



**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

ROCK CREEK SUBDIVISION

THIS DECLARATION is made effective as of April 7, 2005, by Big View Builders, Inc., an Idaho corporation having a principal place of business at 5700 E. Franklin Rd., Suite 220-D, Meridian, ID 83687 ("Declarant" or "Owner" or "Grantor").

ARTICLE 1: RECITALS

1.1 Declarant is the owner of all of the real property located in the City of Meridian, County of Ada, State of Idaho, described in the attached Exhibit A (the "Property").

1.2 The purpose of this Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions, and equitable servitudes (collectively "Restrictions") that apply to a Tract. The Restrictions are designed to preserve the Property's value, desirability, and attractiveness, to ensure a well integrated high-quality development, and to guarantee adequate maintenance of the Common Area, and the Improvements located thereon, in a cost effective and administratively efficient manner.

ARTICLE II: DECLARATION

Grantor 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, Grantor, Grantor's successors in interest, and each grantee or Owner, and such grantee's or Owner's respective successors in interest, and may be enforced by Grantor, by any Owner, or such Owner's successors in interest, or by the Association as hereinafter described.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Grantor's right to complete development of the Property and to construct improvements thereon, nor Grantor's right to maintain model homes, construction, sales, or leasing offices, or similar facilities (temporary or otherwise) on any portion of the Property, including the Common Area or any public right-of-way, nor Grantor's right to post signs incidental to construction, sales, or leasing, nor Grantor's right to modify plans for the Property, all in accordance with any necessary approvals of the City.

ARTICLE III: DEFINITIONS

3.1 Architectural Committee: shall mean the committee created by the Grantor or an Association pursuant to Article X hereof.

3.2 Articles: shall mean the Articles of Incorporation of an Association or other organizational or charter documents of an Association.

3.3 Assessments: shall mean those payments required of Owners or other Association Members, including Regular, Special, and Limited Assessments of any Association as further defined in this Declaration.

3.4 Association: shall mean the Idaho profit or non-profit corporation, and its successors and assigns, established by Grantor to exercise the powers and to carry out the duties set forth in this Declaration or any Supplemental Declaration. Grantor shall have the power, in its discretion, to name the Association the "Rock Creek Subdivision Property Owners Association, Inc.," or any similar name which fairly reflects its purpose.

3.5 Association Rules: shall mean those rules and regulations promulgated by an Association governing conduct upon and use of the Property under the jurisdiction or control of an Association, the imposition of fines and forfeitures for violation of Association Rules and regulations, and procedural matters for use in the conduct of business of an Association.

3.6 Board: shall mean the Board of Directors or other governing board or individual, if applicable, of an Association.

3.7 Building Lot: shall mean one or more lots within a Tract as specified or shown on any Plat and/or by Supplemental Declaration, upon which Improvements may be constructed.

- 3.8 Bylaws: shall mean the Bylaws of the Association.
- 3.9 Declaration: shall mean this Declaration as it may be amended from time to time.
- 3.10 Design Guidelines: shall mean the construction guidelines approved by the Architectural Committee.
- 3.11 Grantor: shall mean Big View Builders, Inc., an Idaho corporation, and its successors in interest, or affiliates of the Grantor, or any person or entity to whom the rights under this Declaration are expressly transferred by Grantor or its successor. An "affiliate": shall mean any entity with some form of common ownership interest with the Grantor or partners of the Grantor.
- 3.12 Improvement: shall mean any structure, facility, or system, or other improvement or object, whether permanent or temporary, which is erected, constructed, or placed upon, under, or in, any portion of the Property, including but not limited to: buildings; fences; streets; drives; driveways; sidewalks; bicycle paths; curbs; landscaping; signs; lights; mail boxes; basketball poles, hoops, backboards and courts; playground equipment; horseshoe pits; picnic areas; electrical lines; pipes; pumps; ditches; waterways; and fixtures of any kind whatsoever.
- 3.13 Landscape Easements: shall mean any portion of a Building Lot located within the landscape easements designated on the Plat or in a Supplemental Declaration. This Landscape Easement is in addition to the general landscape easement described in Sections 5.5., 2.3 and 12.7 of this Declaration.
- 3.14 Limited Assessment: shall mean a charge against a particular Owner and such Owners Building Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration or any Supplemental Declaration, including interest thereon as provided in this Declaration or a Supplemental Declaration.
- 3.15 Common Area: shall mean all real property in which the Association holds an interest or which is held or maintained, permanently or temporarily, for the common use, enjoyment, and benefit of the entire Subdivision and each Owner therein, and shall include, without limitation, all of such parcels that are designated as private streets or drives, common parking areas, common open spaces, common landscaped areas, and waterways. The Common Area may be established from time to time by Grantor on any portion of the Property by describing it on a plat, by granting or reserving it in a deed or other instrument, or by designating it pursuant to this Declaration or any Supplemental Declaration. The Common Area may include easement and/or license rights.
- 3.16 Member: shall mean each person or entity holding a membership in the Association. Where specific reference or the context so indicates, it shall also mean persons or entities holding membership.

