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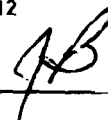
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Index to: AMENDED COVENANTS & RESTRICTIONS



AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR THE

THUNDER SPRING DEVELOPMENT,

A CONDOMINIUM

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AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR THE

THUNDER SPRING DEVELOPMENT

THIS AMENDED AND RESTATED DECLARATION (the "**Declaration**") is dated for reference purposes as of the 29th day of OCTOBER, 2007, and is made by Thunder Spring, L.L.C., a Delaware limited liability company (the "**Declarant**") and Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit corporation (the "**Association**").

This Declaration is made for the purposes of amending and restating in its entirety that certain Declaration of Covenants, Conditions and Restrictions for the Thunder Spring Development recorded October 27, 2000, as Instrument No. 444556, records of Blaine County, Idaho, and as subsequently amended by the First Amendment to Declaration of Covenants, Conditions, and Restrictions for Thunder Spring Development recorded March 27, 2001, as Instrument No. 449366, and by Amendment No. Two to the Declaration of Covenants, Conditions and Restrictions for Thunder Spring Development recorded November 8, 2001, as Instrument No. 457654, and by the Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Thunder Spring Development recorded January 23, 2003, as Instrument No. 477396, records of Blaine County, Idaho, and by the Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for Thunder Spring Development recorded on April 27, 2004, as Instrument No. 502484, records of Blaine County, Idaho, and by the Corrected and Restated Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for Thunder Spring Development recorded on May 27, 2004, as Instrument No. 504224, records of Blaine County, Idaho, and by the Second Corrected and Restated Fourth Amendment previously recorded on July 22, 2004 as Instrument 507190 (the "**Fourth Amendment**") (collectively, the "**Original Declaration**"). The Original Declaration was made with respect to the real property located in Blaine County, Idaho that is more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference (the "**Property**").

Concurrently with this Declaration, Declarant is recording a Condominium Map that supersedes and replaces the Plats that were incorporated into and made a part of the Original Declaration, as described more fully in the Fourth Amendment described above (the "**Amended Condominium Map**").

Any and all initially capitalized terms used herein not otherwise defined shall have the meaning specified in Article 1.

RECITALS

WHEREAS, Declarant is the successor to the Declarant named in the Original Declaration;

WHEREAS, pursuant to Article 20 of the Original Declaration, the Original Declaration may be amended by an affirmative vote or agreement of Unit Owners to which more than sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes that are allocated to Units not owned by the Declarant;

WHEREAS, by the affirmative vote of more than sixty-seven percent (67%) of the votes in the Association, exclusive of Units owned by the Declarant, the Unit Holders have authorized the Declarant and Association to amend and restate the Original Declaration in its entirety as hereinafter set forth;

WHEREAS, by the affirmative vote of more than sixty-seven percent (67%) of the votes in the Association, exclusive of Units owned by the Declarant, the Unit Holders have authorized the Declarant and Association to file the Amended Condominium Map;

WHEREAS, by action taken by the Board of Directors of the Association on December 29, 2005, the proposed amendment and restatement to the Articles of Incorporation was approved and duly adopted thereby; and, by the affirmative vote of seventy-one percent (71%) of the votes in the Association, the Unit Holders thereby authorized the First Amendment and Restatement to the Articles of Incorporation of the Association, which were duly recorded on January 11, 2006 with the Idaho Secretary of State's Office and which are contemporarily recorded herewith;

WHEREAS, by action taken by the Board of Directors of the Association on December 29, 2005, the proposed amendment and restatement to the Bylaws was approved and duly adopted thereby; and, by the affirmative vote of seventy-one percent (71%) of the votes in the Association, the Unit Holders have authorized the Amended and Restated Bylaws of the Association;

WHEREAS, by action taken by the Board of Directors of the Association on December 29, 2006, the proposed second amendment and restatement to the Bylaws was approved and duly adopted thereby; and, by the affirmative vote of seventy nine percent (79%) of the votes in the Association, the Unit Holders have authorized the Second Amended and Restated Bylaws of the Association, and which are contemporaneously recorded herewith;

NOW, THEREFORE, Declarant and the Association hereby declare that the provisions of the Original Declaration are hereby amended and restated in their entirety and the following is substituted in its place and stead:

DECLARATION

Declarant declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, easements and restrictions, all of which are declared and agreed to be in furtherance

of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, and to enhance the value, desirability and attractiveness of the Property. The terms, covenants, conditions, easements and restrictions set forth herein:

- (a) Shall run with the land constituting the Property, and with each estate therein, and shall be binding upon all persons having or acquiring any right, title, or interest in the Property or any lot, parcel, or portion thereof;
- (b) Shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein; and
- (c) Shall inure to the benefit of, and be binding upon, Declarant's successors in interest, and each Owner and such Owner's respective successors in interest, and may be enforced by Declarant by any Owner, or by the Association as hereinafter described.

ARTICLE 1. DEFINITIONS

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

"Act" or "Idaho Condominium Act" means the Idaho Condominium Act, Idaho Code §§ 55-1501 *et seq.*, as amended and supplemented from time to time.

"Additional Property" means any land which is annexed to the Condominium Project and made subject to this Declaration in the manner provided in Sections 15.2, 15.3 and 15.4.

"Allocated Interests" means the undivided interest in the Common Areas, 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 Section 3.7, and the Allocated Interests for each Unit are set forth on **Exhibit B**.

"Articles of Incorporation" means the Articles of Incorporation of Thunder Spring Condominium Owners Association, as amended and/or restated from time to time and as filed with the Idaho Secretary of State. A true and correct copy of the First Amendment and Restatement to the Articles of Incorporation of Thunder Spring Condominium Owners Association, Inc. are attached hereto as **Exhibit E**, and are contemporaneously recorded herewith.

"Assessments" means the Annual, Special and Default Assessments levied pursuant to this Declaration.

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

"Board of Directors" or "Board" means the duly elected governing body of the Association, as provided for in this Declaration, the Articles of Incorporation and Bylaws of the Association and in the Act.

"Bylaws" means the Bylaws of Thunder Spring Condominium Owners Association, Inc., as amended and/or restated from time to time, which are adopted by the Association for the regulation and management of the Association. A true and correct copy of the Second Amended and Restated Bylaws (the "Second Amended and Restated Bylaws") are attached hereto as **Exhibit F**, and are contemporaneously recorded herewith.

"Class" refers to a group of Unit Owners possessing the same rights with respect to voting.

"Code" or **"Idaho Code"** means the Idaho Code, in its entirety and as amended from time to time.

"Commercial Unit" means any Unit designated for business or commercial use, which designation shall be made on the Map (or Plat therein) or in this Declaration, including as of that date of this Declaration only Unit A1-1, Unit C20, Unit C21 and Unit G.

"Common Areas" means all of Condominium Project other than the Units, including, but not limited to, the following:

- (a) The Property and easements appurtenant thereto;
- (b) The Improvements;
- (c) The yards, sidewalks, walkways, plazas, paths, grass, shrubbery, trees, driveways, roadways, landscaping, gardens, parking areas, and related facilities upon the Property;
- (d) The pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and heating, ventilation and air conditioning systems constituting a part of the Improvements that exist for the general use of the Improvements as a whole or that are for the use of more than one Unit;
- (e) In general, all apparatus, installations, and equipment constituting a part of the Improvements that exist for the general use of the Improvements as a whole or are for the use of more than one Unit; and
- (f) In general, all other parts of the Condominium Project designated as Common Areas and existing for the use of one or more of the Unit Owners.

The Common Areas shall be owned by the Unit Owners of the separate Units, each Unit Owner of a Unit having an undivided interest in the Common Areas as allocated in **Exhibit B**. Common Areas shall be designated as such in this Declaration, any Supplemental Declaration, any Map (or Plat) of the Project, or any conveyance from Declarant to the Association. Common Areas may be further designated as Restricted Areas, or Limited Common Areas. Common Areas shall also include any Units converted to Common Areas. Notwithstanding the foregoing, the Association shall have the power to acquire and hold real property and improvements and

provide for its use by all Units and Unit Owners and to designate and treat it as a part of the Common Areas.

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

"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 Areas except to the extent such repairs and replacements are the responsibilities of a Unit Owner as provided in this Declaration;
- (b) expenses provided to be paid pursuant to any Management Agreement;
- (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 declared Common Expenses by the provisions of this Declaration or the Bylaws.

"Condominium Documents" means the basic documents creating and governing the Condominium Project (as amended from time to time), 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. Condominium Documents also include any Management Agreements, Storage Space Lease Agreements, Parking Space Agreements, and any other ancillary documents utilized in the management of the Project and Association.

"Condominium Map" or "Map" means the Amended Condominium Map recorded concurrently with this Declaration and any future survey map, to include a Plat, that depicts all or any portion of the Condominium Project in three dimensions, and is executed and recorded in the Records in accordance with this Declaration and Section 55-1504 of the Idaho Code.

"Condominium Project" or "Project" means the luxury residential condominium, with recreational facilities, commercial uses and other amenities related to the luxury residential use, that is known as the Thunder Spring Planned Unit Development, as defined in Section 2.1 hereof.

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

"Costs of Enforcement" means all monetary fees, fines, late charges, interest, expenses, costs, including receiver, appraiser and attorneys' fees and costs 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.

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

"Declaration" means this Declaration, together with any supplement or amendment thereto, 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 (including Plats) recorded with this Declaration and all amendments to the Declaration and supplements to the Maps (including Plats) without specific reference thereto, the Articles of Incorporation attached hereto, and any other exhibits attached hereto and filed herewith.

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

"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 Section 19.3.

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

"Governmental Authority" means the City of Ketchum, County of Blaine, State of Idaho, United States of America, or other governmental entity or agency that has or acquires jurisdiction over the Property or any portion thereof, or over sales of the Property from time to time.

"Improvement(s)" means the building(s) (including all fixtures and improvements contained within it) located on the Property in which Units or Common Areas are located, 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, exterior stucco, thermostats, electrical breaker panels not contained within a unit, outdoor pool and spa, elevators not contained within an unit, outdoor fire pit, chimney flues, chimney spark arrestors and chimney baffles, radiant heating system, unit entry doors, door hardware (caulking peep holes, hinges, door knobs, locks and keys, threshold, flashing and pan) and windows (including caulking, frames, screens, weep holes, trim, hardware, latches, flashing and weather-strip), dryer vents, all fire alarm monitoring equipment located within a residence that is monitored by the central fire alarm system, 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, satellite 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, all of the foregoing excepting, however, the Units.

"Limited Common Areas" means those portions of the Common Areas that are limited to and reserved for use in connection with one or more, but fewer than all, of the Units to the exclusion, limitation or restriction of other Units. Limited Common Areas shall include parking

stalls and storage areas that are otherwise a part of Common Areas and that are allocated to Units by the Association from time to time. Limited Common Areas shall also include that certain outdoor recreation area that is allocated to Unit G by the Amended Condominium Map. Other Limited Common Areas are or may be established from time to time by the Association on any portion of the Property pursuant to the rights and limitations of this Declaration or by Declarant with respect to any Additional Property. Limited Common Area shall be so indicated in this Declaration, on a recorded Plat, by granting or reserving it in a deed, other recorded document or instrument, or by designating it as such in an amendment to this Declaration or in a Supplemental Declaration.

“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.

“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.

“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.

“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 Areas for any period of time.

“Period of Declarant Control” means the maximum period of time defined and limited by Section 8.6 of the Original Declaration during which the Declarant had, at its option, the authority to control the Association. The Period of the Declarant Control has terminated in accordance with the Original Declaration.

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

“Plat” means that part of the Map depicting all or any portion of the Condominium Project in two dimensions. The Plat shall include those requirements set forth in Section 4.1 herein, and as further required by Section 50-1301 of the Idaho Code.

“Privately Owned Amenity” shall mean certain real property and any improvements and facilities thereon located within the Project which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership or other basis.

“Property” means the real property described on the attached **Exhibit A**, any Additional Property annexed to this Declaration, and all existing and future Improvements located on the Property and Additional Property.

"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.

"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.

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

"Rules and Regulations" means the rules and regulations promulgated by the Board, as amended from time to time, 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. Separate Rules and Regulations may be promulgated to apply only to Commercial Units, Residential Units or any combination thereof.

"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.

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

"Supplemental Declaration" means an instrument recorded pursuant to Section 15.3 which subjects Additional Property to this Declaration, and/or imposes, expressly or by reference, additional or different restrictions and obligations on said Additional Property.

"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 Areas. Subject to Section 3.4 and Section 3.5, all spaces, interior partitions and other fixtures and improvements, including outlets, valves, plumbing connections and electrical panels within the boundaries of a Unit, are a part of the Unit.

"Unit Owner" or "Owner" means the Person, including Declarant, who owns record title to any Unit, but, except as otherwise provided below, does not include a tenant or holder of a leasehold interest or Person holding only a Security Interest in a Unit. If a Unit is sold under a recorded real estate installment sale contract, the purchaser (rather than the seller) will be

deemed to be the Owner for purposes of this Declaration unless the recorded contract specifically provides to the contrary. If a Unit is subject to a written lease with a term in excess of one year and the lease specifically so provides, then upon filing a copy of the lease with the Association, the lessee (rather than the record title owner) will be deemed to be the Owner for purposes of this Declaration during the term of the lease, but only for the purpose of exercising rights that are related to the Unit under this Declaration. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Unit and terminate upon disposition of that ownership, but termination of ownership shall not discharge an Owner from its obligations incurred prior to termination.

ARTICLE 2. IMPOSITION OF COVENANTS

Section 2.1 Purpose.

By means of filing the Original Declaration, Declarant created a condominium project known as the Thunder Spring Planned Unit Development (the "**Condominium Project**") by submitting the Property described in **Exhibit A** to the condominium form of ownership and use pursuant to the Idaho Condominium Act, and by forming the Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit corporation.

Section 2.2 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 Project.

Section 2.3 Interpretation.

The intent of this Declaration is, among other things, to grant to the Association and its Board of Directors the rights, powers and privileges permitted by the Act to the fullest extent possible. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the maintenance and operation of the Project under the provisions of Idaho law. It is intended and covenanted that, insofar as they affect this Declaration and the Project, the provisions of the Act under which this Declaration is operative shall be liberally construed to effectuate the intent of the Declaration.

ARTICLE 3. CONDOMINIUM OWNERSHIP, ANNEXATION AND ALLOCATED INTERESTS

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 separate interest in a Unit and an undivided interest in common in the Common Area. The percentage of ownership interest in the Common Area that is to be allocated to each Unit as a whole for purposes of Assessments, tax assessments under Section 55-1514 of the Act and liability as provided by Section 55-1515 of the Act, is also set forth in **Exhibit B**.

The total of the undivided interests in the Common Areas 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 or as required by the Act: (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 Areas.

The Common Areas 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 Areas. 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 Areas, 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 and reallocate Limited Common Areas between or among Units, subject to the provisions and requirements of this Declaration and of the Act.

Section 3.6 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 3.7 below. These formulas are to be used in reallocating interests if Units are annexed to the Condominium Project pursuant to Sections 15.2, 15.3 and 15.4, or if Units are allocated or converted to Common Areas.

Section 3.7 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 Areas.** The percentage of the undivided interest in the Common Areas allocated to each Unit is based upon the square footage of each Unit as compared to the square footage of all Units in the Condominium Project.
- (b) **Common Expense Liability.** The percentage of Common Expense Liability allocated to each Unit is based on the square footage of each Unit as compared to the square footage of all Units in the Condominium Project.
- (c) **Votes.** The vote allocated to each Unit is based upon the square footage of each Unit as compared to the square footage 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**.
- (d) **Tax Assessment and Liability.** The percentage of ownership interest in the Common Areas allocated to each Unit for purposes of tax assessment and for purposes of liability under Section 55-1505(1)(c) of the Act shall be calculated according to the requirements of the Act and are set forth in **Exhibit B**.

Section 3.8 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 3.9 Reallocations.

In accordance with Section 55-1505(c) of the Act, if a substantial change is made to the value or size of one (1) or more Units as compared with other Units, upon petition by a Unit Owner for reevaluation and allocation of percentage of Allocated Interest for purposes of tax assessment and liability under the Act, the allocation shall be amended for tax assessment and liability. Reallocations shall not occur more frequently than every three (3) years.

ARTICLE 4. CONDOMINIUM MAP, LEGAL DESCRIPTION AND TAXATION

Section 4.1 Condominium Map and Plat.

The Amended Condominium Map shall be attached hereto as **Exhibit D**. The Amended Condominium Map and all future Condominium Maps shall include a Plat showing 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;
- (f) the distance between any noncontiguous parcels of Real Estate comprising the Condominium Project;
- (g) the location and dimensions of the vertical boundaries of each Unit and that Unit's identifying number;
- (h) horizontal Unit boundaries, if any, with reference to all established data and that Unit's identifying number;
- (i) any Units in which the Declarant has reserved the right to create additional Units or Common Areas, identified appropriately;
- (j) the approximate location and dimensions of all Limited Common Areas, Restricted Areas and Privately Owned Amenities; and
- (k) the number, size and location of any sales offices, management offices and models to be maintained by Declarant.

The Map or Plat shall also include a certificate of a registered and licensed surveyor certifying that the Map contains all information required by this Declaration and the Act, and a certificate consenting to the recordation of the Map pursuant to the Act, executed and acknowledged by the record owner and the holder of any recorded security interest in such Property. Any Map filed subsequent to the Amended Condominium Map shall be termed a

supplement to such Map, the numerical sequence of such supplements shall be shown thereon, any all subsequent Maps shall contain those provisions required by this Section 4.1. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. With respect to any 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 4.2 Conveyances of Units.

Contracts to convey, instruments of conveyance of Units, and every other instrument affecting title to a Unit shall describe a Unit 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 Thunder Spring, recorded _____, _____, as (Instrument No. _____) and the Condominium Map recorded _____, _____, as (Instrument No. _____) in the office of the Recorder of Blaine County, Idaho.¹

Section 4.3 Conveyance Deemed to Describe an Undivided Interest in Common Areas.

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 Areas 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 Areas.

Section 4.4 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.

¹ Not required, but frequently seen in Idaho CC&Rs.

ARTICLE 5. UNIT OWNERS' PROPERTY RIGHTS IN COMMON AREAS

Section 5.1 Use of Common Areas.

The Common Areas shall not be partitioned or otherwise divided into parcels for residential use, and no private structure of any type (except utility or similar facilities permitted by Declarant or the Association) shall be constructed on the Common Areas. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas. Nothing in this Declaration shall prevent the placing of a sign or signs upon the Common Areas by the Association identifying the Property or identifying trails or identifying items of interest, including traffic any directional signs, provided such signs comply with any applicable sign ordinances. The Board shall have authority to abate or enjoin any trespass or encroachment upon the Common Areas at any time, by any reasonable means and with or without having to bring legal proceedings. A Supplemental Declaration annexing Additional Property may provide that the Owners of such Additional Property do not have the right to use a particular Common Area or facility located on such Common Area, in which event the same shall automatically become Limited Common Areas assigned to the Units having access thereto as described in such Supplemental Declaration.

Section 5.2 Extent of Owners' Rights.

