee or holder of a Security Interest. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Property for the purpose of furnishing utility and other services to buildings and improvements to be constructed on any of the Property. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an Improvement containing Units.

(d) Master Association. The right to make the Condominium Project subject to a Master Association upon majority vote of the Owners.

(e) Control of Association and Board of Directors. Subject to Section 8.6, the right to appoint or remove any officer of the Association or any member of the Board of Directors.

(f) Amendment of Declaration. The right to amend this Declaration in connection with the exercise of any Development Rights.

(g) Amendment of Map. The right to amend the Map in connection with the exercise of any Development Rights.

(h) Signs. The right to maintain signs on the Common Elements advertising the Condominium Project.

(i) Post-Sales. The right to use the Common Elements to maintain customer relations and provide post-sale services to Unit Owners.

(j) Parking/Storage. The right to use and to allow others to use all parking and storage areas, except Limited Common Elements appurtenant to sold Units, in connection with its marketing efforts.

Section 15.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 15.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

(a) Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, ski-ways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Unit Owners within the Condominium Project.

(b) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Condominium Project for the benefit of the Unit Owners and/or the Association.

(c) Easement Rights. The rights to an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations arising under this Declaration or the Act.

(d) Unit Rentals. The administration and management of rental of Units, including administration and management of the Units and any Limited Common Elements appurtenant to the Units, shall be performed by the Declarant for the period of Declarant Control. By accepting a deed to a Unit, each Owner hereby appoints the Declarant as exclusive agent for the rental of Owner's Unit. Nothing herein shall be deemed or construed to require Owner to rent his or her Unit or preclude Owner from renting directly without engaging an agent. The Declarant shall have all powers necessary or desirable to effectuate any of the purposes provided for herein.

By way of enumeration and without limitation and in addition to the powers and duties of the Declarant provided for elsewhere in the Declaration, Declarant shall also have the following specific powers and duties with respect to the Units:

(1) coordinate the plans of Members for all construction of improvements within their Units;

(2) coordinate the plans of Members for moving their personal effects into and out of the Units with a view toward scheduling such moves, so that there will be a minimum of inconvenience to other Members;

(3) act as the exclusive agent for rental, management, maintenance and operation of Units on the conditions and for the compensation set forth herein;

(4) bill each Member for the expense of Unit rentals, including, but not limited to long-distance and other extraordinary telephone charges, extraordinary repairs or charges for damage to the Unit, its furniture, furnishings, equipment, fixtures, appliances, and carpeting caused by a tenant or a guest, other charges rendered by the Managing Agent on behalf of the particular Owner and maid service;

(5) establish, subject to modification at any time, publish, and administer the policies and procedures as provided for in this section and such other rules and regulations as deemed necessary or desirable, specifically including but not limited to fines and restrictions on use and occupancy if a Member is in violation of the provisions of this section.

Declarant shall provide at its expense a staff to provide for the efficient and proper conduct of its affairs and performance of its obligations. The responsibilities of Declarant shall be:

(1) establish the range of rental rates at which the Units shall be offered for rent, subject to the Owner's approval;

(2) establish and maintain proper accounting books and records reflecting all transactions involving the Units and rental of same;

(3) periodically inspect the Units to determine their rentability and to designate any repairs or replacements with respect to the interior of the Unit. Declarant, without Owner's prior approval, may make emergency repairs at Owner's expense. Except in an emergency, Declarant shall obtain Owner's approval for all repairs.

(4) prepare Units for rental by providing linens, towels and other supplies, and a general cleaning of the Unit.

Owner agrees Declarant shall not be liable for loss, personal injury, property damage or destruction, including loss by theft and costs of defense in connection with the performance of its responsibilities.

Owner shall notify Declarant of Owner's wish to include Owner's Unit in the rental pool administered and managed by Declarant. Owner may elect, on sixty (60) days notice to Declarant, to remove his or her Unit from the rental pool administered and managed by Declarant.

For its services hereunder, Declarant shall receive from each Owner of a Unit that percent of all actual gross revenues received for rental of a Unit during

the term hereof equal to the prevailing rate for similar services in Ketchum, Idaho. Fees shall be computed and paid monthly.