- 3.17 Owner: shall mean the person or other legal entity, including Grantor, holding fee simple interest of record to a Building Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.
- 3.18 Rock Creek Subdivision: shall mean the Property.
- 3.19 Person: shall mean any individual, partnership, corporation, or other legal entity.
- 3.20 Plat: shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.
- 3.21 Property: shall mean the real property described in Exhibit A, including each lot, parcel, and portion thereof and interest therein, including all water rights associated with or appurtenant to such property, which are brought within the jurisdiction hereof by Supplemental Declaration or otherwise. The Property also may include, at Grantor's sole discretion, such additional property in addition to that described in Exhibit A as may be annexed by means of Supplemental Declaration as provided herein.
- 3.22 Regular Assessment: shall mean the portion of the cost of maintaining, improving, repairing, managing, and operating the Common Area and all Improvements located thereon, and the other costs of an Association which is to be levied against the Property of and paid by each Owner to the Association, pursuant to the terms of this Declaration or a Supplemental Declaration.
- 3.23 Special Assessment: shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which are authorized and to be paid by each Owner to the Association, pursuant to the provisions of this Declaration or a Supplemental Declaration.
- 3.24 Supplemental Declaration: shall mean any Supplemental Declaration including additional covenants, conditions, and restrictions that might be adopted with respect to any portion of the Property.
- 3.25 Tract: shall mean a defined portion of the Property within which the contemplated development involves a common use or compatible uses, and which may have been designated as a Tract by this Declaration or a recorded Supplemental Declaration. Each Tract shall contain one or more Building Lots, and may be managed to the extent permitted herein.
- 3.26 Waterway: shall mean any surface water amenity, including, without limitation, any lake, pond, channel, slough, stream, or reservoir, natural or artificial, which is located on the Property and which is included within or managed as Common Area.

ARTICLE IV: GENERAL AND SPECIFIC RESTRICTIONS

4.1 Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration.

4.1.1 Use and Size of Dwelling Structure. All Building Lots shall be used exclusively for multi-family residential purposes. No Building Lot shall be improved except with a four-family dwelling unit or structure substantially in accordance with any other plans and specifications the Association may approve provided that in such latter event the number of cubic feet and the number of square feet of any such building may not vary by more than 5% from the number of cubic feet and the number of square feet for such four-plex building as originally constructed pursuant to such original plans and specifications, and the location of the buildings shall be substantially the same as prior to damage or destruction.

4.1.2 Architectural Committee Review. After the original Improvements are constructed and conveyed by the Grantor or its affiliate to a purchaser, no Improvements which will be visible above ground or which will ultimately affect the visibility of any above ground Improvement shall be built, erected, placed, or materially altered or removed from the Property unless and until the building plans, specifications, and plot plan or other appropriate plans and specifications have been reviewed in advance by the Architectural Committee and the same have been approved in writing. The review and approval or disapproval may be based upon the following factors - size, height, design and style elements, mass and form, topography, setbacks, finished ground elevations, architectural symmetry, drainage, color, materials, including Architectural Committee approved architectural shingles roofing material, physical or aesthetic impacts on other properties, including Common Areas, artistic conformity to the terrain and the other Improvements on the Property, and any and all other factors which the Architectural Committee, in its reasonable discretion, deems relevant. Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of the Improvements. This Declaration is not intended to serve as authority for the Architectural Committee to control the interior layout or design of residential structures except to the extent incidentally necessitated by use, size, and height restrictions.

4.1.3 Setbacks and Height. No residential or other structure (exclusive of fences and similar structures) shall be placed nearer to the Building Lot lines or built higher than permitted by the Plat for the Tract in which the Building Lot is located, by any applicable zoning restriction, by any conditional use permit, or by a building envelope designated either by Grantor or applicable Architectural Committee, whichever is more restrictive.