Every Unit Owner shall have a perpetual right and easement of access over, across, and upon the Common Areas for the purpose of access to and from the Unit from public ways for both pedestrian and vehicular travel, and for the use and enjoyment of recreational facilities and amenities in the Common Areas, which right and easement shall be appurtenant to and pass with the transfer of title to such Unit. Notwithstanding the foregoing, the rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

- (a) The Governing Documents;
- (b) Any restrictions or limitations contained in any deed or other instrument conveying such property to the Association;
- (c) Easements reserved to Declarant for itself and the Association for underground installation and maintenance of power, gas electric, water and other utility and communication lines and services installed by or with the approval of the Board and any such easement shown on any Map or Plat of the Property and for construction, maintenance, repair and use of Common Areas and any Improvements thereon;
- (d) Easements granted by Declarant or the Association to Governmental Authorities or companies providing utility and communication services and to police, fire and other public officials and to employees of utility companies and communications companies serving the Property;
- (e) The Board's right to:

- (i) adopt Policies and Procedures regulating use and enjoyment of the Common Areas, including rules limiting the number of guests who may use the Common Areas;
- (ii) suspend the right of an Owner to use recreational facilities within the Common Areas as provided in this Declaration;
- (iii) encumber, sell or transfer title to all or any part of the Common Areas, subject to such approval requirements as may be set forth in Section 5.4 of this Declaration;
- (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Areas;
- (v) permit use of any recreational facilities situated on the Common Areas by persons other than Owners, their families, lessees, and guests with or without payment of use fees established by the Board;
- (vi) assign on an equitable basis parking spaces or storage spaces for the exclusive use of the Unit Owner of a particular Unit from time to time by designating and redesignating those areas as Limited Common Area and entering into a Storage Space Agreement and/or Parking Space Agreement with the Unit Owner, as provided by Section 13.2 and Section 13.3 herein;
- (vii) adopt rules and regulations concerning vehicular traffic and travel upon, in, under, and across the Condominium Project;
- (viii) adopt 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 Areas by Unit Owners;
- (ix) designate areas and facilities of Common Areas as Restricted Areas; and
- (x) provide certain Owners the rights to the exclusive use of those portions of the Common Areas designated as Limited Common Areas.

Section 5.3 Enjoyment of Owners' Rights.

Any Owner may extend the Owner's right of use and enjoyment of the Common Areas to the members of the Owner's family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases the Owner's Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

Section 5.4 Alienation of the Common Areas.

The Association may not encumber, sell or transfer title to the Common Areas unless such encumbrance, sale or transfer has been approved by a majority of the voting rights in the Association.

Section 5.5 Restricted Areas.

The Association shall have the right (and Declarant shall have the right with respect to the Additional Property) from time to time to designate portions of the Common Areas that may not be entered or used by any of the Owners other than the Association (and, with respect to the Additional Property, Declarant) or such of their respective agents or representatives as may be reasonably required for their preservation, care, maintenance or renewal, to enforce these restrictions, or for such other limited purposes that are permitted by the Association (and, with respect to the Additional Property, Declarant). Restricted Areas may include environmentally or historically sensitive areas, riparian corridors, wetlands, riverbanks, and other areas Declarant or the Association desire to preserve in their natural state or otherwise preserve for the protection of wildlife, personal, safety, security or other mutually beneficial purposes. The Restricted Areas may be removed, enlarged or reduced or other portions of the Property may be added to the Restricted Areas by the Association from time to time to the extent reasonably necessary to achieve such purposes.

Section 5.6 Easements.

Easements may be reserved as part of the Common Areas for signage and visual landscape features, or as otherwise provided in the Supplemental Declaration or other instrument establishing the easement. Such easements are to be maintained by the Association and no changes in landscaping will be permitted without written authorization by the Association. No building, wall, fence, paving, landscaping or construction of any type shall be erected or maintained by any Owner so as to trespass or encroach upon easements included in the Common Areas.

ARTICLE 6. LIMITED COMMON AREAS

Section 6.1 Purpose.

Certain portions of the Common Areas may be designated by Declarant (with respect only to the Additional Property) or the Association as Limited Common Areas and reserved for

the exclusive use or primary benefit of Owners and occupants of Units designated by Declarant (with respect only to the Additional Property) or the Association, as the case may be. By way of illustration and not limitation, Limited Common Areas may include parking stalls, storage units, outdoor areas adjacent to a Commercial Unit, or private access roads serving certain Units. All costs associated with maintenance, repair, replacement, and insurance of Limited Common Areas (the "Limited Common Area Assessments") shall be allocated among the Owners of the Units to which the Limited Common Areas are assigned, in accordance with Section 10.3 herein.

Section 6.2 Initial Designation.

Limited Common Areas shall be so indicated in this Declaration, on a recorded Map or Plat, by granting or reserving it in a deed, other recorded document or instrument, or by designating it as such in an amendment to this Declaration or in a Supplemental Declaration or in an instrument authorized by the Board of Directors. No assignment of Limited Common Area shall preclude the Association from later assigning use of the same Limited Common Area to other or additional Units.

Section 6.3 Assignments to Common Areas.

Limited Common Areas may be converted to Common Areas, and thereby reassigned upon: (i) approval by the Board and (ii) the vote of members representing two-thirds (2/3) of the Units to whom any of such Limited Common Areas are then assigned.

ARTICLE 7. PRIVATELY OWNED AMENITIES; RESTRICTIVE COVENANT CONCERNING UNIT G

Section 7.1 General.

The Commercial Units may be privately owned and used by their respective owners for commercial or other purposes (a "Privately Owned Amenity"). Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Privately Owned Amenity. Rights to use Privately Owned Amenities will be granted only to such Persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Privately Owned Amenities, subject, however, to Section 7.2 concerning Unit G. Subject to Section 7.2, the owners of the Privately Owned Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Privately Owned Amenities, including, without limitation, eligibility for and duration of use rights, categories of use, and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

Section 7.2 Unit G Health Club.

Notwithstanding anything herein to the contrary, except with the prior written approval of the Association, the use of Unit G and its associated Limited Common Area shall be limited to the maintenance and operation of a health club and spa as a Private Owned Amenity that offers memberships to all Owners and their family members, and services to all Owners, their family

members, guests and invitees. The memberships offered to Owners shall include a class of membership without fee or charge that permits Owners and their family members, guests and invitees to use the two outdoor pools and community restrooms.

Section 7.3 Rights of Access and Parking.

There is hereby granted for the benefit of each Privately Owned Amenity and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the Property reasonably necessary to travel between the entrance to the Property and the Privately Owned Amenity and over those portions of the Property (whether Common Areas or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Privately Owned Amenity. Without limiting the generality of the foregoing, members of the Privately Owned Amenity and guests and invitees of the Privately Owned Amenity shall have the right to park their vehicles on the roadways located within the Property at reasonable times while utilizing the Privately Owned Amenity, or before, during, and after other special functions held by or at the Privately Owned Amenity to the extent that the Privately Owned Amenity has insufficient parking to accommodate such vehicles; provided, however, such roadways must be kept free and clear of all obstructions and in a safe condition for vehicular use at all times.

Section 7.4 Limitation on Amendments.

In recognition of the fact that the provisions of this Article are for the benefit of the Privately Owned Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Privately Owned Amenity, may be made without the written approval of the affected Privately Owned Amenity.

Section 7.5 Ownership and Operation of Privately Owned Amenities.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant or any other Person with regard to the continuing existence, ownership or operation of any Privately Owned Amenity. Further, the ownership and/or operation of any Privately Owned Amenity, if any, may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations of the Privately Owned Amenity by an independent entity or entities; (b) the creation or conversion of the ownership and/or operating structure of the Privately Owned Amenity to an "equity" club or similar arrangement whereby the Privately Owned Amenity or the rights to operate it are transferred to an entity which is owned or controlled by its members (subject, however, to Section 7.2 concerning Unit G); or (c) the transfer of ownership or control of the Privately Owned Amenity to one or more affiliates, shareholders, employees, or independent contractors of Declarant. Declarant may cause any Privately Owned Amenity to initially be public or private, to convert any public Privately Owned Amenity to a private Privately Owned Amenity available to specified members only, and to convert any private Privately Owned Amenity to a public Privately Owned Amenity with the approval of the requisite number of the Privately Owned Amenity members pursuant to the Governing Documents for the Private Owned Amenity. No

consent of the Association or any Owner shall be required to effectuate such transfer or conversion.

ARTICLE 8. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 8.1 Organization of the Association.

The Association's Articles of Incorporation, as amended from time to time, have been filed with the Idaho Secretary of State's Office, incorporating the Association as a nonprofit corporation under the Idaho Nonprofit Corporation Act, Idaho Code §§ 30-3-1 *et seq.*, as amended and supplemented from time to time (the "**Idaho Nonprofit Corporation Act**"). The Articles of Incorporation of the Association shall provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated Association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated Association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated Association.

Section 8.2 Qualification for Association Membership.

Every Owner of one or more Units within the Project shall be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership. 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.

Section 8.3 Units Held by an Entity or More than One Individual.

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 8.4 Voting Rights.

Each Unit in the Condominium Project shall have the votes allocated as identified in **Exhibit B**, which is determined in accordance with ARTICLE 10 herein; provided, however, no vote allocated to a Unit owned by the Association may be cast. Class voting may be permitted on those issues specified in Section 8.8 and Section 8.10.

Section 8.5 Meetings of the Association's Members.

The provisions for annual and special meetings of Unit Owners, including but not limited to call of meetings by members, annual and special meeting date and time, location, notice and quorum, shall be governed by Article 3 of the Second Amended and Restated Bylaws, and this Declaration (as applicable).

Section 8.6 Notice to Unit Owners.

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, which shall be furnished 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. This section shall further be governed by Article 8 of the Second Amended and Restated Bylaws.

Section 8.7 Transfer Information.

All Persons who acquire Unit(s) other than from Declarant shall provide to the Association written notice of the transferee's name, address, Unit owned, date of transfer, and name of the transferor within ten (10) days of the date of transfer. The transferee 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. 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 transferee a reasonable administrative fee for processing the transfer in the records of the Association.

Section 8.8 Election of the Board by Unit Owners.

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 Residential Unit(s), voting as a Class, shall be entitled to nominate and elect as one of the members of the Board of Directors an Owner of a Residential Unit. The Owner(s) of the Commercial Unit(s), voting as a class, shall be entitled to nominate and elect as one of the members of the Board of Directors an Owner of a Commercial Unit, provided that the nominated Owner's Commercial Unit is at least five thousand (5,000) square feet in size. The Board of Directors shall elect the officers. The members of the Board of Directors and officers shall take office upon election.

Section 8.9 Removal of Members of the Board of Directors.

The removal of members of the Board of Directors shall be governed by the Bylaws and the applicable provisions of the Idaho Nonprofit Corporation Act.

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 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 Unit or type of Unit, but not appurtenant to all Units or types of Units, shall be decided by the Owner(s) of the Units to which the Limited Common Areas are appurtenant, voting as a Class. The determination whether an issue relates solely to Limited Common Areas appurtenant to fewer than all Units or types of Units shall be decided in the sole discretion of the Board of Directors.

Section 8.11 Declarant Control of the Association Terminated.

More than sixty (60) days have elapsed since the conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than a Declarant, and the Period of Declarant Control of the Association has terminated.

ARTICLE 9. ASSOCIATION POWERS AND DUTIES

Section 9.1 General Powers and Obligations.

The Association shall have, exercise and perform its powers to do any and all lawful things which may be authorized, required or permitted to be done by the Association under the Idaho Code and under this Declaration, the Articles of Incorporation and the Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Association. The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration effected in accordance with the provisions in this Declaration and the Bylaws, accompanied by any required changes in the Articles of Incorporation or Bylaws made in accordance with such instruments and with the Idaho Nonprofit Corporation Act.

Section 9.2 Specific Powers and Duties.

The Association's scope of powers and duties include, but are not limited to, the power and authority to:

- (a) adopt and amend Articles of Incorporation, Bylaws and Rules and Regulations in accordance therewith;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) levy and collect assessments for Common Expenses from Owners;
- (d) employ the services of any Person as managers, hire employees to manage, conduct and perform the business, obligations and duties of the Association, employ professional counsel and obtain advise from such persons or firms or corporations such as, but not limited to, landscape architects, recreational experts, architects, planners, attorneys and accountants, and contract for or otherwise provide for all services necessary or convenient for the management, maintenance and operation of the Property.
- (e) 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;
- (f) make contracts and incur liabilities, and borrow and repay moneys for the purpose of maintaining and improving the Common Areas and, subject to this Declaration, encumber the Common Areas as security for the repayment of such borrowed money (subject to the requirements of the Act);
- (g) regulate the use, maintenance, repair, replacement and modification of the Common Areas, including, but not limited to, the right to allocate Limited Common Areas, and Restricted Areas;
- (h) cause additional improvements to be made as part of the Common Areas;
- (i) acquire, hold, encumber, and convey in the Association's name any right, title or interest to real property or personal property, but Common Areas may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act;
- (j) acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including but not limited to

easements across all or any portion of the Common Area, and shall accept any real or personal property, leasehold or other property interests within the Property conveyed to the Association by Declarant;

- (k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Areas;
- (l) impose and receive a payment, fee, or charge for the use, rental or operation of the Common Areas, other than Limited Common Areas, 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) except as otherwise provided in this Declaration, sell, transfer or encumber all or any portion of the Common Areas to which it then holds title of record to a person, firm or entity, whether public or private, and dedicate or transfer all or any portion of the Common Areas to any public agency, authority, or utility for public purposes;
- (r) exercise any other power necessary and proper for the governance and operation of the Association;
- (s) exercise any other powers conferred by this Declaration or the Bylaws;
and
- (t) 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.

Section 9.3 Association Management Duties.

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 Areas and the Limited Common Areas, 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 Areas 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 9.4 Board of Directors.

The powers and duties of the Association and the affairs of the Association shall be conducted by its Board of Directors duly appointed or elected as provided in this section, except to the extent that a vote of the members is required by this Declaration or the Bylaws. Except as is otherwise specifically provided in this Declaration, the Bylaws or the Act, the Board of Directors may act in all instances on behalf of the Association.

Section 9.5 Meetings of the Board of Directors.

The provisions for regular and special meetings of the Board, including but not limited to call of meetings, date, time, location, notice and quorum, shall be governed by Article 4 of the Bylaws, and this Declaration (as applicable) Notwithstanding Article 4 of the Bylaws, 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) matters pertaining to the negotiation of third-party contracts; and
- (f) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

Section 9.6 Election of Officers.

The Board of Directors shall, consistent with Article 5 of the Second Amended and Restated Bylaws, elect the Officers of the Association.

Section 9.7 Notice to the Association.

All notices and demands intended to be served upon the Board of Directors shall be sent to the registered agent of the Association, pursuant to Article 8 of the Second Amended and Restated Bylaws and the Idaho Nonprofit Corporation Act.

Section 9.8 Liability and Indemnification.

Members of the Board, officers, employees, agents and committee members of the Association shall be benefited by and subject to the indemnification provisions set forth in the Bylaws and the Idaho Code.

ARTICLE 10. ASSESSMENTS

Section 10.1 Power to Assess.

Assessments shall be levied by the Association and shall be used to promote the recreation, health, safety, and welfare of the Owners and occupants of the Property and for the improvement, operation and maintenance of the Common Areas and Limited Common Areas.

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 the operation and maintenance of the Condominium Project including maintenance, repair and replacement of the Common Areas 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 Expense 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 Areas 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 Areas are appurtenant; (c) Common Expenses or portions thereof benefiting fewer than all of the Units which shall be assessed exclusively against the Units benefited; (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. Notwithstanding the foregoing, the Board of Directors may, at its sole and absolute discretion, make allocations of Common Expense Liability to the Commercial Units and Residential Units on a basis other than the Units' Percentage of Common Expense Liability, which computations shall be made in good faith and shall be deemed valid upon completion. 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 benefiting 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 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 quarter. If any such installment shall not be paid within fifteen (15) 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 Expense Liability is re-allocated, any installment(s) of an assessment not yet due shall be recalculated in accordance with the re-allocated Common Expense 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 a 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 Areas or the facilities contained in the Common Areas 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, and a perpetual lien in favor of the Association upon the specific Unit to which such Assessments apply. To further evidence such lien upon a specific Unit, the Association shall prepare 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. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Unit and attaches without notice at the beginning of the first day of any period for which any Assessment is levied. 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, and notwithstanding the Association's perpetual lien upon a Unit for such Assessments, 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 perpetual 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 Areas or against the interest of any Unit Owner in the Common Areas except a Security Interest in the Common Areas granted by the Association pursuant to the requirements of the Act.

Section 10.14 Limited Common Area Assessments.

General Assessments, Special Assessments and Default Assessments relating to maintenance, upkeep, repair, replacement or improvements of or to Limited Common Areas shall be assessed exclusively to the Unit or Units having the right to use such Limited Common Areas. The percentage of Assessment allocated to each Unit with respect to a Limited Common Area expense shall be based upon the relative square footage of each Unit as compared to the square footage of all Units sharing in that particular expense.

Section 10.15 Assessment of Additional Property.

When Additional Property is annexed to the Property, the Units included therein shall become subject to Assessments from the date of such annexation. All other Units shall pay such Assessments in the amount then being paid by other Units. The Board, however at its option may elect to recompute the budget based upon the additional Units subject to assessment and additional Common Areas and recompute Assessments for all Units, including the new Units, for the balance of the fiscal year. Notwithstanding any provision of this Declaration apparently to the contrary, a Supplemental Declaration annexing Additional Property shall not be assessed for the costs of operating, maintaining, repairing, replacing or improving such Common Area or facility.

ARTICLE 11. MAINTENANCE RESPONSIBILITY

Section 11.1 Unit Owner's Rights and Duties with Respect to Interiors.

Each Unit Owner of a Unit shall have the exclusive right and duty to maintain, 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 good and functioning condition and repair all plumbing fixtures and equipment within the Unit from the point of connection with the building plumbing system and all electrical fixtures and equipment within the Unit commencing with (and including) the electrical panel that is located within 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 Areas, 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 Areas appurtenant to the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. A Unit Owner shall 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 Areas 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.

No labor performed or services or materials furnished with the consent of or at the request of an Owner or such Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against the Condominium of any other Owner or against any part thereof, or against any other Property of any other Owner, unless such other Owner has expressly consented to or requested in writing the performance of such labor or furnishing of such materials and services. 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 Areas, 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, 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. Except with the consent of the Board, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Unit other than a Commercial Unit, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Unit other than a Commercial Unit. Nothing in this paragraph shall be deemed to prohibit the right of the Owner of a Unit to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional associates, clients or customers, in his Unit. The Board shall not approve commercial activities otherwise prohibited by this paragraph unless the Board

determines that only normal residential activities would be observable outside of the Unit and that the activities would not be in violation of the applicable governmental ordinances.

Section 13.2 Use of Common Areas.

There shall be no obstruction of the Common Areas, nor shall anything be kept or stored on any part of the Common Areas by any Unit Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Areas 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 Areas, 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 Areas 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 Areas 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 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 Association. 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 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 to review them; and (b) processing and/or review fees, which may include any professional fees the Association 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. No animals, birds, insects, or livestock of any kind shall be raised, bred, or kept on or in the Condominium Project other than properly licensed and certified service animals for disabled persons and except dogs, cats and such other household pets as may be approved by the Board pursuant to the Rules and Regulations.

Section 13.6 Wildlife Protection.

The capturing, trapping, injuring, or killing of wildlife within the Condominium Project is expressly prohibited, except when reasonably necessary to avoid an imminent threat of personal injury or death to any person or except when reasonably necessary to protect property from damage by rodent or other pests and then only to the extent permissible under applicable laws.