(e) Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 15.3 Limitations on Special Declarant Rights and Additional Reserved Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Right or Additional Reserved Rights may be exercised by the Declarant so long as the Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right; or (c) owns ten percent (10%) of the total number of Units; provided, however, all Special Declarant Rights and Additional Reserved Rights shall terminate two (2) years after the Period of Declarant Control. Earlier termination of certain rights may occur pursuant to requirements of the Act.

Section 15.4 Interference with Special Declarant Rights. Neither the Association nor any Unit Owners may take any action or adopt any rule and/or regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant.

Section 15.5 Rights Transferable. Any Special Declarant Rights or Additional Reserved Right created or reserved under this Article 15 for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 16. INSURANCE

Section 16.1 Coverage. Commencing not later than the first conveyance of a Unit to a purchaser and to the extent reasonably available, the Association shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance described herein will not be maintained, the Board of Directors shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners and Eligible First Mortgagees at their respective last known addresses.

(a) Property Insurance. The Association shall maintain property insurance on the Condominium Project for broad form covered causes of loss in amount of insurance not less than the full insurable replacement cost of the insured property less applicable deductibles at the time insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property insurance policies.

(b) Liability Insurance. The Association shall maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Condominium Project, insuring the Board of Directors, the Association, the Managing Agent, and their respective employees, agents and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and member of the Board of Directors. Unit Owners and Eligible First Mortgagees shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements or membership in the Association. The insurance shall cover claims of one or more insured parties against the other insured parties.

(c) Fidelity Insurance. The Association shall maintain fidelity insurance on all persons who control or disburse funds of the Association. Coverage shall not be less in the aggregate than two months' current Assessments plus reserves, as calculated from the current budget of the Association. Any person employed as an independent contractor by the Association, including the Managing Agent must obtain and maintain fidelity insurance in like amount for the benefit of the Association unless the Association names such person as an insured employee in the policy of fidelity insurance specified above.

(d) Other Insurance. The Board of Directors may also procure insurance against such additional risks of a type normally carried with respect to properties of comparable character and use that the Board of Directors deems reasonable and necessary in order to protect the Condominium Project, the Association and the Unit Owners.

(e) Unit Owners' Policies. Each Unit Owner may obtain additional insurance at his own cost for his own benefit so long as all such policies shall contain waivers of subrogation and provide further that the liability of the carriers issuing insurance to the Association hereunder shall not be affected or diminished by reason of any such insurance carried by any Unit Owner.

Section 16.2 Required Provisions. All insurance policies carried pursuant to the requirements of this Article 16 must provide that:

(a) each Unit Owner and each Eligible First Mortgagee is an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association;

(b) the insurer waives its rights to subrogation under the policy against any Unit Owner or member of his household;

(c) no act or omission by any Unit Owner or Eligible First Mortgagee, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(d) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the risks covered by the policy, the Association's policy provides primary insurance;

(e) any loss covered by the policies must be adjusted with the Association;

(f) the insurance proceeds for any loss shall be payable to an insurance trustee designated for that purpose, or otherwise to the Association and not to any holder of a Security Interest;

(g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner or holder of a Security Interest; and

(h) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and any Unit Owner(s) and holder(s) of Security Interests to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Section 16.3 Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Unit Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a prorata share of any deductible paid by the Association.

Section 16.4 Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner or Eligible First Mortgagee at reasonable times.

ARTICLE 17. RESTORATION UPON DAMAGE OR DESTRUCTION

Section 17.1 Duty to Restore. Any portion of the Condominium Project, for which insurance is required under the Act or for which insurance carried by the Association is in effect, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) the Condominium Project is terminated;
- (b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety;
- (c) sixty-seven percent (67%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild; or
- (d) prior to the conveyance of any Unit to a purchaser, the holder of a Security Interest on the damaged portion of the Condominium Project rightfully demands all or a substantial part of the insurance proceeds.

In the event the Condominium Project is not repaired or replaced as allowed by Subparagraphs (a), (b) and (c) above, then the Real Estate in the Condominium Project shall be sold and the proceeds distributed pursuant to the procedures provided for in the Act for termination of condominium projects.

Section 17.2 Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 17.3 Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board of Directors and a Majority of Owners.

Section 17.4 Replacement of Less Than Entire Property. If the entire Condominium Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium Project and, except to the extent that other persons will be distributees:

- (a) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Unit Owner of the Unit and the Unit Owner of the Unit to which the Limited Common Elements were allocated, or to holders of Security Interests, as their interests may appear;
- (b) the remainder of the proceeds must be distributed to each Unit Owner or holders of Security Interests, as their interests may appear, in proportion to the Allocated Interests in the Common Elements of all the Units; and
- (c) if the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations.