4.1.4 Accessory Structures. No accessory structures shall be constructed without the express written consent of the Grantor (as long as any Lot in the Property is owned by the Grantor) and the Architectural Committee. No building or other structure shall be erected,

moved, added to or structurally altered, nor shall the use of any building, structure or land be changed on the Property without first obtaining a Certificate of Zoning Compliance from the City of Meridian Planning and Zoning Department.

4.1.5 Driveways and Parking Areas. All driveways and parking areas shall have a wearing surface approved by the Architectural Committee of asphalt, concrete, or other hard surface materials, and shall be properly graded to assure proper drainage.

4.1.6 Mailboxes. All replacement mailboxes and stands will be of consistent design, material, and coloration and shall be located at places designated by Grantor or the Architectural Committee.

4.1.7 Fencing. No fencing shall be erected within the Property except a perimeter fence on the exterior boundary of the Property which fence shall be maintained by the Association. All fencing must meet the setback requirements of City ordinance. No repairs or maintenance to or construction of the perimeter fence on the exterior boundary of the Property without first obtaining the written consent of the Architectural Committee and a permit from the City of Meridian.

4.1.8 Lighting. Exterior lighting, including flood lighting, shall be part of the architectural concept of the Improvements on a Building Lot. Fixtures, standards, and all exposed accessories shall be harmonious with building design, and shall be as approved by the applicable Architectural Committee. Lighting shall be restrained in design, and excessive brightness shall be avoided.

4.2 Antennae. No exterior radio antenna, television antenna or other antenna of any type shall be erected or maintained on the property unless it is approved by the Architectural Committee of the Association per Article V and located or screened in a manner acceptable to said Architectural Committee. No satellite dishes shall be allowed on the Property; provided, however, that small dishes of approximately three (3) feet or less diameter may be placed in an appropriate portion of a Lot not visible from the street if allowed by the Architectural Committee, and subject to all terms and conditions, including screening, which may be imposed in the sole discretion of the Architectural Committee.

4.3 Insurance Rates. Nothing shall be done or kept on any Building Lot which will increase the rate of insurance on any other portion of the Property without the approval of the Owner of such other portion, nor shall anything be done or kept on the Property or a Building Lot which would result in the cancellation of insurance on any property owned or managed by any such Association or which would be in violation of any law.

4.4 No Further Subdivision. No Building Lot may be further subdivided, nor may any easement or other interest therein, unless such subdivision complies with all applicable laws.

4.5 Signs. No sign of any kind shall be displayed to the public view without the approval of the applicable Architectural Committee or Association, and the City if otherwise so required, except:

- (A) such signs as may be used by Grantor in connection with the development of the Property and sale of Building Lots;
- (B) temporary signs naming the contractors, the architect, and the lending institution for particular construction operation;
- (C) such signs identifying Subdivision, or informational signs, of customary and reasonable dimensions as prescribed by the Architectural Committee may be displayed on or from the Common Area; and,
- (D) one (1) professional sign of not more than five (5) square feet may be displayed by an Owner other than Grantor on or from a Building Lot advertising the residence for sale. A sign measuring 18 inches by 6 inches may be hung from the Project's sign, which shall be placed on Lot 1 to advertise a unit for lease. This sign may contain the Owner's or Owner's agents name and phone number and the address of the unit for rent. No other signage may be used to advertise the property for rent or sale.

All signage, including signage for the exceptions listed as (A)-(D), must be done in accordance with the Subdivision signage format. Without limiting the foregoing, no sign shall be placed in the Common Area without the written approval of the applicable Architectural Committee or the Association.

4.6 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, including the Common Area or vacant Building Lots, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. No noise or other nuisance, as described in the Meridian City Code, as amended from time to time, shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes which have been approved by the Association), flashing lights, or search lights, shall be located, used, or placed on the Property without the prior written approval of the Association.