Section 13.7 Pest Control.

No Owner shall permit any thing or condition to exist upon any Unit which shall induce, breed or harbor infectious plant diseases or noxious insects or vermin.

Section 13.8 Fire Sprinklers.

Any structure within Units in the Property intended for use and occupancy as an attached or detached residence must have automatic fire sprinkler systems installed, tested and maintained in accordance with codes and standards of the applicable Governmental Authority.

Section 13.9 Limit on Timesharing.

No Unit Owner shall offer or sell any interest in a Unit under a "timesharing" or "interval ownership" plan, or any similar plan, without the prior approval of the Association; provided, however, that Declarant shall have the right to develop and sell fractionalized ownership units, including, but not limited to units sold on the basis of timesharing and interval ownership plans, as a part of Declarant's Development Rights described in Section 15.2 below.

Section 13.10 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 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 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 13.11 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 commercial and retail operations.

Section 13.12 Parking Space Agreements and Restrictions of Use of Parking.

Unit Owners may enter into a Parking Space Agreement with the Association pursuant to which the Association may allocate and/or reallocate to a Unit one or more parking spaces as Limited Common Area, and the terms of which shall govern the Unit Owner's rights and obligations with respect to the parking space or spaces so allocated. No parking shall be permitted at any location on the Property unless specifically designated for parking by the Association or as reserved by Privately Owned Amenities in accordance with Article 7. No Owner may use any parking space that has been allocated as a Limited Common Area to another Owner. No Owner may use any parking space for storage or use any parking space in any manner that obstructs or interferes with any other Owner's parking rights or that constitutes a safety hazard. Without limiting the generality of the powers of the Association with respect to parking, 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, in all cases at the expense of the Owner or Occupant that owns such vehicle. 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.

Section 13.13 Storage Space Agreements and Restrictions on Use of Storage Areas.

Unit Owners may enter into a Storage Space Agreement with the Association pursuant to which the Association may allocate and/or reallocate to a Unit one or more storage spaces as Limited Common Area, and the terms of which shall govern the Unit Owner's rights and obligations with respect to the storage space or spaces so allocated. No storage is permitted outside of Units except in areas specifically designated by the Association as storage areas. No Owner may use any storage space allocated as a Limited Common Area to another Owner. No Owner may use any storage space in any manner that obstructs or interferes with any other Owner's storage rights or that constitutes a safety hazard. Without limiting the generality of the powers of the Association with respect to storage, the Association is specifically authorized, but not obligated, to remove any improperly stored or hazardous materials, in all cases at the expense

of the Owner or Occupant that owns such 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.

Section 13.14 Solid Waste.

Disposal of solid waste, including normal household waste and household hazardous waste from each Unit shall conform to the requirements and procedures approved by the Association.

Section 13.15 Prohibited Vehicles.

No mobile homes, recreational vehicle (including campers), snowmobiles, all terrain vehicles, dirt bikes and other vehicles designed primarily for off-road use, commercial vehicles, any vehicles exceeding 9,000 pounds in gross vehicle weight, any trailer of any kind, any truck with a rated load capacity greater than one ton, or any boat, shall be kept, placed, maintained or parked for more than 48 hours or such other period as may be permitted pursuant to policies approved by the Association in any Common Area or Limited Common Area. No motor vehicle of any type may be constructed, reconstructed or repaired in any Common Area or Limited Common Area except for temporary repairs necessary to move the vehicle. No stripped down, partially wrecked, inoperative or junk motor vehicle, or sizeable part thereof, shall be permitted to be parked in any Common Area or Limited Common Area.

ARTICLE 14. EASEMENTS

Section 14.1 Unit Owner's Easements of Enjoyment.

Except for the Restricted Areas, every Unit Owner and the Owner's tenants and guest shall have a right and easement of enjoyment in and to the Common Areas for the uses for which they are established, which easement 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 5. The use of Limited Common Areas shall be limited to the Owners of the Units to which the Limited Common Areas are allocated in this Declaration or any applicable Supplemental Declaration, and their respective tenants, invitees and licensees.

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 Areas 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 Map, Plat 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 C**.

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 Areas as follows:

- (a) in favor of all Unit Owners, so that they shall have no legal liability when any part of the Common Areas 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 Areas 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, 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 Areas and a right to make such use of the Common Areas 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 Areas 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 Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Areas therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas 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 Areas 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 Adjacent Common Areas.

The Owner of any Unit which adjoins any Common Areas shall, if the Association elects from time to time to so require, permit the Association to enter upon the Unit to perform the maintenance of such Common Areas.

Section 14.10 Easements for Stream and Pond Maintenance and Flood Water.

Declarant reserves for itself, and grants to the Association and its successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water, riparian corridors, and wetlands located within the Common Areas to: (a) install, operate, maintain, and replace pumps to supply irrigation water to the Common Areas; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Association's standards. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any portion of the Property abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this section. Declarant further reserves for itself, the Association and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Areas and Units (but not the dwelling thereon) adjacent to or within 150 feet of bodies of water and wetlands within the

Property, on order to: (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Areas; and (c) maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing in this Declaration shall be constructed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, or other natural occurrences.

Section 14.11 Easements Deemed Created.

All conveyances of Units hereafter made 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 set forth in this Article 15 (the "**Special Declarant Rights**"). The Special Declarant Rights include the following:

- (a) Completion of Improvements on the Units identified as F Units in this Declaration ("**Declarant's Development Units**") or, at Declarant's option, withdrawal of Declarant's Development Units from the Condominium Project in accordance with Section 15.2 below.
- (b) Completion of Improvements on Additional Property.
- (c) 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. Declarant shall have the right to show Units and the Common Areas to prospective purchasers and to arrange for the use of any recreational facilities within the Common Areas by prospective purchasers.
- (d) Construction Easements. The right to use easements described in this Declaration through the Common Areas for the purpose of developing Improvements on Declarant's Development Units and on the Additional Property in connection with, and for the purpose of, annexing them to the Project.
- (e) Amendment of Declaration. The right to amend this Declaration in connection with the exercise of the rights described in Section 15.2

below, subject, however, to the limitations set forth in this Article 15.

- (f) Amendment of Map. The right to amend the Map in connection with the exercise of the rights described in Section 15.2 below, subject, however, to the limitations set forth in this Article 15.
- (g) Additional Easements. The right to have such additional easements for ingress, egress and utilities as may be reasonably necessary and appropriate to accommodate the uses of and Improvements to Developer's Development Units and/or the Additional Property (if annexed to the Project), such easements to be granted by the Association in writing in the exercise of its reasonable discretion and recorded in the Records. The Association and Developer shall cooperate in good faith to negotiate, execute, deliver and record those easements to that are required by this Section 15.1(g).
- (h) Signs. The right to place signs in the Common Areas to maintain customer relations and provide post-sale services to Unit Owners, subject, however, to the reasonable approval of the Association as to number, location and character of the signs and subject to Section 13.10 of this Declaration.

Section 15.2 Right to Annex; Withdrawal of Declarant's Development Units.

(a) Declarant shall have the right to annex (the "**Development Rights**") all or any part of the real property described in Schedule I attached hereto and incorporated herein by this reference, any portion of that real property that is annexed being referred to as "**Additional Property**," and thereby encumber said Additional Property with this Declaration, create one or more Units, and additional Common Areas and Limited Common Areas, and bring all of those Units, Common Areas and Additional Common Areas within the scheme of the Condominium Project and this Declaration and subject to the jurisdiction of the Association; *provided, however* that any improvements constructed on or to the Additional Property, and the use of the Additional Property and of any improvements on or to the Additional Property, at all times shall be compatible with a luxury residential condominium. Luxury hotel, condominium hotel, and fractionalized ownership units (including, but not limited to, units sold on a "timesharing" or "interval ownership plan") are recognized as uses (among others) that are compatible with a luxury residential condominium. Declarant shall have the right to improve and use the Additional Property and Declarant's Development Units for any one or more such recognized uses notwithstanding any contrary provision of this Declaration. Subject to the limitations set forth in this Section 15.2, the consent of the existing Unit Owners, First Mortgagees or other holders of any Security Interest shall not be required for any such annexation and Declarant may proceed with such annexation without limitation at its sole option.

(b) Declarant shall have the right, without the consent of the Association or any Owner, to withdraw Declarant's Development Units from the Condominium Project by recording a document evidencing that withdrawal in the Records; *provided, however, that*

Declarant's Development Units may not be withdrawn after construction of any structure or structures on Declarant's Development Units has commenced; and provided further that Declarant's Development Units shall at all times be subject to whatever easements (if any) are reasonably necessary for access to and operation of the Condominium Project. Declarant shall prepare and record in the Records whatever documents are necessary to evidence such easements. The Association agrees to cooperate with Declarant in effectuating the withdrawal of Declarant's Development Units, including amending any Maps and this Declaration upon request of Declarant.

Section 15.3 Procedure for Annexation.

Any annexation shall be made by recordation of a Supplemental Declaration covering the Additional Property to be annexed. The Supplemental Declaration shall describe the Additional Property to be annexed, state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the Additional Property, state whether the Additional Property is to be annexed as Residential Units, Commercial Units or a combination thereof, and identify the character of each Unit being annexed as Residential or Commercial. The Supplemental Declaration may contain such complementary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any, of the Additional Property, provided, however, that the character of the Additional Property, and the additions and modifications to the terms of this Declaration are in each instance consistent with Section 15.2 above and otherwise with the general scheme of this Declaration to provide for a luxury residential condominium and uses that are compatible with a luxury residential condominium. Luxury hotel, condominium hotel, and fractionalized ownership units are recognized as uses (among others) that are compatible with a luxury residential condominium. The Supplemental Declaration shall reallocate the Allocated Interests in the Project so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to this Declaration; provided that any allocation shall comply with the requirements of the Act and of this Declaration. The Allocated Interests appurtenant to each Unit in the Project, shall be a percentage determined by dividing the square footage of each Unit by the total square footage of all of the Units, except, however, the Allocated Interests with respect to tax assessments and Liability, which shall be allocated as provided in Section 3.10(d). Annexation shall be effective upon recordation of the Supplemental Declaration in the Records, accompanied by a revised Condominium Map, whereupon the Additional Property described therein shall be subject to all of the provisions of this Declaration, to the extent made applicable by the Supplemental Declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration, the Articles and Bylaws.

Section 15.4 Additional Property.

Each owner of a Unit in an Additional Property automatically shall be a member of the Association and such owners and Additional Property shall be subject to assessment by the Association for the benefit of the Project or any part thereof. Upon annexation, the Unit Owners of such additional Units shall be entitled to Association voting rights that are consistent with the voting rights of Unit Owners of other portions of the Property. The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and Bylaws with respect to the Additional Property. Except as may otherwise be expressly provided in this

Declaration or any Supplemental Declaration, the Project shall be managed and governed by the Association as an entirety. All owners shall have ingress and egress to and from all Common areas throughout the Project and any phase thereof, including any Common Areas created on the Additional Property, and shall have use and enjoyment of any recreational facilities and other amenities contained within the Common Area throughout the project, provided that any such use shall be subject to the provisions of this Declaration, any Supplemental Declaration, the Bylaws and the Rules and Regulations.

Section 15.5 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 may be exercised so long as Declarant (1) is obligated under any warranty (other than a warranty of title) or obligation to the Association or any Unit Owner or (b) owns any Unit or holds a security interest in any Unit; provided, however, that if they have not terminated earlier, all Special Declarant Rights shall terminate seven (7) years after the date of recording this Declaration. Notwithstanding the foregoing, earlier termination of certain rights may occur pursuant to requirements of the Act.

Section 15.6 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 15.7 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 Areas 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.** Notwithstanding the provisions of Section 16.1 set forth above, each Owner shall obtain insurance at the Owner's own expense providing coverage on the Owner's Unit, personal property, personal liability, and covering such other risks as the Owner may deem appropriate, but each policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies that the Association obtains pursuant to this Section. All such insurance on the Owner's Unit shall waive the insurance company's right of subrogation against the Association, the other Unit Owners, and their agents, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation.

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 Areas 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 benefiting 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 pro rata 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 Areas 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 Areas 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 Areas 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 Areas 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 Project is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all Unit Owners and after written notice to all holders of a Security Interest, the Project, or a portion of it, may be sold by the Board of Directors acting as an attorney-in-fact under an irrevocable power of attorney 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 Units in the Project.

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 Areas.

Section 18.3 Taking in Lieu of Sale.

If the Condominium Project, or a portion of it, is not sold but is taken, the judgment of condemnation shall by its terms apportion the condemnation award among the Unit Owners and their respective mortgagees. The Association shall represent the Unit Owners in any proceedings, negotiations, settlements or agreement regarding a condemnation of any part of the Project.

Section 18.4 Reallocation of Allocated Interests.

Upon sale under threat of condemnation or transfer as a result of condemnation of any portion of the Project, the Allocated Interests appurtenant to each remaining Unit shall be calculated in accordance with the provisions of this Declaration and the Act.

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 Areas 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 Areas (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 Areas 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 Areas 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 Areas. 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 17 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 initial date of recordation October 27, 2000 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 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 20.5 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.

Section 20.6 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 accordance with Article 8 of the Second Amended and Restated Bylaws.

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 and Schedules.

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

Section 21.9 Choice of Law.

This Declaration is established under and shall be governed by, and construed in accordance with, the laws of the State of Idaho, without regard to its conflicts of law rules, in all respects, including, without limitation, matters of construction, validity and performance.

[Remainder of page left intentionally blank.]

Executed as of the 29th day of October, 2006.

THUNDER SPRING L.L.C., a Delaware limited liability company

By: Charles W. Schoenherr
Name: **Charles W. Schoenherr**
Title: Authorized Signatory

THUNDER SPRING CONDOMINIUM OWNERS ASSOCIATION, INC., an Idaho nonprofit corporation

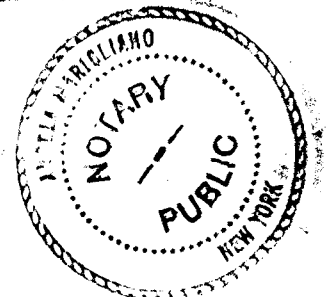
By: Paul Brainerd
Name: **PAUL BRAINERD**
Title: **PRESIDENT**

STATE OF New York)
) ss
County of New York)

On this 9 day of October, 2006, before me, Angela Marigliano, a notary public in and for said state, personally appeared Charles W. Schoenherr, known or identified to me to be the Authorized Signatory of Thunder Spring, L.L.C., a Delaware limited liability company, and the member 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.

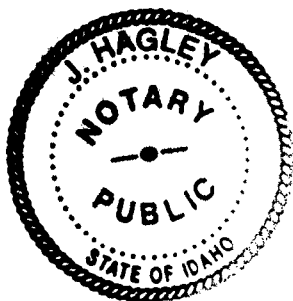
Angela Marigliano
Notary Public for ~~Idaho~~ **New York**
Residing at _____
My commission expires: _____
ANGELA MARIGLIANO
NOTARY PUBLIC, State of New York
No. 01MA6133217
Qualified in Richmond County
Commission Expires September 12, 2009



STATE OF Idaho)
) ss
County of Blaine)

On this 27th day of October, 2007th, before me, Josh Hagley, a notary public in and for said state, personally appeared Paul Brunetti, known or identified to me to be the President of Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit corporation, and the officer or one of the officers who subscribed said corporation 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.



J. Hagley
Notary Public for Idaho
Residing at 411 W. Main St. Ketchikan, ID
My commission expires: 1/8/2013

EXHIBIT A – PROPERTY

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.

EXHIBIT B
TO DECLARATION

Table of Allocated Interests

Unit Number	Size	Percentage Share
A1-1 Sun Peak	1,885	0.935%
A1-2	3,158	1.567%
A1-3	2,712	1.345%
A1-4	1,461	0.725%
A1-5	1,632	0.810%
A2-1 Sun Path	2,203	1.093%
A2-2	1,364	0.677%
A2-3	2,169	1.076%
A2-4	2,039	1.012%
A2-5	2,125	1.054%
A2-6	1,655	0.821%
B1-1 Morning Sun	2,918	1.448%
B1-2	1,520	0.754%
B1-3	1,449	0.719%
B1-4	1,062	0.527%
B1-5	2,911	1.444%
B1-6	1,408	0.699%
B1-7	1,441	0.715%
B1-8	1,068	0.530%
B1-9	2,960	1.469%
B1-10	2,316	1.149%
B1-11	1,351	0.670%
B2-1 Sun Cloud	2,487	1.234%
B2-2	2,373	1.177%
B2-3	1,875	0.930%
B2-4	2,481	1.231%
B2-5	2,483	1.232%
B2-6	3,196	1.586%
B2-7	4,369	2.168%
C-1 Thunder Cloud	1,742	0.864%
C-2	1,072	0.532%
C-3	928	0.460%
C-4	2,723	1.351%
C-5	1,740	0.863%

Unit Number	Size	Percentage Share
C-6	2,651	1.315%
C-7	2,310	1.146%
C-8	1,723	0.855%
C-9	3,392	1.683%
C-10	3,361	1.667%
C-11	3,511	1.742%
C-12	3,480	1.727%
C-13 Zenergy Office	609	0.302%
C-14	3,190	1.583%
C-15	3,387	1.680%
C-16	3,399	1.686%
C-17	3,447	1.710%
C-18	2,384	1.183%
C-19	3,008	1.492%
E-1 Coyote Moon	1,996	0.990%
E-2	2,880	1.429%
E-3	2,328	1.155%
E-4	3,747	1.859%
E-5	2,970	1.473%
E-6	3,108	1.542%
E-7	1,800	0.893%
G-1 Mountain Dance	3,042	1.509%
G-2	4,681	2.322%
G-3	1,152	0.572%
G-4	3,093	1.535%
G-5	3,362	1.668%
G-6	2,324	1.153%
G Zenergy	42,893	21.280%
H-1 North Star	4,539	2.252%
H-2	3,240	1.607%
H-3	4,279	2.123%
	201,562	100.000%

EXHIBIT C – EASEMENTS AND LICENSES OF RECORD

1. Any and all unpaid taxes and assessments and any unredeemed tax sales.
2. The Thunder Spring Large Block Plat, recorded March 10, 2000, as Instrument No. 437167, records of Blaine County, Idaho.
3. The Condominium Plat(s) for the condominiums at Thunder Spring
4. Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Thunder Spring Development, a Condominium, recorded Dec 24, 2007, as Instrument No. 554269, records of Blaine County, Idaho.
5. Declaration of Special Covenants, Conditions and Restrictions, recorded December 5, 1997, as Instrument No. 408654, records of Blaine County, Idaho.