Section 17.5 Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Board of Directors, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and holders of Security Interests as their interest may appear. Subject to the provisions of the Sections above, the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and holders of Security Interests are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium Project is terminated, in which event the surplus proceeds will be distributed as provided in this Declaration.

Section 17.6 Certificates by the Board of Directors. The insurance trustee, if any, may rely on the following certifications in writing made by the Board of Directors:

- (a) whether or not damaged or destroyed Property is to be repaired or restored; and
- (b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 17.7 Certificates by Attorneys or Title Insurance Companies. If payments are to be made to Unit Owners or holders of Security Interests, the Board of Directors, and the insurance trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of the Records from the date of recording of this Declaration stating the names of the Unit Owners and the holders of Security Interest.

ARTICLE 18. CONDEMNATION

Section 18.1 Sale By Unanimous Consent. If an action for condemnation of all or a portion of the Condominium Project is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the Unit Owners and after written notice to all mortgagees, the development, or a portion of it, may be sold by the Board of Directors acting as irrevocable attorney-in-fact of all of the Unit Owners for a price deemed fair and equitable by the Board of Directors, but in no event less than the aggregate unpaid balance of all mortgages encumbering condominiums in the development.

Section 18.2 Distribution of Proceeds of Sale. On a sale occurring under Section 18.1, the proceeds shall be distributed to the Unit Owner and the mortgagees of each Unit as their respective interests may appear in proportion to each Owner's respective percentage undivided interest in the Common Area.

Section 18.3 Distribution of Condemnation Award. If the Condominium Project, or a portion of it, is not sold but is instead taken, the judgment of condemnation shall by its terms apportion the award among the Unit Owners and their respective mortgagees.

ARTICLE 19. MORTGAGEE PROTECTIONS

Section 19.1 Introduction. This Article 19 establishes certain standards and covenants which are for the benefit of First Mortgagees. This Article 19 is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 19.2 Percentage of First Mortgagees. Unless specifically provided otherwise, wherever in this Declaration the approval or consent of a specified percentage of Eligible First Mortgagees is required, it shall mean the approval or consent of sixty-seven percent (67%) of Eligible First Mortgagees. Each Eligible First Mortgagee shall be entitled to one vote for each Security Interest held by such Eligible First Mortgagee.

Section 19.3 Notice of Actions. If requested in writing to do so, the Association shall give prompt written notice of the following to each Eligible First Mortgagee making such request:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which an interest is held by the Eligible First Mortgagee;
- (b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by a Unit Owner whose Unit is encumbered by a Security Interest held by such Eligible First Mortgagee;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of Eligible First Mortgagees as set forth in this Article;
- (e) any judgment rendered against the Association; and
- (f) a copy of any financial statement of the Association.

Section 19.4 Consent Required. The Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant under the provisions of this Declaration, without the consent of sixty-seven percent (67%) of the Eligible First Mortgagees:

(a) sale, conveyance or encumbrance of the Common Elements (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within the Condominium Project, or for other purposes provided for in this Declaration will not be deemed a transfer within the meaning of this clause);

(b) restoration or repair of the Condominium Project (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;

(c) termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;

(d) merger of the Condominium Project with any other common interest community; or

(e) any action not to repair or to replace the Common Elements except as permitted in this Declaration.

Section 19.5 Notice of Objection. Unless an Eligible First Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of Eligible First Mortgagees within thirty (30) days following the receipt of notice of such proposed amendment or action, the Eligible First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

Section 19.6 First Mortgagees' Rights.

(a) Advances. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

(b) Cure Rights. First Mortgagees shall be entitled to cure any delinquency of the Unit Owner encumbered by a First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 19.7 Limitations on First Mortgagee's Rights. No requirement for approval or consent by a First Mortgagee provided in this Article 19 shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board of Directors;

(b) prevent the Association or Board of Directors from commencing, intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article 18 entitled "Restoration Upon Damage or Destruction".

Section 19.8 Special Declarant Rights. No provision or requirement of this Article 19 entitled "Mortgagee Protections" shall apply to any Special Declarant Rights reserved to Declarant in this Declaration.

ARTICLE 20. DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 20.1 Term. This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of fifty (50) years. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years each, unless otherwise terminated or modified as provided in this Article.