4.7 Exterior Maintenance: Owner's Obligations. No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. In the event that any Owner shall permit any Improvement, including trees and landscaping, which is the

responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, or damages property of facilities on or adjoining their Building Lot which would otherwise be the Association's responsibility to maintain, the Board of the Association, upon fifteen (15) days prior written notice to the Owner of such property, shall have the right to correct such condition, and to enter upon such Owner's Building Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall be a limited Assessment and shall create a lien enforceable in the same manner as other Assessments set forth in Article VIII of this Declaration. The Owner of the offending property shall be personally liable, and such Owner's property may be subject to a mechanic's lien, for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due, including attorney's fees and costs. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Board, be added to the amounts payable by such Owner as Regular Assessments. Each Owner shall have the remedial rights set forth herein if the applicable Association fails to exercise its rights within a reasonable time following written notice by such Owner.

4.8 Drainage. There shall be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the applicable Architectural Committee. For the purposes hereof, "established: drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Property is completed by Grantor, or that drainage which is shown on any plans approved by the Architectural Committee, which may include drainage from the Common Area over any Building Lot in the Property.

4.9 Grading. The Owner of any Building Lot within the Property in which grading or other work has been performed pursuant to a grading plan approved under applicable provisions of City Code shall maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means, or devices which are not the responsibility of the Ada County Highway District, the Association, or other public agency, and plantings and ground cover installed or completed thereon. Such requirements shall be subject to Regular, Special, and Limited Assessments provided in Article VII herein, as may be applicable.

4.10 Water Supply Systems. No separate or individual water supply system, regardless of the proposed use of the water to be delivered by such system, shall be permitted on any Building lot unless such system is designed, located, constructed, and equipped in accordance with the requirements, standards, and recommendations of the Board of the Association and all governmental authorities having jurisdiction. Grantor or affiliates of Grantor may use the water supply as deemed necessary for temporary or other irrigation purposes.

4.11 No Hazardous Activities. No activities shall be conducted on the Property, and improvements constructed on any property which are or might be unsafe or hazardous to any person or property.

4.12 Unightly Articles. No unsightly articles shall be permitted to remain on any Building Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage, and trash shall be kept at all times in such containers and in areas approved by the applicable Architectural Committee. No clothing or fabrics shall be hung, dried, or aired in such a way as to be visible to other property, and no equipment, treat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse, or trash shall be kept, stored or allowed to accumulate on any Building Lot except within an enclosed structure or as appropriately screened from view. No vacant residential structures shall be used for the storage of building materials.

4.13 No Temporary Structures. No house trailer, mobile home, tent (other than for short term individual use which shall not exceed one (1) week unless approved by the Association), shack or other temporary building, improvement, or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property. Also excepted from this requirement is any sales office established for the Property.

4.14 No Unscreened Boats, Campers, and Other Vehicles. No boats, trailers, campers, all-terrain vehicles, motorcycles, recreational vehicles, bicycles, dilapidated or unrepaired and unsightly vehicles, or similar equipment shall be placed upon any portion of the Property (including, without limitation, streets, parking areas, and driveways) unless the same are enclosed by a structure concealing them from view in a manner approved by the Architectural Committee. To the extent possible, garage doors shall remain closed at all times.

4.15 Sewage Disposal Systems. No individual sewage disposal system shall be used on the Property. Each Owner shall connect the appropriate facilities on such Owner's Building Lot to the Meridian City Sewer System and pay all charges assessed therefor.

4.16 No Mining or Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas, or other hydrocarbons, minerals, rocks, stones, sand, gravel or earth. This paragraph 4.16 shall not prohibit exploratory drilling or coring which is necessary to construct a residential structure or Improvements.

4.17 Energy Devices. Outside. No energy production devices, including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any portion of the Property without the written approval of the applicable Architectural Committee, except for heat pumps shown in the plans approved by the Architectural Committee. This paragraph 4.17 shall not apply to passive solar energy systems incorporated into the approved design of a residential structure.

4.18 Vehicles. The use of all vehicles, including, but not limited to, trucks, automobiles, bicycles, motorcycles, snowmobiles, aircraft, and boats, shall be subject to all Association Rules, which may prohibit or limit the use thereof within Rock Creek Subdivision. No on-street parking shall be

permitted except where expressly designated for parking use. The parking spaces in any parking areas located in Common Areas shall be regulated by the Association in accordance with the provisions set forth herein. No parking bays shall be permitted in any side, front, or backyard. Vehicles parked on a driveway shall not extend into any sidewalk or bike path or pedestrian path. No motorized vehicle or device shall be permitted on any Waterway unless such vehicle is engaged in an emergency procedure.