EXHIBIT D – CONDOMINIUM MAP

LEGEND

- EASEMENT LINE
- MASS CAP FOUND
- 3/8" IRON PIPE FOUND

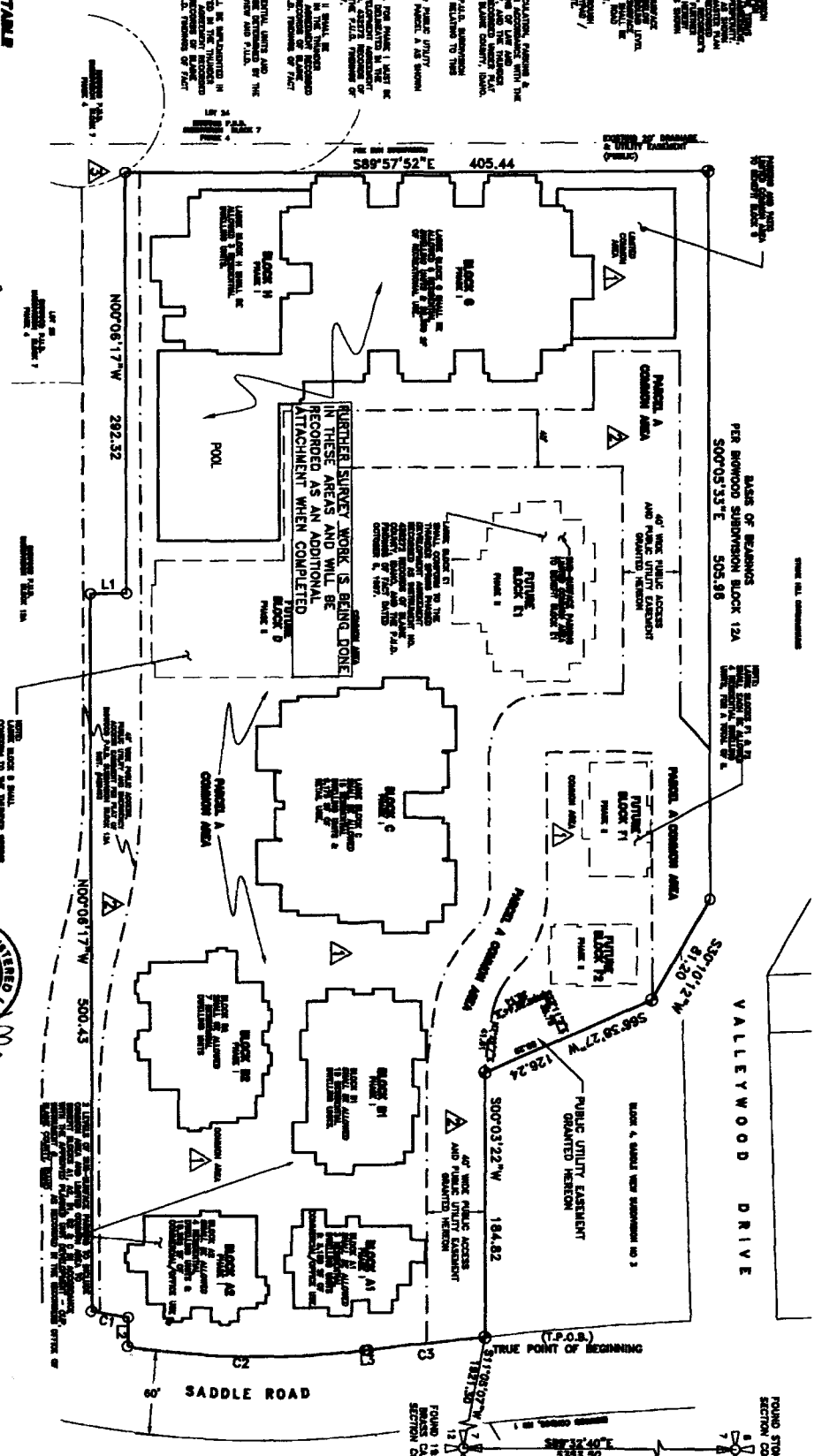
KEYNOTES

1. THE LOTS SHOWN ON THIS PLAT ARE THE RESULT OF THE SUBDIVISION OF THE LAND SHOWN ON THE PLAT DATED OCTOBER 1, 1987.
2. THE LOTS SHOWN ON THIS PLAT ARE THE RESULT OF THE SUBDIVISION OF THE LAND SHOWN ON THE PLAT DATED OCTOBER 1, 1987.
3. THE LOTS SHOWN ON THIS PLAT ARE THE RESULT OF THE SUBDIVISION OF THE LAND SHOWN ON THE PLAT DATED OCTOBER 1, 1987.
4. THE LOTS SHOWN ON THIS PLAT ARE THE RESULT OF THE SUBDIVISION OF THE LAND SHOWN ON THE PLAT DATED OCTOBER 1, 1987.
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10. THE LOTS SHOWN ON THIS PLAT ARE THE RESULT OF THE SUBDIVISION OF THE LAND SHOWN ON THE PLAT DATED OCTOBER 1, 1987.

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10. THE LOTS SHOWN ON THIS PLAT ARE THE RESULT OF THE SUBDIVISION OF THE LAND SHOWN ON THE PLAT DATED OCTOBER 1, 1987.

THUNDER SPRING LARGE BLOCK PLAT
 LOCATED WITHIN SECTION 7, T4N, R18E, S4M, KETCHIKAN BLAINE COUNTY, IDAHO
 A SUBDIVISION OF THUNDER SPRING PARCEL A, BROWOOD PLUD, SUBDIVISION, BLOCK 12A,
 INTO BLOCKS FOR FUTURE DEVELOPMENT.
 MARCH 2000



LANE TABLE

LANE NO.	DIRECTION	START POINT	END POINT	DISTANCE
L1	N 87°33'45" E	23.00	23.00	23.00
L2	N 07°08'17" W	20.24	20.24	20.24
L3	S 83°14'48" W	1.34	1.34	1.34

CURVE TABLE

STATION	CHORD BEARING	CHORD DISTANCE	CHORD LENGTH
C1	02°22'18"	600.47	23.40
C2	19°18'50"	650.87	83.37
C3	01°20'59"	3100.85	81.87

PREPARED BY: BENCHMARK ASSOCIATES, P.A.
 P.O. BOX 733, KETCHIKAN, ID 83340
 (208) 726-9312; 726-9314 (FAX)
 E-MAIL: BENCHMARK@BENCHMARK.COM

HEALTHY CERTIFICATE

Sanitary regulations as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary conditions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1324, by the issuance of a certificate of dispensation.
 Date: 3-8-00
 South Central District Health Dept., EHS



THUNDER SPRING LARGE BLOCK PLAT
 DRAWN BY: DCS
 DATE: 03/07/00
 PROJECT NO. B9444

SUN PEAK CONDOMINIUMS AT THUNDER SPRING UNITS A1-2A & A1-3A

LOCATED WITHIN SECTION 7, T4N, R18E, B4M, KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN CONDOMINIUM UNITS A1-2 AND A1-3 WITHIN SUN PEAK CONDOMINIUMS AT THUNDER
SPRING (INST. NO. 4529955) ARE AMENDED CREATING UNITS A1-2A AND A1-3A.

SEPTEMBER 2007



LEGEND:

- EASEMENT LINE
- BRASS CAP FOUND
- 5/8" REBAR FOUND

KEYNOTES:

1. THE LAND OWNER HAS ALL RECORDS AND PLANS FOR THE SUN PEAK CONDOMINIUMS AT THUNDER SPRING, IDAHO, AND HAS PROVIDED THE RECORDS AND PLANS TO THE ARCHITECT FOR THIS PROJECT. THE ARCHITECT HAS REVIEWED THE RECORDS AND PLANS AND HAS DETERMINED THAT THE RECORDS AND PLANS ARE CORRECT AND ACCURATE. THE ARCHITECT HAS NOT CONDUCTED A FIELD SURVEY OF THE PROJECT AND HAS NOT VERIFIED THE ACCURACY OF THE RECORDS AND PLANS. THE ARCHITECT HAS NOT CONDUCTED A FIELD SURVEY OF THE PROJECT AND HAS NOT VERIFIED THE ACCURACY OF THE RECORDS AND PLANS.
2. THE ARCHITECT HAS REVIEWED THE RECORDS AND PLANS AND HAS DETERMINED THAT THE RECORDS AND PLANS ARE CORRECT AND ACCURATE. THE ARCHITECT HAS NOT CONDUCTED A FIELD SURVEY OF THE PROJECT AND HAS NOT VERIFIED THE ACCURACY OF THE RECORDS AND PLANS.
3. THE ARCHITECT HAS REVIEWED THE RECORDS AND PLANS AND HAS DETERMINED THAT THE RECORDS AND PLANS ARE CORRECT AND ACCURATE. THE ARCHITECT HAS NOT CONDUCTED A FIELD SURVEY OF THE PROJECT AND HAS NOT VERIFIED THE ACCURACY OF THE RECORDS AND PLANS.
4. THE ARCHITECT HAS REVIEWED THE RECORDS AND PLANS AND HAS DETERMINED THAT THE RECORDS AND PLANS ARE CORRECT AND ACCURATE. THE ARCHITECT HAS NOT CONDUCTED A FIELD SURVEY OF THE PROJECT AND HAS NOT VERIFIED THE ACCURACY OF THE RECORDS AND PLANS.

NOTES:

1. The usable open space circulation, parking and other openings shall be in accordance with the applicable codes, ordinances, rules and regulations of Blaine County, Idaho, and the State of Idaho, and the applicable codes, ordinances, rules and regulations of Blaine County, Idaho, and the State of Idaho.
2. Refer to the original plat of "Thunder Spring Lodge Black Pine", recorded as Instrument No. 437187, and "Sun Peak Condominiums at Thunder Spring", recorded as Instrument No. 4529955, records of Blaine County, Idaho, for the original plat of "Thunder Spring Lodge Black Pine", recorded as Instrument No. 437187, and the "Thunder Spring Lodge Black Pine", recorded as Instrument No. 437187, records of Blaine County, Idaho.
3. The "Redaction of Condominiums and Restrictions for Thunder Spring Development" was recorded as Instrument No. 444556, and the "Amended & Restated Declaration of Condominiums and Restrictions of Thunder Spring Development" was recorded as Instrument No. 444556, records of Blaine County, Idaho.
4. The lot to and between Blaine County OS Monument one in 1400 S3 Idaho Canal Zone and one of five.

CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT CHORD	DIRECTION	CHORD LENGTH
C1	02°23'18"	800.87	28.40	13.70	N 79°58'31" W	25.4
C2	15°18'58"	820.87	183.35	83.27	N 89°08'53" W	185.06
C3	01°30'58"	5708.85	81.97	40.89	S 84°00'08" W	81.97

LINE TABLE

NUMBER	DIRECTION	E	W	S	N	DISTANCE
L1	N 89°55'43"	E				23.00
L2	N 00°06'17"	W				20.24
L3	S 83°14'49"	W				7.34

PREPARED BY: BENCHMARK ASSOCIATES, P.A.
P.O. BOX 733, 1100 BELL DRIVE
KETCHUM, IDAHO 83340
(208) 726-9512 / 726-9514 (FAX)
CORPORATE © 2007 BY BENCHMARK ASSOCIATES

HEALTH CERTIFICATE

Sanitary conditions as required by Idaho Code Title 59, Chapter 13, have been determined to be satisfactory in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of approval.

Date: _____

South Central District Health Dept., EHS

SUN PEAK CONDOMINIUMS AT THUNDER SPRING UNITS A1-2A & A1-3A

LOCATED WITHIN SECTION 7, T4N, R18E, B4M, KETCHUM, BLAINE COUNTY, IDAHO.

A CONDOMINIUM PLAT DRAWN BY L.L./CPL FILE 080 41901-REG.DWG PROJECT NO. 08014 DATE: 9/14/07 SHEET 1 OF 6

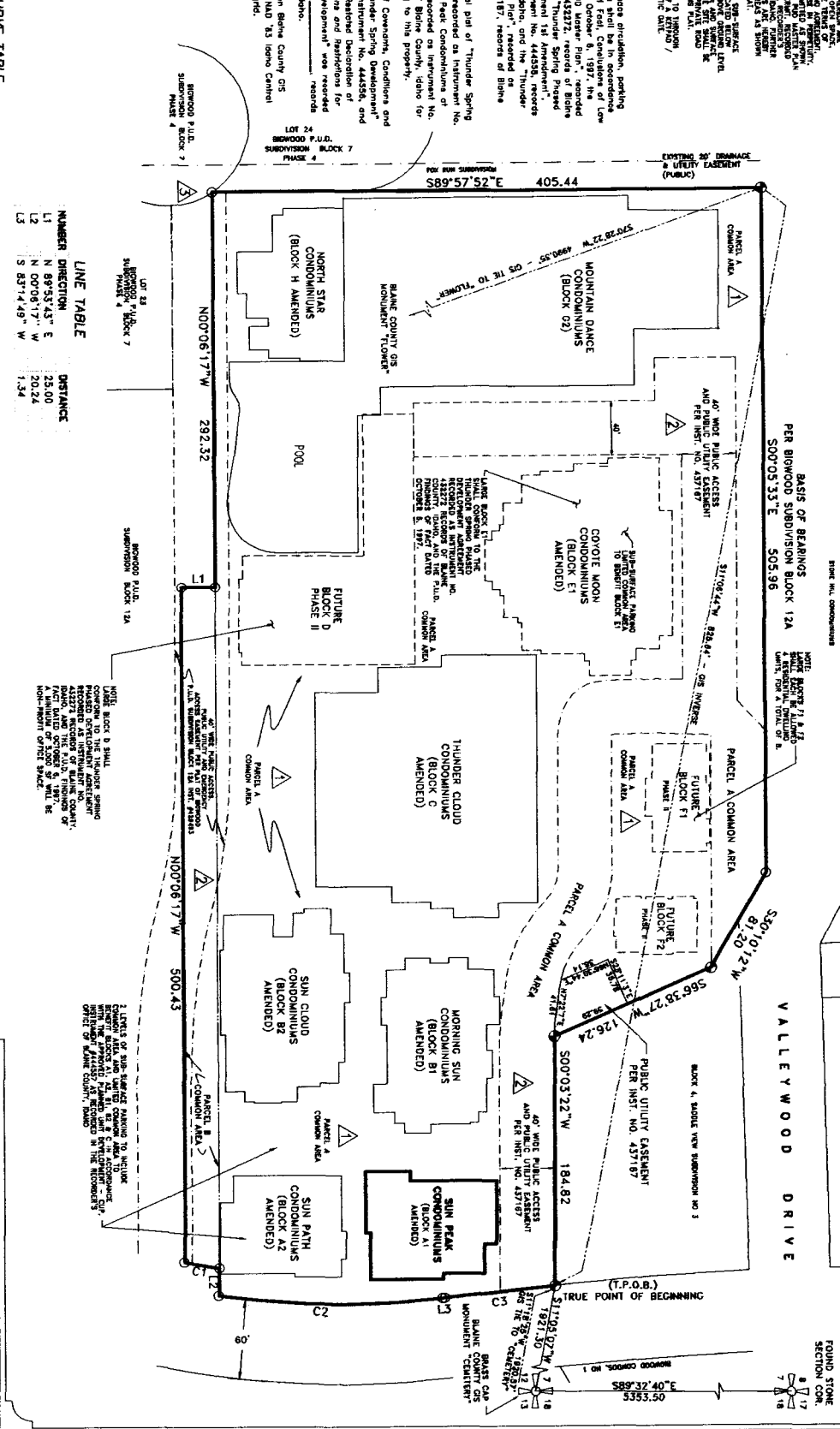
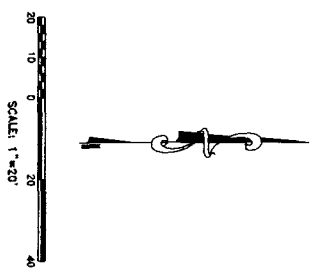
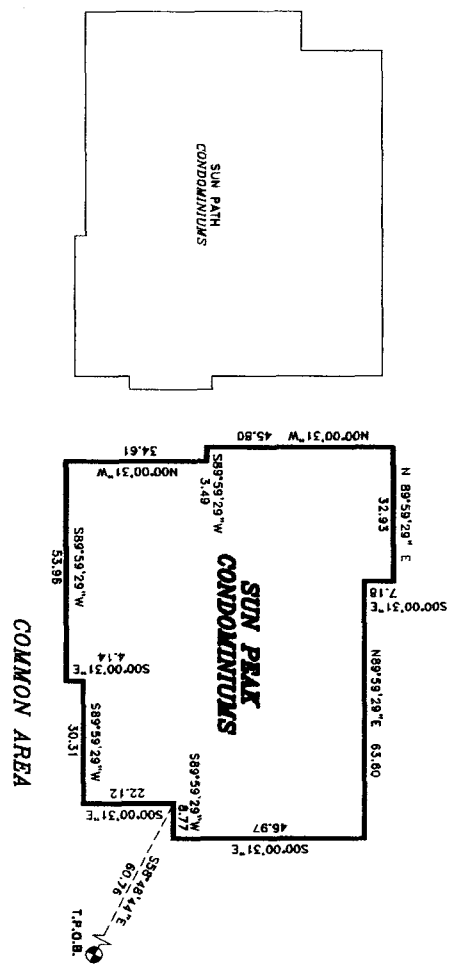
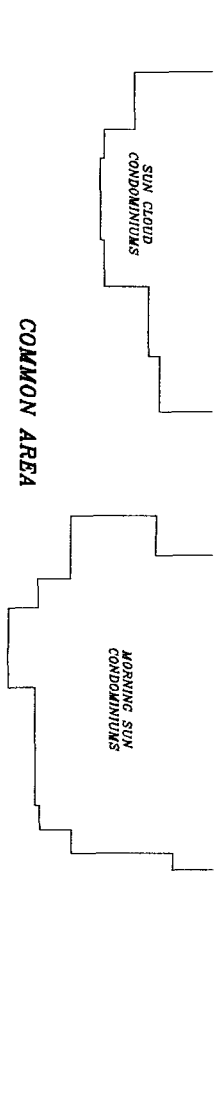
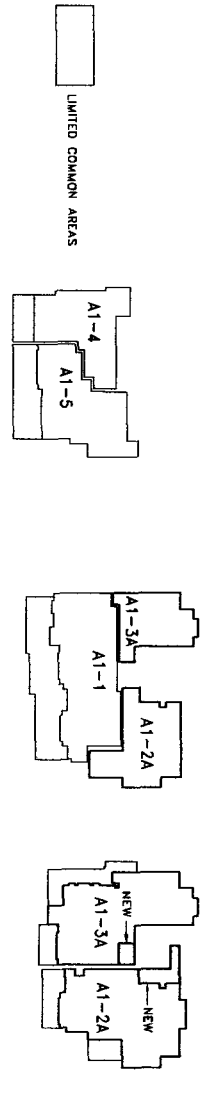


EXHIBIT D



NOTES:

1. IN INTERPRETING THE DECLARATION, PLAT OR PLATS, AND DEEDS THE EXISTING PHYSICAL BOUNDARIES OF A UNIT AS ORIGINALLY CONSTRUCTED OR RECONSTRUCTED IN USE THEREOF SHALL BE CONCLUSIVELY PRESUMED TO BE SHOWN ON THIS PLAT UNLESS THE METES AND BOUNDS ARE TOP OF FINISHED SUBFLOOR AND BOTTOM OF FINISHED CEILING; VERTICAL PLANES ARE FINISHED SURFACES OF INTERIOR WALLS. SOME STRUCTURAL MEMBERS EXTEND INTO UNITS. UNITS SHALL BE SUBJECT TO SLIGHT VARIATIONS, OWING TO NORMAL CONSTRUCTION TOLERANCES.
2. HORIZONTAL OR SLOPING PLANES SHOWN HEREON ARE TOP OF FINISHED SUBFLOOR AND BOTTOM OF FINISHED CEILING; VERTICAL PLANES ARE FINISHED SURFACES OF INTERIOR WALLS. SOME STRUCTURAL MEMBERS EXTEND INTO UNITS.
3. DIMENSIONS SHOWN HEREON WILL BE SUBJECT TO SLIGHT VARIATIONS, OWING TO NORMAL CONSTRUCTION TOLERANCES.
4. ELEVATIONS SHOWN HEREON ARE REFERENCED TO NODD-29 DATUM.
5. CONSULT THE CONDOMINIUM DECLARATIONS FOR THE DEFINITION OF COMMON AREA AND COMMON AREAS BEHIND THE AREA OUTSIDE OF THE UNIT BOUNDARIES IS COMMON AREA.