Section 20.2 Amendment of Declaration. Except to the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration (including the Map) may be amended only by a vote or agreement of Unit Owners to which more than fifty percent (50%) of the votes in the Association are allocated. Notwithstanding the foregoing, no amendment may create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit or the Allocated Interests of a Unit in the absence of a vote or agreement of the Unit Owners to which at least sixty seven percent (67%) of the votes of the Association, including sixty seven percent (67%) of the votes allocated to Units not owned by Declarant, are allocated, except to the extent otherwise permitted or required by this Declaration or the Act. Notwithstanding the foregoing, no amendment may change the uses to which any Unit is restricted in the absence of a vote or agreement of Unit Owners to which at least sixty seven percent (67%) of the votes of the Association are allocated, except to the extent otherwise permitted or required by this Declaration or the Act.

Section 20.3 Execution of Amendments; Expenses. Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of: (a) any Unit Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant,

to the extent the right to amend this Declaration is reserved to the Declarant and exercised by the Declarant; or (c) in all other cases by the Association as a Common Expense.

Section 20.4 When Modifications Permitted. Notwithstanding the provisions of Section 20.2 above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained.

Section 20.5 Recording of Amendments. Any amendment to this Declaration made in accordance with this Article 20 shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Unit Owners, if any, and required consents of First Mortgagees (and/or Eligible First Mortgagee, as applicable) were obtained and are on file in the office of the Association. The amendment must be indexed in the grantee's index in the name of the Condominium Project and the Association and in the grantor's index in the name of each person or entity executing the Amendment.

Section 20.6 Rights of Eligible First Mortgagees. To the extent allowed by the Act, Eligible First Mortgagees shall have the rights to approve specified action of the Unit Owners or the Association as a condition to the effectiveness of those actions as provided in Article 19 entitled "Mortgagee Protections".

Section 20.7 Termination of the Condominium Project. The Condominium Project may only be terminated as provided in the Act.

ARTICLE 21. MISCELLANEOUS

Section 21.1 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration and the other Condominium Documents shall be through any proceedings at law or in equity brought by any aggrieved Unit Owner, the Association, or Declarant against the Association or any Unit Owner. Such actions may seek remedy by injunction or restraint of a violation or attempted violation, or an action for damages, or any of them, without the necessity of making an election.

Section 21.2 Notices. All notices, demands, or other communications required or permitted to be given hereunder shall be in writing, and any and all such items shall be deemed to have been duly delivered upon personal delivery; upon actual receipt, in the case of notices forwarded by certified mail, return receipt requested, postage prepaid; as of 12:00 Noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service; or as of the third business hour (a business hour being one of the hours from 8:00 a.m. to 5:00 p.m. on business days) after transmitting by telecopier.

Section 21.3 Nonwaiver. Failure by Declarant, the Association, or any Unit Owner or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in the Condominium Documents shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 21.4 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 21.5 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 21.6 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

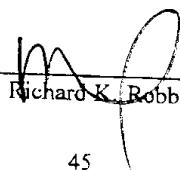
Section 21.7 Conflicts in Legal Documents. In case of conflicts between the provisions in this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

Section 21.8 Exhibits. All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Section 21.9 Choice of Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Idaho.

Executed as of the 26th day of October, 2000.

THUNDER SPRING, a Delaware limited liability company
By: Thunder Spring Wareham L.L.C., a California
limited liability company, its Regular Manager

By: 
Richard K. Robbins, Managing Member

STATE OF California)
)
 County of Marin) ss

On this 26th day of October, 2000, before me, a notary public in and for said state, personally appeared Richard K. Robbins, known or identified to me to be the Managing Member of Thunder Spring-Wareham, L.L.C., a California limited liability company, and the Regular Manager of Thunder Spring, a Delaware limited liability company, or one of the members who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that he executed the same in said name.

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

Cassandra F. Gaenger
 Notary Public for ~~Idaho~~ California
 Residing at 219 Forbes Avenue, San Rafael, CA 94901
 My commission expires 5/3/03



**EXHIBIT A
TO
DECLARATION**

The Property referred to in the Declaration is described as follows:

All the real property described and depicted on the Thunder Spring Large Block Plat recorded March 10, 2000, as Instrument No. 437167, records of Blaine County, Idaho.