4.19 Animals/Pets. No poultry, livestock or other animals may be kept on the Property except no more than two(2) of any combination of domesticated dogs, cats, or other common household pets which do not unreasonably bother or constitute a nuisance to others and on such portions or roads or other public ways or easements as may be designated or permitted for such use from time to time by Grantor. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. No animals of any kind shall be bred or kept for commercial purposes and no dog weighing more than twenty five (25) pounds shall be kept by any residential household in the subdivision. Each dog in Rock Creek Subdivision shall be kept on a leash, curbed, and otherwise controlled at all times when such animal is off the premises of its owner. Such owner shall clean up any animal defecation immediately from the Common Area or public right-of-way. Failure to do so may result, at the Board's discretion, with a Limited Assessment levied against such animal owner. No dog or cat shall be allowed in any Waterway. No dog runs or other pet enclosures shall be constructed, maintained or located outside of any Building located on the Property.

4.20 Landscaping. The Association shall have an easement to maintain all of the landscaped areas within the Property and shall collect an assessment from each Owner to cover the cost of such maintenance.

4.21 Exemption of Grantor. Nothing contained herein shall limit the right of Grantor to subdivide or re-subdivide any portion of the Property, to grant licenses, to reserve rights-of-way and easements with respect to the Common Area to utility companies, public agencies, or others, or to complete excavation, grading, and construction of Improvements to and on any portion of the property owned by Grantor, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Grantor deems advisable in the course of development of the Property so long as any Building Lot in the Property remains unsold. Such right shall include, but shall not be limited to, erecting, constructing, and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Grantor's business of completing the work and disposing of the same by sales lease or otherwise. Grantor shall have the right at any time prior to acquisition of title to a Building Lot by a purchaser from Grantor to grant, establish, and/or reserve on that Building Lot, additional licenses, reservations and rights-of way to Grantor, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. Grantor may use any structures owned by Grantor on the Property as model home complexes or real estate sales or leasing offices for lots and homes within the Development. Grantor need not seek or obtain Architectural Committee approval of any Improvement constructed or placed by Grantor or an affiliate of Grantor on any portion of the

Property owned by Grantor or an affiliate of Grantor. The rights of Grantor hereunder may be assigned by Grantor to any successor in interest in connection with Grantor's interest in any portion of the Property, by an express written assignment recorded in the Office of the Ada County Recorder.

4.22 Conveyances to and from Municipalities. The Board shall have the power to convey any portion of the Common Area in Rock Creek Subdivision to the City of Meridian, the County of Ada, the State of Idaho, the United States of America, or any political subdivision thereof. The Board shall also have the power to receive a conveyance of any property interest from the above-referenced entities, or any other individual or entity, and to hold such property interest as Common Area.

4.23 Water Rights Appurtenant to Subdivision Lands. Within one hundred twenty (120) days of the date of the recording of this Declaration, Grantor shall transfer from the Property subject to this Declaration, and within the boundaries of an irrigation entity, as defined in said Section 31-3805, Idaho Code, all water rights and assessment obligations appurtenant to the Property to the Association,

4.24 Commencement of Construction. [intentionally left blank]

ARTICLE V: ROCK CREEK HOMEOWNER'S ASSOCIATION

5.1 Organization of Rock Creek Homeowners Association. Rock Creek Homeowners Association ("Association") shall be initially organized by Grantor as an Idaho nonprofit corporation under the provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration or with any Supplemental Declaration which Grantor might adopt pertaining to the Subdivision.

5.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association and no Owner shall have more than one membership in the Association. Memberships in the Association shall be appurtenant to the Tract, Building Lot, or other portion of the Property owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned, or alienated in any way except upon the transfer of Owner's title and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

5.3 Voting. Voting in the Association shall be carried out by Members who shall cast the votes attributable to the Building Lots which they own, or attributable to the Building Lots owned by Grantor. The number of votes any Member may cast on any issue is determined by the number of Building Lots which the Member, including Grantor, owns. When more than one person holds an

interest in any Building Lot, all such persons shall be Members but shall share the votes attributable to the Building Lot. For voting purposes, the Association shall have two (2) classes of Members as described below:

5.3.1 Class A Members. Owners other than Grantor shall be known as Class A Members. Each Class Member shall be entitled to cast one (1) vote for each Building Lot owned by such Class A Member on the day of the vote.