PREPARED BY : BENCHMARK ASSOCIATES, P.A.
 715 N. 1000 BELL DRIVE
 KETCHUM, IDAHO 83340
 (208) 726-9512 ; 726-9514 (FAX)
 COPYRIGHT © 2007 BY BENCHMARK ASSOCIATES

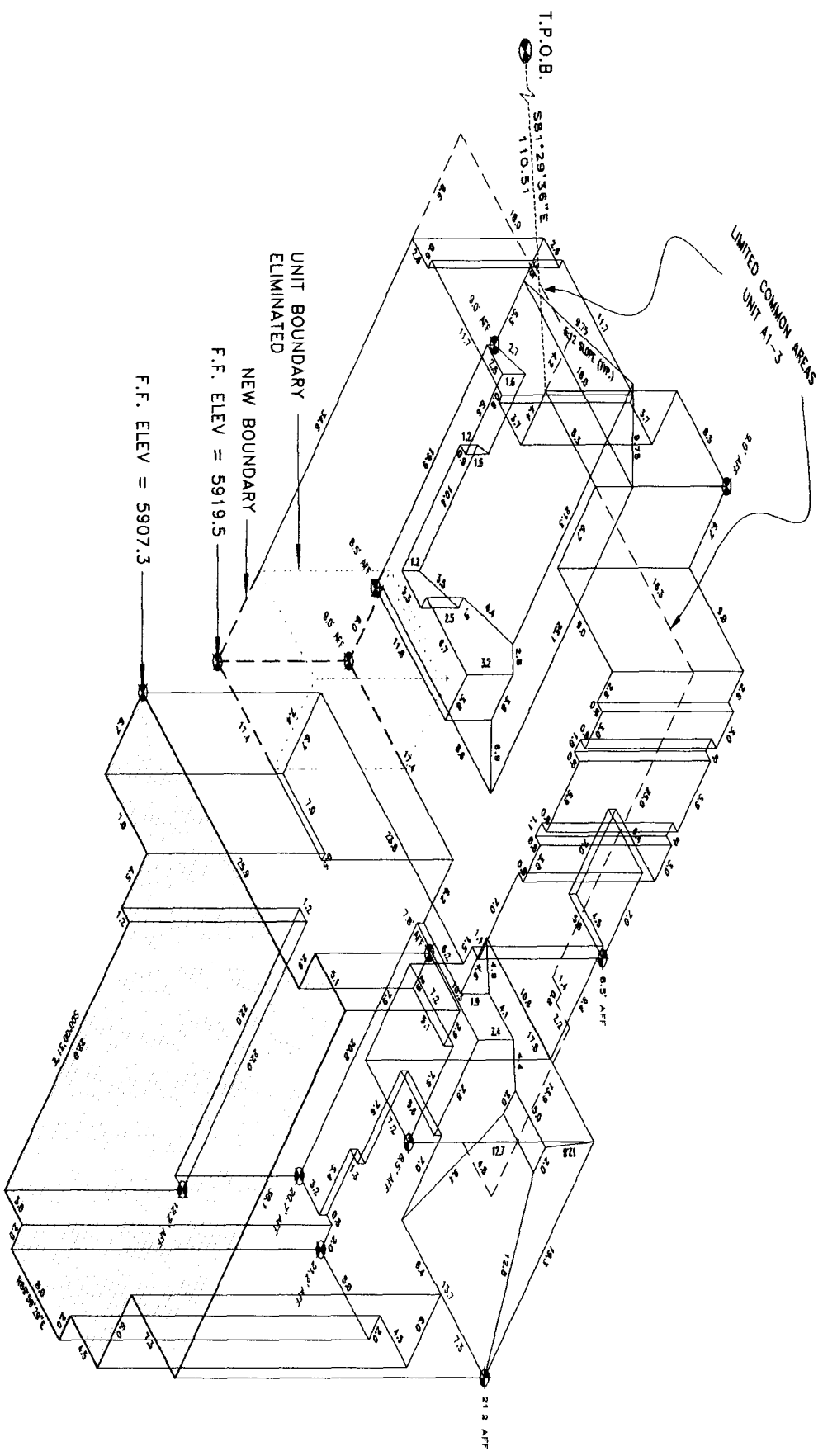
SUN PEAK CONDOMINIUMS
AT THUNDER SPRING
UNITS A1-2A & A1-3A

LOCATED WITHIN SECTION 7, T4N, R6E, B1M,
 KETCHUM, BLAINE COUNTY, IDAHO.

A CONDOMINIUM PLAT DRAWN BY: DCS/CPL FILE: 08014P61-PG2.DWG
 PROJECT NO. 08014 DATE: 09/19/07 SHEET 2 OF 6

PREPARED BY: BENCHMARK ASSOCIATES, P.A.
 P.O. BOX 733, KETCHUM, ID 83340
 (208) 726-9312 : 726-9314 (FAX)

UNIT A1-3A



SUN PEAK CONDOMINIUMS
 AT THUNDER SPRING
 UNITS A1-2A & A1-3A

LOCATED WITHIN SECTION 7, 16N, 08E, 84W,
 KETCHUM, BLAINE COUNTY, IDAHO.

A CONDOMINIUM PLAT DRAWN BY: LU/CEP FILE 08014, A13A.DWG
 PROJECT NO. 08014 DATE: 08/19/07 SHEET 4 OF 8

EXHIBIT D

LEGEND:

- EASEMENT LINE
- BRASS CAP FOUND
- 5/8" REBAR FOUND

KEY NOTES:

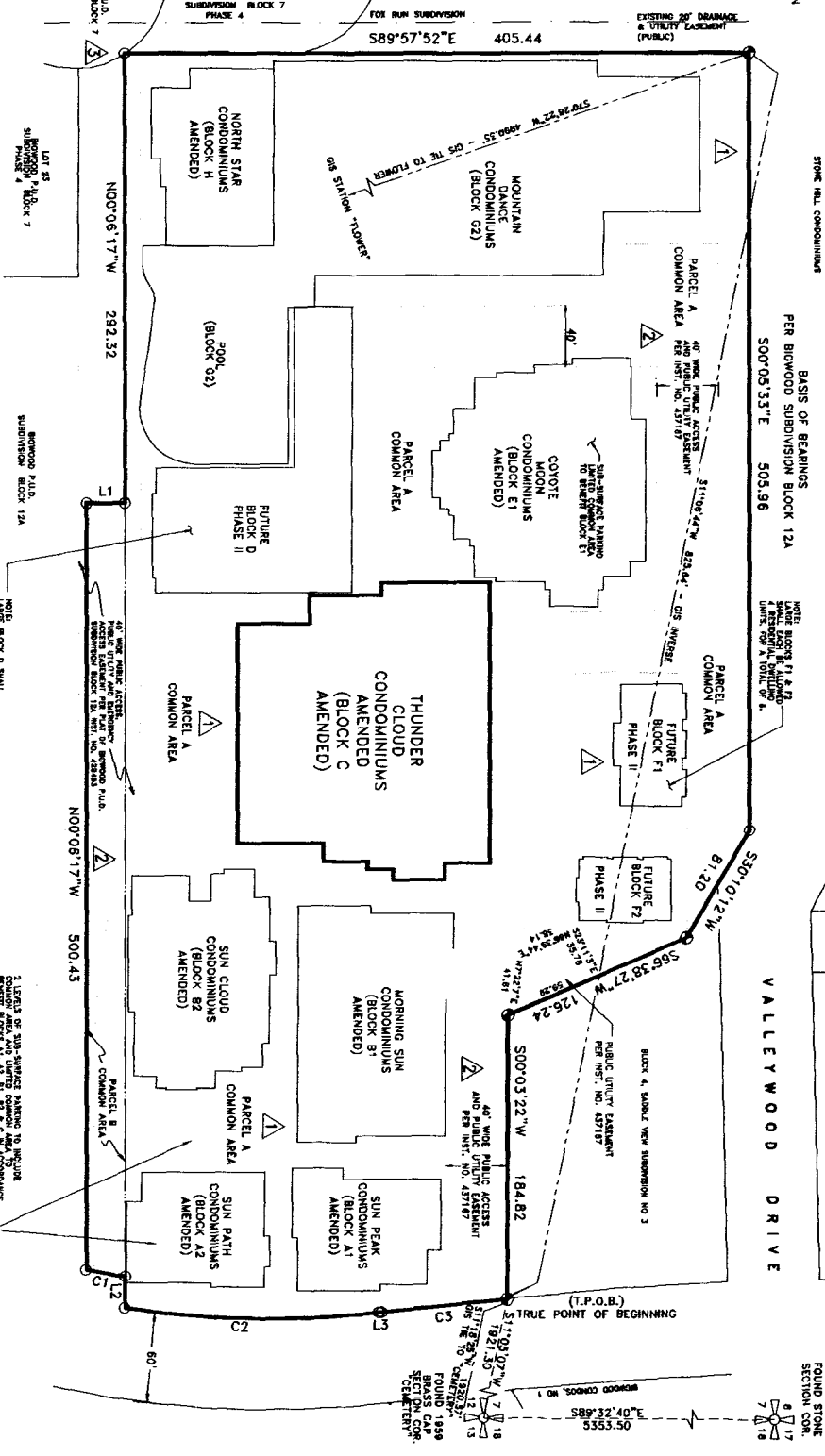
1. THE LAND OUTSIDE ALL BLOCKS AND UNITS IS DESIGNATED AS COMMON OPEN SPACE. THE DEVELOPMENT PHASING AGREEMENT AVAILABLE FOR PUBLIC USE IN PERPETUITY, UNLESS OTHERWISE SPECIFICALLY ASSIGNED AND CONDITIONAL USE PERMIT, RECORDED AS INSTR. NO. 444857, RECORDED'S OFFICE, BLAINE COUNTY, IDAHO, FURTHER PUBLIC UTILITY EASEMENTS ARE SHOWN ON THE LARGE BLOCK PLAN.
2. INGRESS/EGRESS TO THE ABOVE GROUND GARAGE EAST OF BLOCK G AND SURFACE BE PERMITTED TO USE THE PRIVATE ROAD EASEMENT SHOWN ON THIS PLAN.
3. ROADWAY TO BE CLOSED TO THROUGH TRAFFIC WITHIN THE ABOVE AREA / WHEN ORDERED BY LOCAL DATE.

NOTES:

1. The usable open space circulation, parking and other amenities shall be in accordance with the findings of Final Conclusions of Law "Thunder Spring Pup Master Plan", recorded as Instrument No. 432272, records of Blaine County, Idaho, the Thunder Spring Phased Development Agreement for Amendment, recorded as Instrument No. 432272, records of Blaine County, Idaho, and the Thunder Spring Large Block Plan, recorded as Instrument No. 437157, records of Blaine County, Idaho.
2. Refer to the following plans for additional information regarding this project: "Thunder Spring Large Block Plan" (Inst. No. 337187), "Thunder Cloud Condominiums of Thunder Spring Phased Development" (Inst. No. 432272), "Thunder Cloud Condominiums of Thunder Spring" (Inst. No. 448153), & "Thunder Cloud Condominiums of Thunder Spring" (Inst. No. 433072).
3. The "Redaction of Documents, Conditions and Restrictions" was recorded as Inst. No. 433072, recorded as Instrument No. 433072, records of Blaine County, Idaho.
4. The lot is end between Blaine County OS Monument 091 in T4N R18E B1M Idaho Control Zone and one of 910.
5. The "Redaction of Documents, Conditions and Restrictions" was recorded as Inst. No. 433072, recorded as Instrument No. 433072, records of Blaine County, Idaho.

THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 437167), SECTION 7, T4N, R18E, B1M, KETCHUM, BLAINE COUNTY, IDAHO.
 WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A
 A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13, AND FLOOR DESIGNATIONS ARE AMENDED.
 NOVEMBER 2007

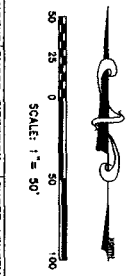


LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 89°53'43" E	25.00
L2	N 00°06'17" W	20.24
L3	S 83°14'49" W	1.34

CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT CHORD	DIRECTION	CHORD LENGTH
C1	02°28'16"	600.67	23.40	12.70	N 79°56'31" W	23.40
C2	1°51'6.99"	620.67	185.55	83.27	N 89°05'27" W	165.08
C3	01°50'39"	3108.63	81.97	40.99	S 84°00'08" W	81.97



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HEALTH CERTIFICATE
 Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of disapproval.
 Date: _____
 South Central District Health Dept., EHS

THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

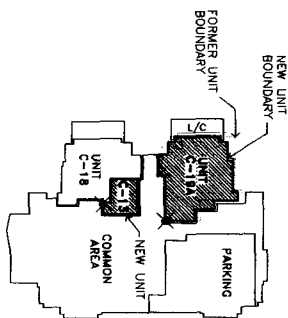
LOCATED WITHIN SECTION 7, T4N, R18E, B1M, KETCHUM, BLAINE COUNTY, IDAHO

DRAWN BY: LLD/BMP/CP DATE: 11/01/07
 PROJECT NO. 06014 PLOT FILE: 06014P1.0WG SHEET 1 OF 11

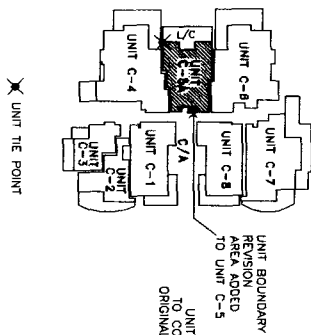
THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 43767), SECTION 7, T4N, R18E, B.M., KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A.
A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13. AND FLOOR DESIGNATIONS ARE AMENDED.
NOVEMBER 2007

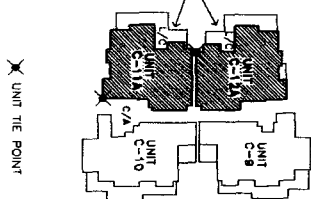
THUNDER CLOUD BASEMENT
(FORMER FIRST FLOOR DESIGNATION)
N.T.S.



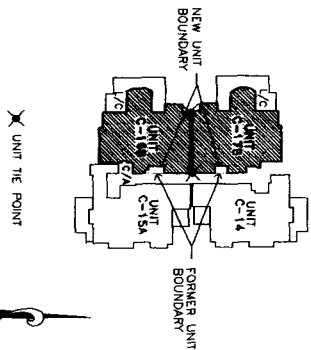
THUNDER CLOUD FIRST FLOOR
(FORMER SECOND FLOOR DESIGNATION)
N.T.S.



THUNDER CLOUD SECOND FLOOR
(FORMER THIRD FLOOR DESIGNATION)
N.T.S.

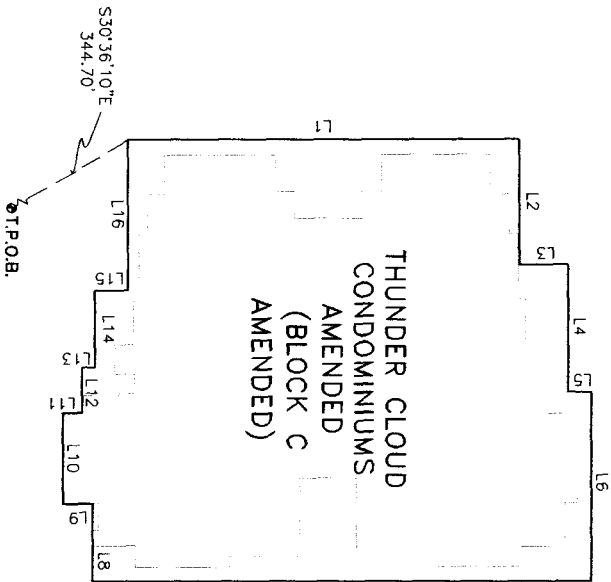


THUNDER CLOUD THIRD FLOOR
(FORMER FOURTH FLOOR DESIGNATION)
N.T.S.



LINE	BEARING	DISTANCE
L1	N00°03'16"W	144.23
L2	N00°03'16"E	174.23
L3	N00°03'16"W	174.23
L4	N89°56'44"E	46.96
L5	N00°03'16"W	8.52
L6	N89°56'44"E	70.09
L7	S00°03'18"E	183.88
L8	S89°56'44"W	28.08
L9	S00°03'18"E	10.99
L10	S89°56'44"W	33.57
L11	N00°03'16"W	7.15
L12	S89°56'44"W	16.62
L13	N00°03'16"W	4.78
L14	S89°56'44"W	28.45
L15	N00°03'16"W	12.31
L16	S89°56'44"W	55.95

LINE TABLE



NOTES:

1. IN INTERPRETING THE REGULATION PLAT OR PLATS, AND DEFS THE EXISTING PERICAL BOUNDARIES OF A UNIT AS ORIGINALLY CONSTRUCTED OR RECONSTRUCTED IN LIEU THEREOF SHALL BE CONCLUSIVELY PRESUMED TO BE ITS BOUNDARIES RATHER THAN THE METES AND BOUNDS SHOWN ON THIS PLAT.
2. HORIZONTAL OR STOPPING PLANES SHOWN HEREON ARE THE FINISHED SURFACES OF THE CEILING AND FINISHED SURFACES OF INTERIOR WALLS. SOME STRUCTURAL MEMBERS EXTEND INTO UNITS.
3. DIMENSIONS SHOWN HEREON WILL BE SUBJECT TO SLIGHT VARIATIONS, OWING TO NORMAL CONSTRUCTION TOLERANCES SHOWN HEREON ARE REFERENCED TO NAD-83 DATUM.
4. DIMENSIONS SHOWN HEREON ARE REFERENCED TO NAD-83 DATUM.
5. CONSULT THE CONDOMINIUM DECLARATIONS FOR THE DEFINITION OF COMMON AREA AND LIMITED COMMON AREA.
6. THE AREA OUTSIDE OF THE UNIT BOUNDARIES IS COMMON AREA.