Unit No.	Percentage share of Common Elements	Percentage share of Common Expenses	Vote in the affairs of Association
B2-1	1.58	1.58	1.58
B2-2	1.50	1.50	1.50
B2-3	.98	.98	.98
B2-4	1.55	1.55	1.55
B2-5	1.58	1.58	1.58
B2-6	2.13	2.13	2.13
B2-7	3.22	3.22	3.22
C-1	.65	.65	.65
C-2	.54	.54	.54
C-3	.46	.46	.46
C-4	1.71	1.71	1.71
C-5	1.11	1.11	1.11
C-6	1.72	1.72	1.72
C-7	1.27	1.27	1.27
C-8	.85	.85	.85
C-9	1.70	1.70	1.70
C-10	1.70	1.70	1.70
C-11	2.13	2.13	2.13
C-12	2.13	2.13	2.13
C-13	1.79	1.79	1.79
C-14	1.79	1.79	1.79
C-15	2.31	2.31	2.31
C-16	2.31	2.31	2.31
G-1	2.03	2.03	2.03
G-2	3.00	3.00	3.00
G-3	.69	.69	.69
G-4	1.94	1.94	1.94
G-5	1.85	1.85	1.85
G-6	1.43	1.43	1.43
H-1	2.66	2.66	2.66
H-2	2.15	2.15	2.15
H-3	2.25	2.25	2.25

Unit No.	Percentage share of Common Elements	Percentage share of Common Expenses	Vote in the affairs of Association
E-1	.18	.18	.18
E-2	.18	.18	.18
E-3	.18	.18	.18
E-4	.18	.18	.18
E-5	1.02	1.02	1.02
E-6	1.02	1.02	1.02
E-7	1.02	1.02	1.02
E-8	.72	.72	.72
E-9	.72	.72	.72
E-10	.72	.72	.72
F-1	1.14	1.14	1.14
F-2	1.14	1.14	1.14
F-3	1.14	1.14	1.14
F-4	1.14	1.14	1.14
F-5	1.14	1.14	1.14
F-6	1.14	1.14	1.14
F-7	1.14	1.14	1.14
F-8	1.14	1.14	1.14
	100.00%	100.00%	100.00%

EXHIBIT C
TO
DECLARATION

ASSOCIATION ARTICLES OF INCORPORATION

FILED

99 OCT -1 PM 2: 08

SECRETARY OF STATE
STATE OF IDAHO

**ARTICLES OF INCORPORATION
OF
THUNDER SPRING
CONDOMINIUM OWNERS ASSOCIATION, INC.**

IDAHO SECRETARY OF STATE

10/20/1999 09:00
CAT 3053 CT: 94558 BH: 25438
1 30.00 = 30.00 INC NONP # 2

C130649

The undersigned, acting as incorporator(s) of a corporation under the Nonprofit Corporation Act, adopt the following Articles of Incorporation.

ARTICLE I

NAME

The name of the corporation is THUNDER SPRING CONDOMINIUM OWNERS ASSOCIATION, INC., hereinafter called "Association".

ARTICLE II

PRINCIPAL OFFICE AND REGISTERED AGENT

The location and principal office of the Association is 124 Saddle Road, Ketchum, Idaho and the post office address is Post Office Box 6475, Ketchum, Idaho 83340. The registered agent of the Association is David Hennessy.

ARTICLE III

INCORPORATORS

The incorporator and his address are as follows:

Richard K. Robbins
C/O Wareham Development Corporation
1120 Nye Street, Suite 400
San Rafael, CA 94910

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

The purposes for which the Association is formed are:

(a) The specific and primary purposes for which the Association is formed are to be a residential real estate management association and to provide for the acquisition, construction, management, maintenance and care of real and personal property held by the Association or commonly held by the members of the Association or located in the development

and owned by members of the Association and otherwise to act and be operated as a "homeowners association" as defined in Section 528 of the Internal Revenue Code of 1986, as amended.

(b) Subject to the provisions of the recorded or to be recorded Declaration of Covenants, Conditions and Restrictions applicable to the development (hereinafter referred to as the "Declaration"), the general purposes and powers of the Association are:

- (1) To promote the health, safety and welfare of the residents within the development;
- (2) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions for the Thunder Spring Development, and any supplemental declaration, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of the Blaine County Recorder and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;
- (3) To fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (4) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (5) To borrow money and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (6) To dedicate, sell 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.
- (7) To participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional property and common area;
- (8) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Idaho by law may now or hereafter have or exercise.