5.3.2 Class B Members. The Grantor shall be known as the Class B Member, and shall be entitled to six (6) votes for each Building Lot of which Grantor is the Owner. The Class B Member shall cease to be a voting Member in the Association when the total cumulative votes of the Class A Members equal or exceed the total votes of the Class B Members, provided that the Class B membership shall not cease before the expiration of ten (10) years from the date on which the first Building Lot is sold to an Owner.

Fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint owners of the Building Lot(s) from which the vote derived. The right to vote may not be severed or separated from the ownership of the Building Lot to which it is appurtenant, except that any Owner may give a revocable proxy, or may assign such Owners right to vote to a lessee, mortgagee, beneficiary, or contract purchaser of the building lot concerned, for the term of the lease, mortgage, deed of trust, or contract. Any sale, transfer, or conveyance of such Building Lot to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

5.4 Board of Directors and Officers. The affairs of the Association shall be conducted and managed by a Board of Directors ("Board") and such owners as the Board may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time. The Board of the Association shall be elected in accordance with the provisions set forth in the Association Bylaws.

5.5 Power and Duties of the Association.

5.5.1 Powers. The Association shall have all the powers of a corporation organized under the general corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and the Articles and 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

Common Area and the Declaration's other assets (including water rights when and if received from Grantor) and affairs and the performance of the other responsibilities herein assigned, including without limitation:

5.5.1.1 Assessments. The power to levy Assessments on any Owner or any portion of the Property and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

5.5.1.2 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Article or the Bylaws, including the Association Rules adopted pursuant to this Declaration, and to enforce by injunction or otherwise, all provisions hereof.

5.5.1.3 Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm, or corporation to act as manager, and to contract for the maintenance, repair, replacement, and operation of the Common Area. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.

5.5.1.4 Association Rules. The power to adopt, amend, and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable. The Association may govern the use of the Common Areas, including, but not limited to, the use of private streets by the Owners, their families, invitees, licensees, lessees, or contract purchasers; provided, however, that any Association Rules shall apply equally to all Owners and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between such Association Rules and any other provisions of this Declaration, or the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by provisions of this Declaration, the Articles, or the Bylaws to the extent of any such inconsistency.

5.5.1.5 Emergency Powers. The power, exercisable by the Association or by any person authorized by it, to enter upon any property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with

as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association.

5.5.1.6 Licenses, Easements, and Rights-of-Way. The power to grant and convey to any third party such licenses, easements, and rights-of-way in, on, or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation, and enjoyment of the Common Area, and for the preservation of the health, safety, convenience, and welfare of the Owners, for the purpose of constructing, erecting, operating, or maintaining:

5.5.1.6.1 Underground lines, cables, wires, conduits, or other devices for the transmission of electricity or electronic signals-for lighting, heating, power, telephone, television, or other purposes, and the above ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services; and,

5.5.1.6.2 Public sewers, storm drains, water drains, and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities.

5.5.1.6.3 Mailboxes and sidewalk abutments around such mailboxes, or any service facility, berms, fencing and landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose including, but not limited to, bicycle pathways.

The right to grant such licenses, easements, and rights-of-way is hereby expressly Reserved to the Association and may be granted at any time prior to twenty-one (21) years after the death of the issue of the individuals executing this Declaration on behalf of Grantor who are being as of the date hereof.

5.5.2 Duties. In addition to duties necessary and proper to carry out the power delegated to the Association by this Declaration, and the Articles and Bylaws, without limiting the generality thereof, the Association or its agent, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

5.5.2.1 Operation and Maintenance of the Common Area. Operate, maintain, and otherwise manage, or provide for the operation, maintenance, and management of, the Common Area and landscape Easement areas (as defined in Section 3.13), including the repair and replacement of property damaged or destroyed by casualty loss. Specifically, the Association shall, at Grantor's sole discretion, operate and maintain all properties owned by Grantor which are designated by Grantor for

temporary or permanent use by Members of the Association. Such properties may include those lands intended for open space uses and which may be referred to as "non-buildable" lots per the Plat. Additionally, the Association may, in its discretion, limit or restrict the use of the Common Area to the Owners residing in the Subdivision.

5.5.2.2 Reserve Account. Establish and fund a reserve account with a reputable banking institution or savings and loan association or title insurance company authorized to do business in the State of Idaho, which reserve account shall be dedicated to the costs of repair, replacement, maintenance and improvement of the Common Area, and enforcement of the terms of the Conservation Agreement as defined below.