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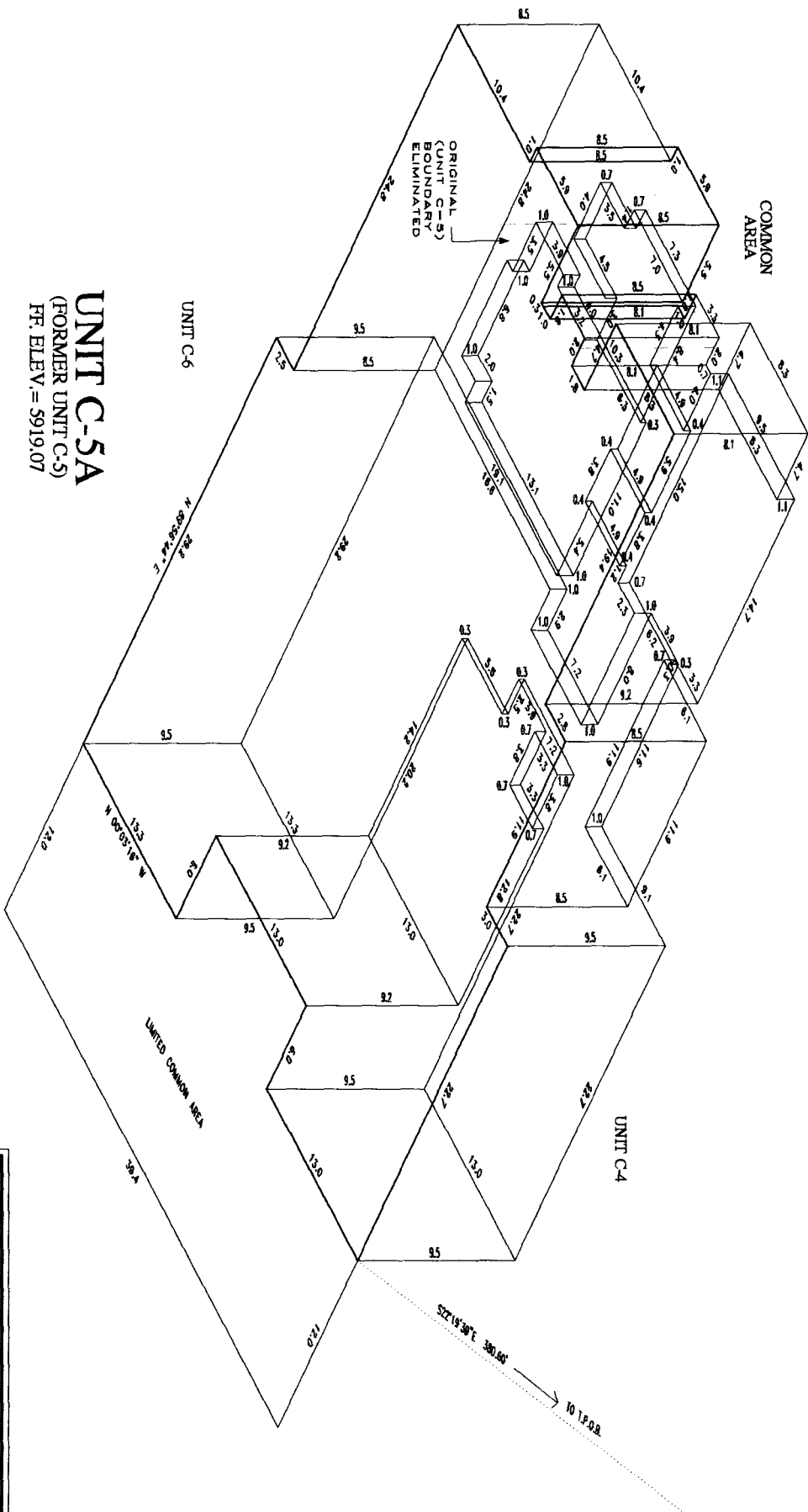
**THUNDER CLOUD
CONDOMINIUMS AMENDED
AT THUNDER SPRING**

LOCATED WITHIN SECTION 7, T4N, R18E, B.M.,
KETCHUM, BLAINE COUNTY, IDAHO

FINAL PLAT DRAWN BY: LL/DWP/GEL DATE: 11/01/07
PROJECT NO.: 06014 PLOT FILE: 06014P02.DWG SHEET 2 OF 11


THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 437167), SECTION 7, T4N, R18E, B4M, KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A.
A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13, AND FLOOR DESIGNATIONS ARE AMENDED.
NOVEMBER 2007



UNIT C-5A
(FORMER UNIT C-5)
HF. ELEV. = 5919.07

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**THUNDER CLOUD
CONDOMINIUMS AMENDED
AT THUNDER SPRING**

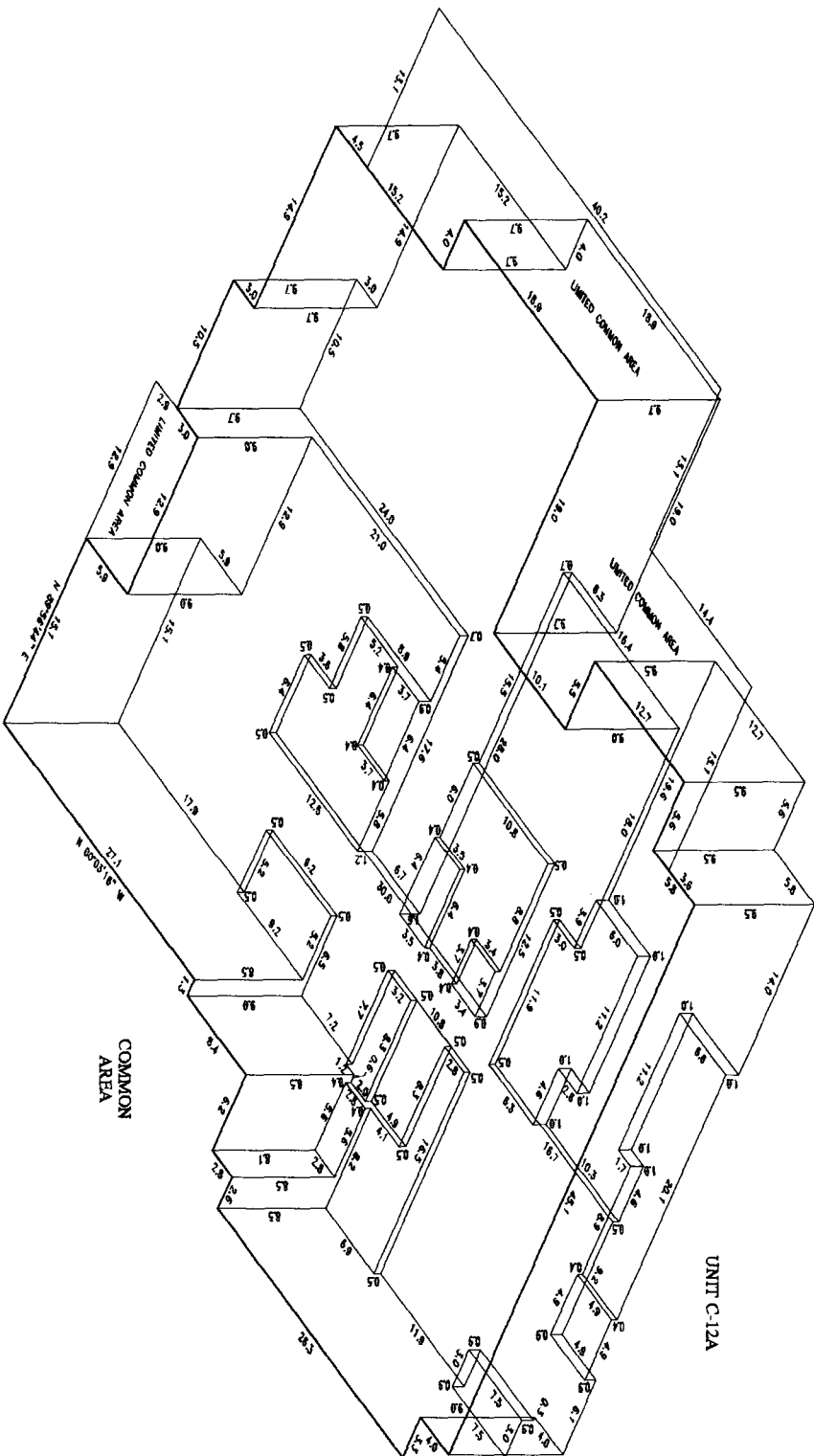
LOCATED WITHIN SECTION 7, T4N, R18E, B4M,
KETCHUM, BLAINE COUNTY, IDAHO

DRAWN BY: LJ/CPL DATE: 11/05/07
PROJECT NO. 08014 SHEET 3 OF 11
PLAT FILE: 0801455.DWG

EXHIBIT D

THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 437167), SECTION 7, T4N, R18E, B4M, KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A,
A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13, AND FLOOR DESIGNATIONS ARE AMENDED.
NOVEMBER 2007



UNIT C-11A
(FORMER UNIT C-11)
FF. EL.EV. = 5932.06

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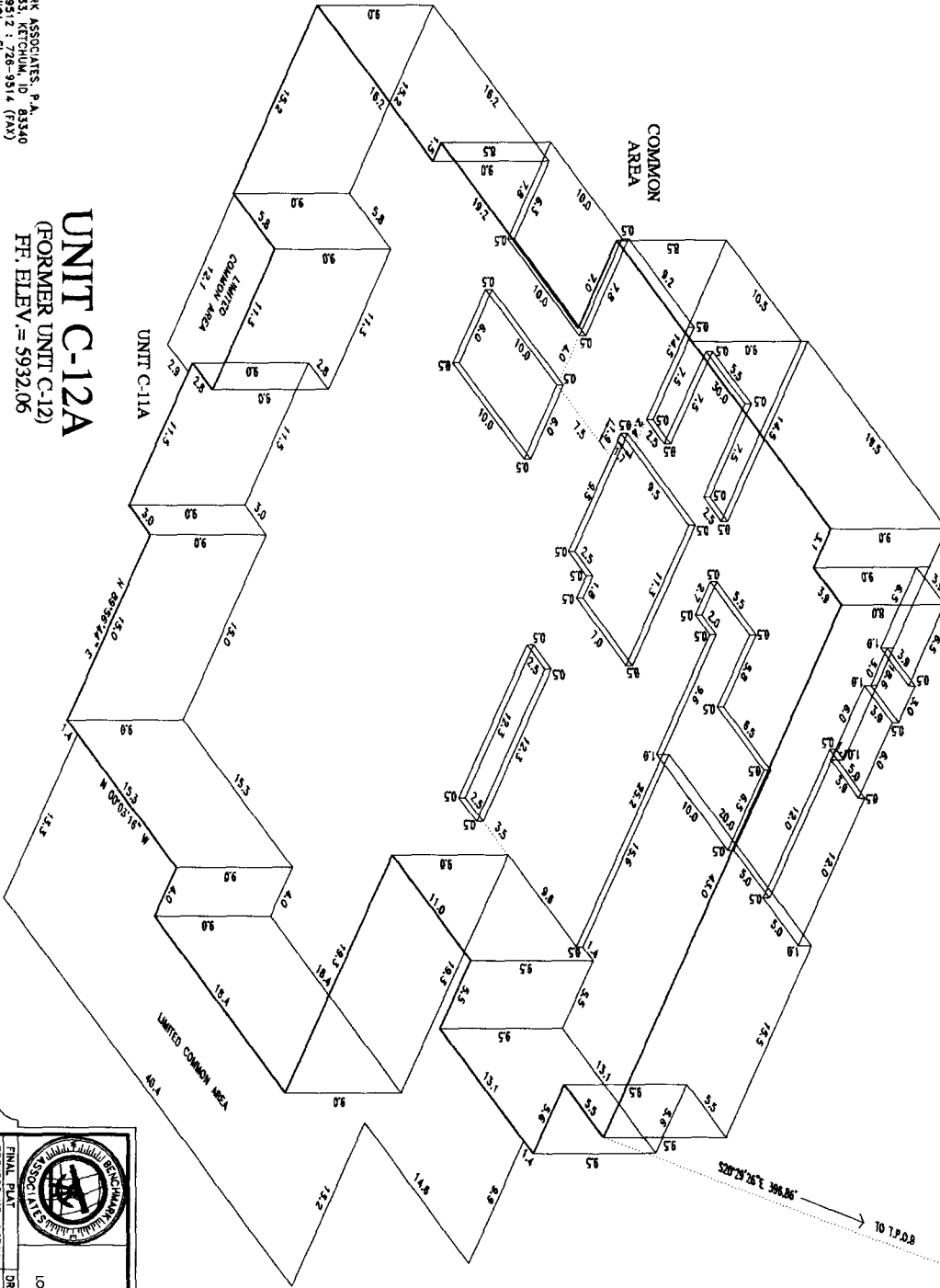


**THUNDER CLOUD
CONDOMINIUMS AMENDED
AT THUNDER SPRING**

FINAL PLAT
PROJECT NO. 08014
DRAWN BY: ELO/CP
DATE: 11/07/07
LOCATED WITHIN SECTION 7, T4N, R18E, B4M,
KETCHUM, BLAINE COUNTY, IDAHO
PLAT FILED, BOZEMAN, MONTANA, SHEET 2 OF 11

THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 437167), SECTION 7, T4N, R16E, B.M., KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A,
A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13, AND FLOOR DESIGNATIONS ARE AMENDED.
NOVEMBER 2007



UNIT C-12A
(FORMER UNIT C-12)
FF. ELEV. = 5932.06

UNIT C-11A

LIMITED COMMON AREA

COMMON AREA

LIMITED COMMON AREA

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**THUNDER CLOUD
CONDOMINIUMS
AT THUNDER SPRING
AMENDED**

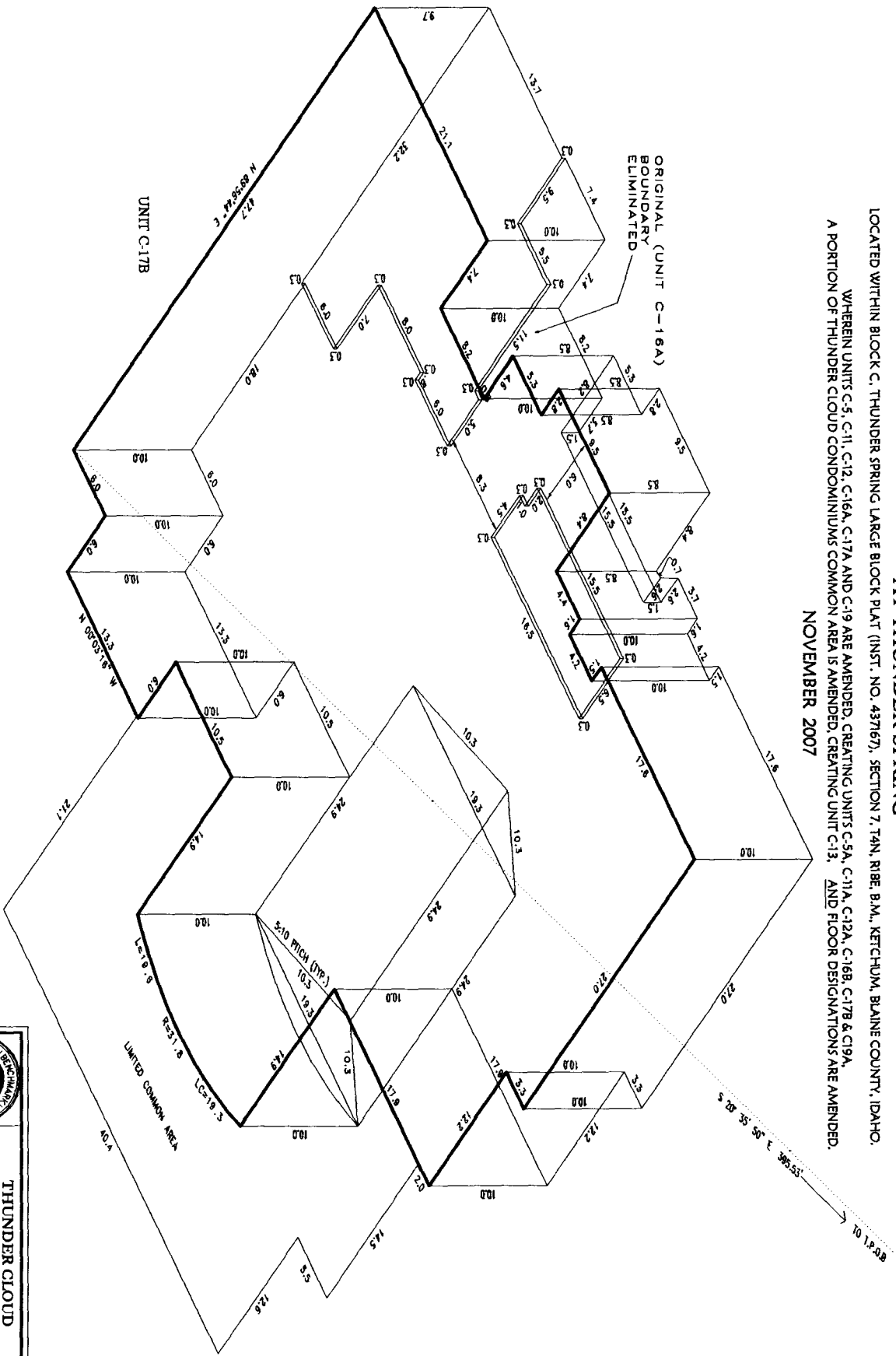
LOCATED WITHIN: SECTION 7, T4N, R16E, B.M.,
KETCHUM, BLAINE COUNTY, IDAHO

FINAL PLAT PROJECT NO. 08014
DRAWN BY: LLL/CBL DATE: 11/07/07
PLOT FILE: 08014C12.DWG SHEET 5 OF 11

EXHIBIT D

THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING

LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 437167), SECTION 7, T4N, R16E, B.M., KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A.
A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13. AND FLOOR DESIGNATIONS ARE AMENDED.
NOVEMBER 2007



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UNIT C-16B
 (FORMER UNIT C-16A)
 FF. ELEV. = 5944.35



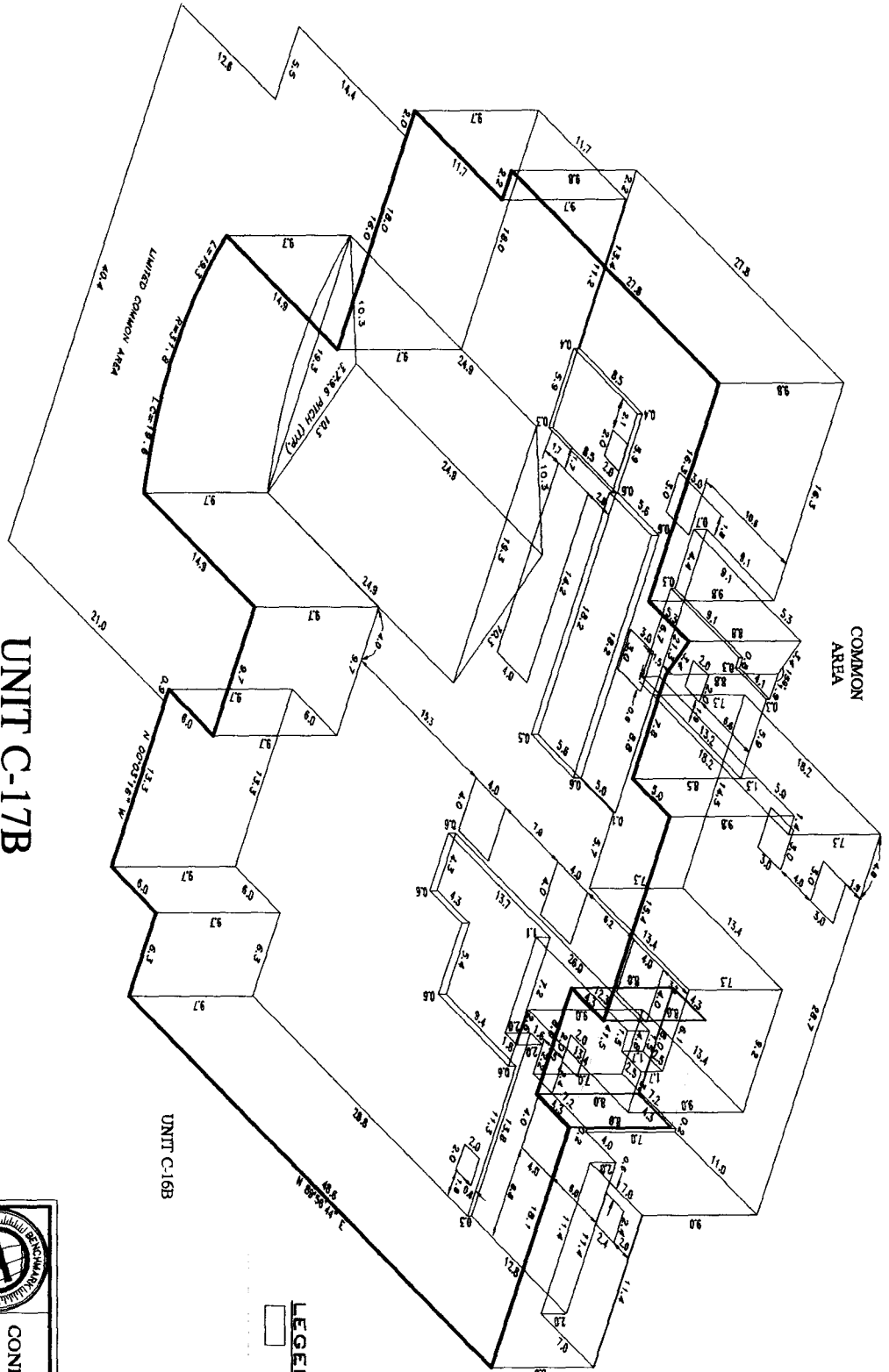
FINAL PLAT
 PROJ. LOT NO. 08014
 DRAWN BY: LL/CEL
 DATE: 11/07/07
 SHEET 7 OF 11