The foregoing statement of purposes shall be construed as a statement both of purposes and of powers, and purposes and powers in each clause shall in no wise be limited or restricted by reference to or inference from the terms or provisions of any other clause, but shall be broadly construed as independent purposes and powers. Notwithstanding any of the above statements of purposes and powers, the Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Association.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Unit which is subject by the declaration to assessment by the Association, including contract sellers, 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 performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any unit which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The authorized number and qualifications of members of the Association, the different classes of members, if any, the property, voting, and other rights and privileges of members, and their liability for assessments and the method of collection thereof, shall be as set forth in the Bylaws or the Declaration.

ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a board of not less than three (3) nor more than five (5) directors, who shall be members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association.

The initial directors of the Association and their addresses are as follows:

Richard K. Robbins
1120 Nye Street, Suite 400
San Rafael, CA 94910

Gary Van Acker
1120 Nye Street, Suite 400
San Rafael, CA 94910

David Hennessy
P. O. Box 6475
Ketchum, ID 83340

ARTICLE VIII

DISSOLUTION

The Association may be dissolved as provided by law.

Upon the dissolution of the Association, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Association, dispose of all of the assets of the Association exclusively for the purposes of the Association in such manner as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the District Court of the Fifth Judicial District of the State of Idaho, in and for Blaine County as said court shall determine.

ARTICLE IX

NONPROFIT LIMITATIONS

No part of the net earnings of the Association shall inure to the benefit of, or be distributable to, its members, Directors, Officers, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article IV hereof. No substantial part of the activities of the Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Association shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE X

DURATION

The Association shall exist perpetually.

EXHIBIT D

ASSOCIATION BYLAWS

**BYLAWS OF
THUNDER SPRING CONDOMINIUM OWNERS ASSOCIATION, INC.,
an Idaho Non-Profit Corporation**

1. NAME AND LOCATION

The name of the association is THUNDER SPRING CONDOMINIUM OWNERS ASSOCIATION (hereinafter referred to as the "Association"). The Association is organized under the Idaho Nonprofit Corporation Act. The principal office of the Association shall be located in the County of Blaine, State of Idaho (hereinafter referred to as "said County"). Meetings of members shall be held at such places as are set forth in the Declaration (defined below).

2. DEFINITIONS

2.1 Declaration. The "Declaration" shall mean, collectively, the Declaration of Covenants, Conditions and Restrictions for the Thunder Springs Development and any amendments or supplements recorded or to be recorded pursuant thereto, and applicable to the condominium development commonly known and referred to as the THUNDER SPRING CONDOMINIUM DEVELOPMENT located in the County of Blaine, State of Idaho, legally described as set forth in Exhibit "A" attached hereto.

2.2 Other Definitions. Each and every definition set forth in Section 1 of the Declaration shall have the same meaning herein as therein, and each and every such definition is incorporated by reference herein and made a part hereof as if once again fully written and set forth at length hereat.

3. MEMBERSHIP; VOTING RIGHTS

The qualification for membership, the classes of membership and the voting rights of members shall be as set forth in Article 8 of the Declaration, all of which are hereby incorporated by reference herein as if set forth in full.

4. MEETINGS OF MEMBERS

4.1 Annual Meetings. The organizational meeting and the first annual meeting of the members shall be held within one hundred twenty (120) days after the first sale of a Condominium Unit as defined in the Declaration. Thereafter, annual meetings of members of the Association shall be held in each succeeding year within one week before or after the anniversary date of said first annual meeting on a day to be determined by the board, which day shall not be a legal holiday.

4.2 Special Meetings. Special meetings of the members may be called at any time by the president or by a majority of a quorum of the board, or upon written request of the members representing at least one-fourth (1/4) of the total votes.

4.3 Notice of Meetings. Notice of all members meetings, annual or special, shall be given by mail or telegram and shall be given not less than ten (10) days nor more than thirty (30) days prior to the time of said meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each member entitled to vote there at and to each mortgagee addressed to such member's or mortgagee's address last appearing on the books of the Association for the purpose of notice. Mailed notices shall be deemed received forty-eight (48) hours after same are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after same are sent. Notices to members may also be personally delivered, and shall be deemed received upon delivery to any occupant of the member's residence.