THUNDER CLOUD
CONDOMINIUMS AMENDED
AT THUNDER SPRING
 LOCATED WITHIN SECTION 7, T4N, R16E, B.M.,
 KETCHUM, BLAINE COUNTY, IDAHO

EXHIBIT D

THUNDER CLOUD CONDOMINIUMS AMENDED AT THUNDER SPRING


LOCATED WITHIN BLOCK C, THUNDER SPRING LARGE BLOCK PLAT (INST. NO. 43767), SECTION 7, T4N, R18E, S4M, KETCHUM, BLAINE COUNTY, IDAHO.
WHEREIN UNITS C-5, C-11, C-12, C-16A, C-17A AND C-19 ARE AMENDED, CREATING UNITS C-5A, C-11A, C-12A, C-16B, C-17B & C-19A.
A PORTION OF THUNDER CLOUD CONDOMINIUMS COMMON AREA IS AMENDED, CREATING UNIT C-13, AND FLOOR DESIGNATIONS ARE AMENDED.
NOVEMBER 2007



LEGEND
 SKYLIGHTS
 ORIGINAL (UNIT C-17A)
 BOUNDARY ELIMINATED

UNIT C-17B
 (FORMER UNIT C-17A)
 FF. ELEV. = 5944.35

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**THUNDER CLOUD
CONDOMINIUMS AMENDED
AT THUNDER SPRING**

LOCATED WITHIN SECTION 7, T4N, R18E, S4M,
KETCHUM, BLAINE COUNTY, IDAHO

FINAL PLAT PROJECT NO. 08014 DRAWN BY: TLJ/CPJ DATE: 11/09/07
 PILOT FILE 06014617SH1.BWG SHEET 8 OF 11

EXHIBIT D

**EXHIBIT E – FIRST AMENDMENT AND RESTATEMENT
TO THE ARTICLES OF INCORPORATION**

FILED AT THE REQUEST OF:

SPACE FOR SECRETARY OF STATE'S USE

Richard K. Robbins, President
Thunder Spring Condominium Owners Association, Inc.
Post Office Box 5497
Ketchum, Idaho 83340

AFTER FILING MAIL TO:

Shaina J. Jensen, Esq.
Perkins Coie LLP
251 East Front Street, Suite 400
Boise, Idaho 83702-7310

FIRST AMENDMENT AND RESTATEMENT

TO THE

ARTICLES OF INCORPORATION

OF

THUNDER SPRING CONDOMINIUM OWNERS ASSOCIATION, INC.

The undersigned, Richard K. Robbins, hereby certifies that he is the President of Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit corporation (the "Corporation"), and further certifies that:

1. By action taken by the Board of Directors of the Corporation on the 29th day of December, 2005, the amendment and restatement set forth below to the Corporation's Articles of Incorporation was approved and duly adopted by the Board of Directors of the Corporation.

2. By action taken by the members of the Corporation at the annual meeting of members on the 29th day of December 2005, the amendment and restatement set forth below to the Corporation's Articles of Incorporation was approved and duly adopted by the members of the Corporation. The number of voting interests entitled to vote was 100%. Of those, (i) a total of 71% voted for the amendment and restatement; (ii) 0% voted against the amendment and restatement; and (iii) 0% abstained from voting.

3. The Articles of Incorporation of Thunder Spring Condominium Owners Association, Inc. are hereby amended and restated in their entirety in accordance with Sections 30-3-91, 30-3-93 and 30-3-94 of the Idaho Nonprofit Corporation Act (the "Act") to read as follows:

**ARTICLE 1
NAME**

The name of the Corporation is "Thunder Spring Condominium Owners Association, Inc."

**ARTICLE 2
PURPOSE**

The purpose for which the Corporation is organized is the transaction of any and all business for which corporations may be incorporated under the nonprofit corporate laws of the state of Idaho. More specifically, the Corporation owns, repairs, maintains and manages Common Areas, enforces governing documents, including rules and regulations adopted from time to time by the Board of Directors, and discharges such other lawful duties and responsibilities as required pursuant to the Corporation's Bylaws and the Declaration of Covenants, Conditions and Restrictions (the "Declaration") as amended from time to time, with respect to the Corporation.

**ARTICLE 3
DURATION**

The period of the corporation's duration is perpetual.

**ARTICLE 4
REGISTERED AGENT AND REGISTERED OFFICE**

The name of the registered agent and address of the registered office is:

Name	Address
Eugene Burger Management Corporation	c/o Thunder Spring Owners Association Inc. Post Office Box 5497 Ketchum, Idaho 83340

**ARTICLE 5
MEMBERS AND MEMBERSHIP**

The Corporation shall have members. 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 Corporation, including contract sellers, shall be a member of the Corporation. 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 Corporation.

**ARTICLE 6
VOTING RIGHTS**

The authorized number and qualifications of members of the Corporation, 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 7
BOARD OF DIRECTORS**

All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation managed under the direction of, its Board of Directors. The number of Directors shall be determined in the manner provided by the Bylaws and may be increased or decreased from time to time in the manner provided therein.

**ARTICLE 8
INDEMNIFICATION AND LIMITATION ON LIABILITY**

A. Indemnification.

The Corporation shall indemnify the directors and officers of the Corporation to the fullest extent permitted by the Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the Act permitted the Corporation to provide prior to such amendment).

B. Limitation on Liability.

There shall be no personal liability, either direct or indirect, of any director of the Corporation to the Corporation or its members for monetary damages for any breach or breaches of fiduciary duty as a director; except that this provision shall not eliminate the liability of a director to the Corporation or to its members for monetary damages for any breach, act, omission, or transaction as to which the Act (as in effect from time to time) prohibits expressly the elimination of liability. This provision shall not limit the rights of directors of the Corporation for indemnification or other assistance from the Corporation. Any repeal or modification of the foregoing provisions of this Article by the members of the Corporation, or any repeal or modification of the Act which permits the elimination of liability of directors by this Article, shall not affect adversely any elimination of liability, right, or protection of a director of the Corporation with respect to any breach, act, omission, or transaction of such director occurring prior to the time of such repeal or modification.

**ARTICLE 9
NONPROFIT LIMITATIONS**

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its members, directors, officers, or other private persons, except that the

Corporation 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 2 hereof. Notwithstanding any other provisions of the Articles, the Corporation 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 provisions of any future United States Internal Revenue Law), nor shall it engage in any activities or exercise any powers that frustrate the purposes of the Corporation, as defined in Article 2 herein.

ARTICLE 10 DISSOLUTION

The Corporation may be dissolved as provided by law.

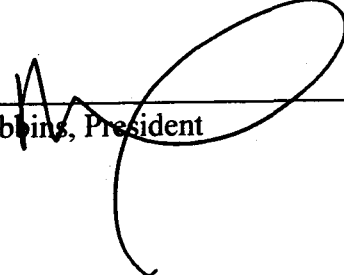
Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation exclusively for the purposes of the Corporation in such manner as the Board of Directors 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 11 AMENDMENTS

The Corporation reserves the right to amend, alter, change or repeal any provisions contained herein by an affirmative vote of at least fifty-one percent (51%) of the Corporation members entitled to vote.

[Remainder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the undersigned has subscribed this First Amendment and Restatement to the Articles of Incorporation effective as of the 29th day of December, 2005.



Richard K. Robbins, President

EXHIBIT F – SECOND AMENDED AND RESTATED BYLAWS

**AMENDED AND RESTATED
BYLAWS**

OF

**THUNDER SPRING
CONDOMINIUM OWNERS ASSOCIATION, INC.**

Adopted December 29, 2006December

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**AMENDED AND RESTATED
BYLAWS
OF
THUNDER SPRING
CONDOMINIUM OWNERS ASSOCIATION, INC.**

THESE AMENDED AND RESTATED BYLAWS of Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit corporation, were adopted and are effective as of the 29th day of December, 2005. Capitalized terms used and not otherwise defined herein have the meanings set forth on in the Declaration, as defined herein in Section 1.5.

**Article 1
FORMATION OF THE CORPORATION**

Section 1.1 Formation.

On October 1, 1999, the Corporation was organized as an Idaho nonprofit corporation by executing and delivering the Articles of Incorporation to the Idaho Secretary of State in accordance with and pursuant to the Act.

Section 1.2 Registered Office.

The registered office of Thunder Spring Condominium Owners Association, Inc. (the "Corporation") required by the Idaho Nonprofit Corporation Act ("INCA") to be continuously maintained in the state of Idaho may, but need not, be the same as any of its principal places of business in the state of Idaho. In any case, the Corporation's registered office shall be the business office of the registered agent required by the INCA to be continuously maintained in the state of Idaho. The address of the registered office may be changed from time to time by the Board of Directors or the President of the Corporation by delivering a statement to the Idaho Secretary of State containing the information required by the INCA or by indicating such change in the annual report required by the INCA to be filed with the Secretary of State.

Section 1.3 Principal Office; Other Offices.

The principal office of the Corporation shall be 115 Thunder Trail, P.O. Box 5497, Ketchum, ID 83340. The Corporation may also have and maintain an office or principal place of business in Idaho, or at such other place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the state of Idaho, as the Board of Directors may from time to time determine or the business of the Corporation may require.

Section 1.4 Corporate Seal.

The Corporation may have a corporate seal, which may be altered at will by the Board of Directors. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 1.5 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 the Declaration.

Section 1.6 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.

**Article 2
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.

**Article 3
MEMBERS' MEETINGS**

Section 3.1 Place of Meetings.

The Board of Directors may designate any place, either within or without the state of Idaho, as the place of meeting for any annual meeting or for any special meeting of members called by or at the direction of the Board of Directors. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or without the state of Idaho, as the place for the holding of such meeting. If no place is designated by the Board of Directors or if a special meeting be called otherwise than by or at the direction of the Board of Directors, the place of meeting shall be the principal office of the Corporation.

Section 3.2 Annual Meetings.

The annual meeting of the members of the Corporation shall be held on the fourth Monday (or the following day, should this fall on a legal holiday) in the month of December in each year at 3:00 p.m., at the principal office, or on such other date and at such other time which may from time to time be designated by the Board of Directors, for the purpose of electing

directors and for the transaction of such other business as may properly come before the meeting. The failure to hold an annual meeting at the time stated or otherwise designated as provided herein shall not affect the validity of any corporate action.

Section 3.3 Special Meetings.

Special meetings of the members of the Corporation may be called at any time, for any purpose or purposes, by a majority of the quorum of the Board of Directors or the President of the Corporation or by the holders of at least twenty five percent (25%) of the votes entitled to be cast on any issue proposed to be considered at the meeting (provided that such holders sign, date and deliver to the Corporation one or more written demands for the meeting describing the purpose(s) for which it is to be held) or by the person or persons authorized to do so by the Articles of Incorporation. Special meetings of the members of the Corporation may not be called by any other person or persons.

Section 3.4 Notice of Meetings.

The Corporation shall notify members of the date, time and place of each annual and special members' meeting and, in case of a special meeting, a description of the purpose or purposes for which the meeting is called, no fewer than ten (10) nor more than sixty (60) days before the meeting date. Unless otherwise required by law or the Articles of Incorporation, the Corporation is required to give notice of a meeting only to members entitled to vote at the meeting. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called. Only business within the purpose(s) described in the special meeting notice may be conducted at such special meeting. Notice shall be given to each member at either: (i) the address of their respective unit; or (ii) the address supplied by the member to the Corporation.

Section 3.5 Waiver of Notice.

Notice of any meeting of members may be waived in writing, signed by the person entitled to notice thereof and delivered to the Corporation for inclusion in the corporate minutes or filing with the corporate records, either before or after the date and time stated in the notice. A member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting, and further waives objection to consideration of a particular matter at the meeting that is not within the purpose of purposes described in the meeting notice unless the member objects to considering the matter when it is presented. Any member so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice hereof had been given.

Section 3.6 Quorum.

Unless the INCA or the Articles of Incorporation impose a greater requirement, twenty percent (20%) of the votes, represented in person or by proxy, entitled to be cast on a matter shall constitute a quorum. Unless one-third ($\frac{1}{3}$) or more of the voting power is present in person or by

proxy, the only matters that may be voted upon at an annual or special meeting of members are those matters that are enumerated in the meeting notice.

Section 3.7 Adjournment and Notice of Adjourned Meetings.

Any meeting of members at which a quorum is not present may be adjourned to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called. Any meeting of members at which a quorum is present, whether annual or special, may be adjourned from time to time by the vote of a majority of the votes entitled to be cast at the meeting not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called. If an annual or special members' meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed, however, notice of the adjourned meeting must be given under this Section to persons who are members as of the new record date. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting.

Section 3.8 Proxies.

At all meetings of members, a member may vote either in person or by proxy. A member may appoint a proxy to vote or otherwise act for the member by signing an appointment form or by an electronic transmission, either personally or by the member's attorney-in-fact. The electronic transmission must contain or be accompanied by information from which one can reasonably verify that the member, the member's agent, or the member's attorney-in-fact authorized the transmission. An appointment of proxy is effective upon receipt, before or at the time of the meeting, by the inspector of election or the officer or agent of the Corporation authorized to tabulate votes. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the appointment form, but in no event can be valid for more than three (3) years. An appointment of a proxy is revocable in accordance with the provisions of the INCA. The death or incapacity of the member appointing a proxy does not affect the right of the Corporation to accept the proxy's authority unless notice of the death or incapacity is received by the inspector of election or the officer or agent of the Corporation authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment. Subject to the acceptance of votes and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, the Corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment. Proxy voting shall not be permitted when member votes are solicited by written ballot to be cast without a meeting.

Section 3.9 Voting Rights.

Except as otherwise provided by law, only persons in whose names shares stand on the records of the Corporation on the record date, as provided in these Amended and Restated Bylaws, shall be entitled to vote on any matter. Unless the Articles of Incorporation provide otherwise, each member is entitled to one (1) vote on each matter voted on at a members' meeting. If a quorum exists, action on a matter, other than the election of directors, is approved

if the votes cast favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation or the INCA require a greater number of affirmative votes. Unless otherwise provided in the Articles of Incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. Members shall have no right to cumulate their votes for directors.

Section 3.10 Corporation's Acceptance of Votes.

(1) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the Corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

(2) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its member, the Corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if:

(a) The member is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the Corporation requests, evidence of fiduciary status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the Corporation requests, evidence of this status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the member and, if the Corporation requests, evidence acceptable to the Corporation of the signatory's authority to sign for the member has been presented with respect to the vote, consent, waiver, or proxy appointment;

(e) Two or more persons are the member as cotenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The Corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the inspector of election or the officer or agent of the Corporation authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

Section 3.11 List of Members.

After fixing a record date for a meeting, the Corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of such meeting. The list must show the address and the number of votes each member is entitled to. The members' list must be available for inspection by any member, beginning two (2) business days after notice of the meeting is given and continuing through the meeting, at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or attorney is entitled on written demand to inspect and, subject to the requirements of INCA, to copy the list, during regular business hours and at the member's expense, during the period it is available for inspection. The Corporation shall make the members' list available at the meeting; and any member, member's agent, or attorney is entitled to inspect the list at any time during the meeting or any adjournment. Refusal or failure to prepare or make available the members list does not affect the validity of action taken at the meeting.

Section 3.12 Conduct of Meeting.

At every meeting of members, the President, or, if the President is absent, the most senior executive officer present, or in the absence of any such officer, a chairman of the meeting chosen by a majority in interest of the members entitled to vote, present in person or by proxy, shall act as chairman. The Secretary shall act as secretary of the meeting. The order of business shall be as follows: (i) roll call; (ii) proof of notice of meeting or waiver of notice; (iii) reading of minutes of preceding meeting; (iv) reports of board of officers; (v) election of directors, if any are to be elected; (vi) unfinished business; and (vii) new business. The meeting shall proceed in parliamentary procedure, as determined and adopted by the Board.

Section 3.13 Action Without Meeting.

Action required or permitted by INCA to be taken at a members' meeting may be taken without a meeting if the action is taken by at least eighty percent (80%) of the members entitled to vote on the action. No written consent shall be effective to take the corporate action unless, within sixty (60) days of the earliest date appearing on a consent delivered to the Corporation in the manner required by Section 30-3-49, Idaho Code, written consents signed by at least eighty percent (80%) of the members entitled to vote on the action are received by the corporation. The action must be evidenced by one (1) or more written consents bearing the date of signature and describing the action taken, signed by at least eighty percent (80%) of members entitled to vote on the action, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. A consent signed under this Section has the effect of a meeting vote and may be described as such in any document.

Section 3.14 Nomination of Directors.

Nominations of persons for election to the Board of Directors of this Corporation at the annual meeting of members may be made at such meeting by or at the direction of the Board of Directors, or by any nominating committee or person appointed by the Board of Directors. 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 Bylaws. The candidates receiving the highest number of votes shall be deemed elected.

Article 4 DIRECTORS

Section 4.1 Powers.

All corporate powers shall be exercised by or under the authority, and the business and affairs of the Corporation shall be managed by or under the direction, of the Board of Directors, subject to any limitations set forth in the Articles of Incorporation or any agreement authorized under the INCA.

Section 4.2 Variable Range-Size Board; Qualifications.

The authorized number of directors of the Corporation may range between three (3) and seven (7), and the number of directors may be increased or decreased from time to time by amendment to or in the manner provided by law or in these Bylaws by the Board of Directors or the members. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director. A director need not be a resident of the state of Idaho or a member of the Corporation unless so required by the Articles of Incorporation. If for any cause the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the members called for that purpose in the manner provided by law or in these Bylaws.

Section 4.3 Term.