4.4 Quorum. The presence at any meeting in person or by proxy of members entitled to cast at least twenty percent (20%) of the total votes of all members of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be at least one-fourth (1/4) of said total votes. Any meeting of members whereat a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present thereat, either in person or by proxy.

4.5 Proxies. At all meetings of members each member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease when the ownership interest or interests of such member entitling him to membership in the Association ceases.

4.6 Order of Business. The order of business of all meetings of the members shall be as follows:

- 4.6.1 roll call;
- 4.6.2 proof of notice of meeting or waiver of notice;
- 4.6.3 reading of minutes of preceding meeting;
- 4.6.4 reports of board and officers;

4.6.5 election of directors, if any are to be elected;

4.6.6 unfinished business; and

4.6.7 new business.

4.7 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

4.8 Majority of Owners. Except as otherwise provided herein or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

4.9 Action Without Meeting. Any action which may be taken at a meeting of the members may be taken without a meeting if authorized by a writing signed by all of the members who would be entitled to vote at a meeting for such purpose and filed with the secretary.

5. SELECTION AND TERM OF OFFICE OF BOARD

5.1 Number. The board shall consist of at least three (3) and not more than five (5) directors.

5.2 Term of Office. At the first annual meeting the members shall elect one half plus one of the directors for a term of one (1) year, and the remaining directors shall each be elected for a term of two (2) years. At the expiration of the initial term of office of each director, his successor shall be elected to serve for a term of two (2) years.

5.3 Election; Removal; Vacancies. Election and removal of directors shall be as provided in the Declaration. In the event of the death, resignation or removal of a director, his successor shall be selected by the remaining members of the board and shall serve for the unexpired term of his predecessor.

5.4 Compensation. No director shall receive any compensation for any service he may render to the Association; provided, however, any director may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

6. NOMINATION AND ELECTION OF DIRECTORS

6.1 Nomination. Nomination for election to the board shall be made by a nominating committee consisting of three (3) persons. Nominations may also be made from the floor at each annual meeting. The nominating committee shall consist of a chairman, who shall be a member of the board, and two (2) other persons who may either be members of the Association or representatives of Declarant. Each member of the nominating committee shall be

appointed by the board to serve for a period of one year, and vacancies thereon shall be filled by the board. The nominating committee shall make as many nominations for election to the board as it shall, in its discretion, determine, but not less than the number of vacancies to be filled. Such nominations may be made from among members or non-members.

6.2 Election. Election to the board shall be by secret ballot. At such election, the members, or their proxies, may cast, in respect to each vacancy, as many votes as they are entitled to cast under the provisions of the Declaration (and subject to cumulative voting as therein described). The candidates receiving the highest number of votes shall be deemed elected.

7. MEETINGS OF DIRECTORS

7.1 Regular Meetings. Regular meetings of the board shall be held monthly without notice at such place and hour as may be fixed from time to time by resolution of the board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Notice of the time and place of any such meeting shall be posted at a prominent place or places within the common area.

7.2 Special Meetings. Special meetings of the board shall be held when called by the president of the Association, or by any two (2) directors, after not less than three (3) days prior notice to each director, which notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be posted in the manner prescribed for notice of regular meetings not less than seventy-two (72) hours prior to the scheduled time of the meeting.

7.3 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business at a meeting of the board. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the board.

7.4 Conduct of Meetings. Regular and special meetings of the board shall be open to all members of the Association; provided, however, that Association members who are not on the board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board. The board may, with the approval of a majority of a quorum of the members of the board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

7.5 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the board.

8. POWER AND DUTIES OF THE BOARD

8.1 Powers. The board shall have all powers conferred upon the Association as set forth herein and in the Declaration, excepting only those powers expressly reserved to the members.

8.2 Duties. It shall be the duty of the board:

8.2.1 to cause to be kept a complete record of all of its acts and doings and to present a statement thereof to the members at each annual meeting of the members, or at any special meeting when such statement is requested in writing by members;

8.2.2 to supervise all officers, agents and employees of the Association, and to see that their duties are properly performed; and

8.2.3 to delegate its powers as provided in the Declaration.

9. OFFICERS AND THEIR DUTIES

9.1 Enumeration of Offices. The officers of the Association shall be a president and vice president, who shall at all times be members of the board, a secretary, and a treasurer, and such other officers as the board may from time to time by resolution create.

9.2 Election of Officers. The election of officers shall take place at the organizational meeting of the board and thereafter at each meeting of the board following each annual meeting of the members.

9.3 Term. The officers of this Association shall be elected annually by the board and each shall hold office for one year unless he shall sooner resign, or shall be removed, or shall otherwise be or become disqualified to serve.

9.4 Special Appointments. The board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board may, from time to time, determine.

9.5 Resignation and Removal. Any officer may be removed from office with or without cause by the board. Any officer may resign at any time by giving written notice to the board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.6 Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.7 Multiple Offices. The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 9.4 hereof.

9.8 Duties The duties of the officers shall be as follows:

9.8.1 President. The president shall preside at all meetings of the board, shall see that orders and resolutions of the board are carried out, shall sign all leases, mortgages, deeds and other written instruments, and shall co-sign all checks and promissory notes.

9.8.2 Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

9.8.3 Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the board and of the members, shall serve notices of meetings of the board and of the members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the board.

9.8.4 Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the board, shall co-sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual operating statement reflecting income and expenditures of the Association for its fiscal year to be prepared and shall cause copies of said statement to be distributed to each member within sixty (60) days after the end of such fiscal year, and shall cause an annual budget to be prepared and presented to each member.

9.9 Compensation. No officer shall receive any compensation for any service he may render to the Association; provided, however, any officer may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

10. COMMITTEES

Subject to any contrary provisions of the Declaration and these bylaws, if any, the board may appoint a nominating committee as provided in these bylaws. In addition, the board may appoint such other committees as it deems appropriate in order to carry out its purpose.

11. ASSESSMENTS

Liability for Assessments; Collection. As more fully provided in Article 10 of the Declaration, each member is obliged to pay to the Association annual and special assessments to be collected as therein set forth, all of which are hereby incorporated by reference herein as if set forth in full.

12. AMENDMENTS

12.1 These bylaws may be amended only with the vote or written consent of members entitled to cast at least fifty-one percent (51%) of the voting power of the Association.

12.2 Notwithstanding Section 1 of this Section 12, the percentage of the voting power of the Association or of members other than the Declarant necessary to amend a specific clause or provision in these bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

13. GENERAL PROVISIONS

13.1 Conflicting Provisions. In the case of any conflict between any provisions of the Declaration and these bylaws, the conflicting provisions of the Declaration shall control.

13.2 Fiscal Year. The fiscal year of the Association shall be a calendar year unless and until a different fiscal year is adopted by the members at a duly constituted meeting thereof.

13.3 Proof of Membership. No person shall exercise the rights of membership in the Association until satisfactory proof thereof has been furnished to the secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the owner of an interest in a condominium entitling him to membership. Such deed of policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

13.4 Absentee Ballots. The board may make such provisions as it may consider necessary or desirable for absentee ballots.

13.5 Consent to Waiver of Notice. The transactions at any meeting of the board, however noticed, shall be as valid as though had at a meeting duly held after regular notice if a quorum be present and either before or after the meeting each director not present thereat signs a written waiver of notice or a consent to the holding of such meeting or an approval of the true and correct minutes thereof. All such waivers, consents or approvals shall be filed with the records of the board and made a part of its minutes.

13.6 Reserves. Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner set forth in the Declaration and shall be deposited into insured interest-bearing accounts. These sums may include amounts collected by Declarants from owners through purchase escrows representing capital contribution by such owners to the Association.

CERTIFICATE OF SECRETARY

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Secretary of Thunder Spring Condominium Owners Association, Inc., an Idaho non-profit corporation, does hereby certify that the above and foregoing bylaws were duly adopted by the Board of Directors of said Association on the ____ day of _____, 1999, and that they now constitute said bylaws.

Secretary

EXHIBIT E TO DECLARATION

The easements and licenses referred to in Section 14.3 of the Declaration to which this Exhibit E is attached are contained in one or more of the following:

1. The Thunder Spring Large Block Plat, recorded March 10, 2000, as Instrument No. 437167, records of Blaine County, Idaho.
2. The Condominium Plat(s) for the condominiums at Thunder Spring.
3. Declaration of Covenants, Conditions and Restrictions For The Thunder Spring Development, recorded October ~~21~~, 2000, as Instrument No. ~~444556~~ records of Blaine County, Idaho.
4. Declaration of Special Covenants, Conditions and Restrictions, recorded December 5, 1997, as Instrument No. 408654, records of Blaine County, Idaho.