The Board shall be divided into two classes with such classes to be as equal in number as may be possible. At the first election of directors to such classified Board, each Class I director was elected to serve until the next ensuing annual meeting of members, each Class II director was elected to serve until the second ensuing annual meeting of members. At each annual meeting of members following the meeting at which the Board was initially classified, the number of directors equal to the number of directors in the class whose term expires at the time of such meeting shall be elected to serve until the second ensuing annual meeting of members. Unless a director earlier dies, resigns or is removed, his or her term of office shall expire at the next annual meeting of members at which directors of his or her class of directors are elected, but a director shall continue to serve until his or her successor is elected or until there is a decrease in the authorized number of directors of such director's class.

Section 4.4 Resignation.

A director may resign at any time by delivering written notice to the Board of Directors, its chairman, or the Corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date, in which event the resignation shall become effective at such later time. Unless specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective.

Section 4.5 Removal by Members.

The member may remove one (1) or more directors with or without cause unless the Articles of Incorporation provide that directors may be removed only for cause. A director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the director. A director may be removed by the members only at a meeting called for the purpose of removing the director; and the meeting notice must state that the purposes, or one of the purposes, of the meeting is removal of the director.

Section 4.6 Removal by Board.

The Board shall have the power and authority to remove a Director without cause by the vote of two thirds ($\frac{2}{3}$) of the directors then in office and subject to the provisions of Section 30-3-70, Idaho Code, and declare his or her position vacant if he or she: (i) has been declared of unsound mind by a final court order; (ii) has been convicted of a felony; (iii) fails to attend two consecutive regular meetings of the Board of Directors that have been duly noticed and regularly scheduled; or (iv) becomes more than sixty (60) days delinquent in payment of any assessment.

Section 4.7 Removal Arising out of Court Action.

In the event that there is a final judgment or order of any court concluding that a director has breached his or her duties, the Board shall consult with counsel as to whether or not that court determination requires a declaration of vacancy.

Section 4.8 Newly Created Directorships and Vacancies.

Unless the Articles of Incorporation provide otherwise, newly created directorships resulting from any increase in the number of directors and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other cause may be filled by the affirmative vote of a majority of the remaining directors then in office even if they constitute fewer than a quorum of the authorized Board of Directors, or may be filled by the members. A director elected to fill a vacancy shall be elected for the unexpired term of the director's predecessor in office.

Section 4.9 Meetings.

(1) Regular Meetings. The regular meeting of the Board of Directors shall be held no less than quarterly. Notice of the date, time and place of the meeting of the Board (except emergencies) shall be given to the members at least four (4) days prior to the meeting. Such notice shall be given by posting at the Corporation's office, by mail or delivery of the notice to each residence, email, or by newsletter or similar means of communication, as enumerated in Article 8 herein. Any attendance by a member shall constitute waiver of notice.

(2) Place of Meetings. Regular and special meetings of the Board of Directors, or of any committee designated by the Board, may be held at any place within or without the state of Idaho, as determined by the Board.

(3) Telephone Meetings. Unless the Articles of Incorporation provide otherwise, any member of the Board of Directors, or of any committee thereof, may participate in a regular or special meeting by, or conduct the meeting through the uses of, any means of conference telephone or similar communications equipment by which all directors participating in the meeting may simultaneously hear each other during the meeting. A director participating in a meeting by such means is deemed to be present in person at such meeting.

(4) Special Meetings. Special meetings of the Board shall be held when called by the president of the Corporation, 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.

(5) Waiver of Notice. A director may waive any notice required by the INCA, the Articles of Incorporation or these Bylaws at any time before or after the date and time stated in the notice. Except as otherwise provided, such waiver must be signed by the director and filed with the minutes or corporate records. The attendance of a director at or participation in a meeting shall constitute a waiver of notice of such meeting unless the director, at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting any business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

Section 4.10 Quorum and Voting.

(1) Quorum. Unless the Articles of Incorporation or these Bylaws require a greater number or unless otherwise specifically provided by the INCA, a quorum of the Board of Directors consists of (a) a majority of the fixed number of directors if the Corporation has a fixed board size or (b) a majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the Corporation has a variable-range size board.

(2) Majority Vote. If a quorum is present when a vote is taken, the affirmative vote of the majority of the directors present shall be the act of the Board of Directors, unless the Articles of Incorporation or these Bylaws require the vote of a greater number of directors.

Section 4.11 Action Without a Meeting.

Unless otherwise provided by the Articles of Incorporation or these Bylaws, any action required or permitted by the INCA to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if the action is taken by all members of the Board if each Director signs a consent describing the action to be taken and delivers it to the Corporation. Action taken under this Section is the act of the Board of Directors when one or more consents signed by all Directors are delivered to the Corporation. The consent may specify the time at which the action taken thereunder is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the Corporation prior to the delivery to the Corporation of unrevoked written consents signed by all of the Directors. A

consent signed under this Section has the effect of action taken at a meeting of the Board of Directors and may be described as such in any document.

Section 4.12 Conduct of Meetings.

Regular and special meetings of the Board shall be open to all members of the Corporation; provided, however that Corporation 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 Corporation 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.

Section 4.13 Fees and Compensation.

No director shall receive any compensation for any service rendered to the Corporation; provided, however, any director may be reimbursed for actual out-of-pocket expenses incurred in the performance of duties. All claims for reimbursement must be accompanied by receipt or invoice, and signed and dated by the director claiming the expense.

Section 4.14 Standards for Directors.

Each member of the Board of Directors, when discharging the duties of a director, shall act in good faith and in a manner the director reasonably believes to be in the best interests of the Corporation. The members of the Board of Directors or a committee of the Board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances. In discharging board or committee duties, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by:

- (a) One (1) or more officers or employees of the Corporation whom the director reasonably believes to be reliable and competent functions performed or the information, opinion, reports, or statements provided;
- (b) Legal counsel, public accountants or other persons retained by the Corporation, as to matters involving skills or expertise the director reasonably believes are matters:
 - (i) Within the particular person's professional or expert competence;
or
 - (ii) As to which the particular person merits confidence; or
 - (iii) A committee of the Board of which the director is not a member if the director reasonably believes the committee merits confidence.

Section 4.15 Powers and Duties of Board.

(1) Powers. The Board shall have all powers conferred upon the Corporation as set forth herein and in the Declaration, excepting only those powers expressly reserved to the members.

(2) Duties. It shall be the duty of the Board: (i) to cause to be kept a completed 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; (ii) to supervise all officers, agents and employees of the Corporation, and to see that their duties are properly performed; and (iii) to delegate its powers as provided in the Declaration and these Bylaws.

Section 4.16 Committees.

Unless the Articles of Incorporation, the INCA, or these Bylaws provide otherwise, the Board of Directors may create one or more committees and appoint one or more members of the Board of Directors to serve on any such committee. Each committee must have one or more members, each of whom shall serve at the pleasure of the Board of Directors.

Article 5 OFFICERS

Section 5.1 Offices Designated.

The offices of the Corporation may consist of a President, a Vice President, a Secretary and a Treasurer, each of whom shall be designated by the Board of Directors in accordance with these Bylaws. The Board of Directors or the President may appoint such other officers as may be deemed necessary or desirable. With the exception of the Secretary and Treasurer, as well as additional appointed offices, no officer may simultaneously hold more than one office. The President and Vice President shall at all times be members of the Board.

Section 5.2 Tenure and Duties of Officers.

(1) Election of Officers. The election of officers shall take place annually at the meeting of the Board following each annual meeting of the members.

(2) Term of Office. Each officer shall hold office for one year unless the officer shall sooner resign, or shall be removed, or shall otherwise be or become disqualified to serve. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

(3) The President. The President shall be the principal executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. The President shall, when present, preside at all meetings of the Board of Directors and shall see that all orders or resolutions of the Board are carried out. The President may sign all leases, deeds, mortgages, bonds, contracts, or

other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed.

(4) The Vice President. In the absence of the President or in the event of the President's removal, resignation, death, or inability or refusal to act, the Vice President shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President, and shall perform other duties as from time to time may be assigned to the Vice President by the Board of Directors.

(5) The Treasurer. The Treasurer shall: (i) have charge and custody of and be responsible for all funds of the Corporation; (ii) receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies or other depositories; (iii) co-sign all checks and promissory notes of the Corporation; (iv) keep proper books of account; (v) cause an annual operating statement reflecting income and expenditures of the Corporation 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 (vi) cause an annual budget to be prepared and presented to each member.

(6) The Secretary. The Secretary shall: (i) attend all meetings and keep the minutes of the meetings and other proceedings of the members and of the Board of Directors in one or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be custodian of and responsible for maintenance and authentication of the corporate records as required to be kept pursuant to the INCA; (iv) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; and (v) in general perform all duties commonly incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board of Directors.

Section 5.3 Resignations.

Any officer may resign at any time by delivering written notice to the Corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date time, in which event the resignation shall become effective at such later time. If the Board or appointing officer accepts the future effective time, the Board or the appointing officer may fill the pending vacancy before the effective time if the Board or the appointing officer provides that the successor does not take office until the effective time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective.

Section 5.4 Removal.

An officer may be removed at any time without or without cause by the Board of Directors, or by any other officer if authorized by these Bylaws or the Board.

Section 5.5 Compensation.

No officer shall receive any compensation for any service rendered to the Corporation; provided, however, any officer may be reimbursed for actual out-of-pocket expenses incurred in the performance of duties. All claims for reimbursement must be accompanied by receipt or invoice, and signed and dated by the officer claiming the expense.

Section 5.6 Standards of Conduct.

- (1) An officer when performing in such capacity, shall act:
 - (a) In good faith;
 - (b) With the care that a person in a like position would reasonably exercise under similar circumstances; and
 - (c) In a manner the officer reasonably believes to be in the best interests of the Corporation.

- (2) In discharging those duties an officer who does not have knowledge that makes reliance unwarranted, is entitled to rely on:
 - (a) The performance of properly delegated responsibilities by one (1) or more employees of the Corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or
 - (b) Legal counsel, public accountants, or other persons retained by the Corporation as to matters involving skill or expertise the officer reasonably believes are matters:
 - (i) Within the particular person's professional or expert competence; or
 - (ii) As to which the particular person merits confidence.

- (3) An officer shall not be liable to the Corporation or its members for any decision to take or not to take action; or any failure to take action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 30-3-85, Idaho Code, that have relevance.

**Article 6
ASSESSMENTS**

Section 6.1 Liability for Assessments; Collection.

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

**Article 7
INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 7.1 Scope of Indemnification.

The Corporation may indemnify and advance funds to or for the benefit of the directors and officers of the Corporation to the fullest extent permitted by the INCA, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the INCA permitted the Corporation to provide prior to such amendment). (Idaho Code § 30-3-88).

Section 7.2 Mandatory Indemnification of Directors.

The Corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the individual was a director of the Corporation against reasonable expenses incurred by the director in connection with the proceeding. (Idaho Code § 30-3-88).

Section 7.3 Further Indemnification of Directors.

(1) Except as otherwise provided in this Section, a Corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if:

- (a) The director's conduct was in good faith; and
- (b) The director reasonably believed:
 - (i) In case of conduct in the director's official capacity, that the director's conduct was in the best interests of the Corporation; and
 - (ii) In all cases, that the director's conduct was at least not opposed to the best interests of the Corporation; and
 - (iii) In the case of any criminal proceeding, the director had no reasonable cause to believe the conduct was unlawful.

(2) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea or nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this Section.

(3) Unless ordered by a court under INCA, the Corporation may not indemnify a director in connection with a proceeding by or in the right of the Corporation, except for reasonable expenses incurred in connection with the proceedings if it is determined that the director has met the relevant standard of conduct under subsection (1) of this Section, or as otherwise prescribed in Section 30-3-88, Idaho Code.

Section 7.4 Advance for Expenses.

(1) The Corporation shall, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding if the director delivers to the Corporation:

(a) A written affirmative of the director's good faith belief that the director has met the relevant standard of conduct described in Section 7.3; and

(b) The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification, and it is ultimately determined that s/he has not met the relevant standard of conduct described in Section 7.3.

(2) The undertaking required by subsection (1)(b) of this Section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

Section 7.5 Determination of Indemnification.

(1) The Corporation may not indemnify a director under Section 7.3, unless a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in Section 7.3.

(2) The determination shall be made in accordance with Section 30-3-88(4), Idaho Code.

Section 7.6 Indemnification of Officers.

The Corporation may indemnify and advance expenses to an officer of the Corporation who is a party to a proceeding because the individual is an officer of the Corporation the same extent as a director.

Section 7.7 Insurance.

The Corporation may purchase and maintain insurance on behalf of an individual who is a director or officer of the Corporation, or who, while a director or officer of the Corporation, serves at the Corporation's request as a director, officer, partner, trustee, employee, or agent of

another domestic or foreign Corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the Corporation would have power to indemnify or advance expenses to the individual against such liability.

Section 7.8 Definitions.

Sections 7.1 through 7.8 of these Bylaws shall be defined in accordance with Section 30-3-88(8), Idaho Code.

Section 7.9 Amendments.

Any repeal or modification of this Article 7 shall only be prospective and shall not affect the rights under this Article 7 in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any director or officer.

Section 7.10 Saving Clause.

If this Article 7 of these Bylaws or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each director and may nevertheless indemnify each officer to the full extent permitted by any applicable portion of this Article 7 that shall not have been invalidated, or by any other applicable law.

**Article 8
NOTICES**

Section 8.1 Methods of Notice.

(1) Any notice under the INCA or these Bylaws must be in writing unless oral notice is reasonable under circumstances. Notice by electronic transmission is written notice.

(2) If oral notice is deemed reasonable, it may be communicated in person; by mail or other method of delivery; or by telephone, voice mail or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by newspaper of general circulation in the area where published, or by radio, television or other form of public broadcast communication.

(1) It shall not be necessary that the same method of giving notice be employed in respect of all directors or members: One permissible method may be employed in respect of any one or more directors or members; and any other permissible method or methods may be employed in respect of any other or others.

Section 8.2 Notice to Corporation.

Written notice to the Corporation may be addressed to its registered agent at its registered office or to the Corporation or its Secretary at its principal office shown in its most recent annual report filed with the Idaho Secretary of State.

Section 8.3 Effective Date of Notice.

(1) Written notice by the Corporation to its member, if in a comprehensible form, is effective:

(a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the member's address shown in the Corporation's current record of members, or

(b) When electronically transmitted to the member in a manner authorized by the member.

(2) Except as provided above, written notice, if in a comprehensible form, is effective at the earliest of the following:

(a) When received;

(b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(3) Oral notice is effective when communicated if communicated in a comprehensible manner.

Section 8.4 Address Unknown.

If no address of a member or director be known, notice may be sent to the office of the Corporation required to be maintained pursuant to Section 8.2.

Section 8.5 Affidavit of Mailing.

An affidavit of mailing, executed by a duly authorized and competent employee of the Corporation, specifying the name and address or the names and addresses of the member or members, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall be conclusive evidence of the statements therein contained.

Section 8.6 Failure to Receive Notice.

The period or limitation of time within which any member may exercise any option or right, or enjoy any privilege or benefit, or be required to act, or within which any director may exercise any power or right, or enjoy any privilege, pursuant to any notice sent to the member in the manner above provided, shall not be affected or extended in any manner by the failure of such member or such director to receive such notice.

Section 8.7 Exception to Notice Requirement.

(1) Whenever notice is required to be given under any provision of this chapter to any member, such notice shall not be required to be given if notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to such member at such member's address as shown on the records of the Corporation and have been returned undeliverable.

(2) If any such member shall deliver to the Corporation a written notice setting forth such member's then-current address, the requirement that notice be given to such member shall be reinstated.

Article 9 RECORDS AND REPORTS

Section 9.1 Corporate Records.

(1) The Corporation shall keep as permanent records minutes of all meetings of its members and Board of Directors, a record of all actions taken by the members or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Corporation.

(2) The Corporation shall maintain appropriate accounting records.

(3) The Corporation or its agent shall maintain a record of its members, in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class of shares showing the number and class of shares held by each.

(4) The Corporation shall keep a copy of the following records at its principal office:

(a) Its Articles of Incorporation and all amendments to them currently in effect; and

(b) Its Bylaws or Restated Bylaws and all amendments to them currently in effect.

Article 10 GENERAL PROVISIONS

Section 10.1 Amendment by Board of Directors or Members.

(1) The Corporation's members may amend or repeal these Bylaws only with the vote or written consent of members entitled to cast at least fifty-one percent (51%) of the voting power of the Corporation. Notwithstanding the aforementioned, the percentage of the voting power of the Corporation or of members necessary to amend a specific clause of 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.

- (2) The Board of Directors may amend or repeal these Bylaws unless:
- (a) The Articles of Incorporation or the INCA reserve this that power exclusively to the members in whole or part, or
 - (b) The members in amending or repealing or adopting a bylaw expressly provide that the Board of Directors may not amend, or repeal, or reinstate that bylaw.

Section 10.2 Interpretation; Severability.

These Bylaws may contain any provision for managing the business and regulating the affairs of the Corporation that is not inconsistent with law, the Declaration, or the Articles of Incorporation. In the event any provision of these Bylaws is inconsistent with law, the Declaration, or the Articles of Incorporation, such law, Declaration, or Articles of Incorporation shall govern. If any one or more of the provisions contained in these Bylaws, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

Section 10.3 Fiscal Year.

The fiscal year of the Corporation shall be the same as a calendar year unless a different fiscal year is adopted by the members at a duly constituted meeting thereof.

Section 10.4 Proof of Membership.

No person shall exercise their rights of membership in the Corporation 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 the individual to membership. Such deed of policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

Section 10.5 Absentee Ballots.

The Board may make such provisions as it may consider necessary or desirable for absentee ballots.

Section 10.6 Reserves.

Any amounts collected by or paid to the Corporation 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 Corporation.

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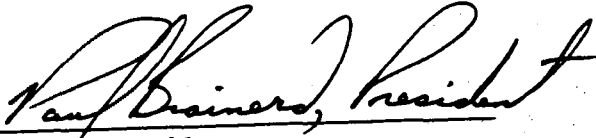
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The foregoing Amended and Restated Bylaws of Thunder Spring Condominium Owners Association, Inc., an Idaho nonprofit Corporation, were adopted by the Board of Directors and Members of the Corporation effective on the 29th day of December, 2006.



Paul Brainerd, President

SCHEDULE I – DECLARANT’S TRACTS

Lots 1 and 2, Kneeland Subdivision, located in Section 7, Township 4 North, Range 18 East, B.M., City of Ketchum, and recorded as Instrument No. 259187, records of Blaine County, Idaho; AND

Block 12A, Bigwood P.U.D. Subdivision, located in Sections 7 and 12, Township 4 North, Range 18 East, B.M., City of Ketchum, and recorded as Instrument No. 429493, records of Blaine County, Idaho; AND

Blocks 11 and 18, Bigwood P.U.D. Subdivision, located in the Southwest quarter of the Southwest quarter of Section 6 and the West half of the West half of Section 7, Township 4 North, Range 18 East, B.M., and in the East half of the East half of Section 12 and the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 1, Township 4 North, Range 17 East, B.M., City of Ketchum, and recorded as Instrument No. 270981 in the records of Blaine County, Idaho; AND

Lot 21, Block 4, Saddle View Subdivision No. 3, located in Section 7, Township 4 North, Range 18 East, B.M., City of Ketchum, and recorded as Instrument No. 164293 in the records of Blaine County, Idaho.