5.5.2.3 Maintenance of Berms, Retaining Walls, Fences, Water sprinkler system, Parking Areas, Tot Lot, Basketball Court, Horseshoe Pits and Trash Dumpsters. Maintain the berms, retaining walls, fences, landscaping, water amenities, water sprinkler system, common parking areas, tot lot (including the playground equipment), horseshoe pits, basketball court and trash dumpsters within and abutting the Common Area and Landscape Easement areas.

5.5.2.4 Taxes and Assessments. Pay all real and personal property taxes and Assessments separately levied against the Common Area or against the Subdivision, the Association, and/or any other property owned by the Association. Such taxes and Assessments may be contested or compromised by the Association, provided, however, that such taxes and Assessments are paid or a bond insuring payment is posted prior to the sale or disposition of any property to satisfy the payment of such taxes and Assessments. In addition, the Association shall pay all other federal, state, or local taxes, including income or corporate taxes levied against the Association, in the event that the Association is denied the status of a tax exempt corporation.

5.5.2.5 Water and Other Utilities. Acquire, provide, and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, and gas, and other necessary services, for the Common Area, and manage for the benefit of the Subdivision all domestic, irrigation, and amenity water rights and rights to receive water held by the Association, whether such rights are evidenced by license, permit, claim, stock ownership, or otherwise. The Association shall maintain, repair, and operate any sewer lift stations located on the Property.

5.5.2.6 Insurance. Obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable, including, without limitation, the following policies of insurance:

5.5.2.6.1 Fire insurance, including those risks embraced by coverage of the type known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreed amount basis for the full insurable replacement value of all Improvements, equipment, and fixtures located within the Common Area.

5.5.2.6.2 Comprehensive public liability insurance insuring the Board, the Association, the Grantor, and the individual grantees and agents and employees of each of the foregoing, against any liability incident to the ownership and/or use of the Common Area. Limits of liability of such coverage shall be as follows:

Not less than One Million Dollars and No Cents (\$1,000,000.00) per person, and One Million Dollars and No Cents (\$1,000,000.00) per occurrence, with respect to personal injury or death, and One Million Dollars and No Cents (\$1,000,000.00) per occurrence with respect to property damage.

5.5.2.6.3 Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00).

5.5.2.6.4 Such other insurance, including motor vehicle insurance and Workmen's Compensation Insurance, to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity, and other bonds as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property.

5.5.2.6.5 The Association shall be deemed trustee of the interests of all Owners in connection with any insurance proceeds paid to the Association under such policies, and shall have full power to receive such Owner's interests in such proceeds and to deal therewith.

5.5.2.6.6 Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.

5.5.2.7 Rule Making. Make, establish, promulgate, amend, and repeal such Association Rules as the Board shall deem advisable.

5.5.2.8 Newsletter. If it so elects, prepare and distribute a newsletter on matters of general interest to Association Members, the cost of which shall be included in Regular Assessments.

5.5.2.9 Architectural Committee. Appoint and remove members of the Architectural Committee, subject to the provisions of this Declaration.

5.5.2.10 Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, or of the Articles or the Bylaws, including, without limitation, the recordation of any claim of lien with the Ada County Recorder, as more fully provided herein.

5.5.2.11 Private Streets, Parking Areas, Signs, and Lights. Maintain, repair, or replace private streets (as noted on the Plat and including any cul-de-sac easements), common parking areas street signs, and private street lights located on the Property. This duty shall run with the land and cannot be waived by the Association unless the City of Meridian consents to such waiver.

5.5.2.12 Landscaping Maintenance. Maintenance of all landscaped areas located within the Common Areas and areas within the Landscaping Easement, including, without limitation, installing, maintaining, replacing, and restoring exterior landscaping, and natural vegetation and habitat and maintaining all sprinkler systems on the Common Areas and areas within the Landscaping Easement. Such landscaping activity shall include, by way of illustration and not of limitation, the mowing of lawns, irrigation, sprinkling, tree and shrub trimming and pruning, walkway improvement, seasonal planting, and such other landscaping activities within the Common Areas and the areas within the Landscaping Easement as such Association shall determine to be necessary from time to time.

5.6 Personal Liability. No Member of the Board, or member of any committee of the Association, or any officer of the Association, or the Grantor, or the manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on the account of any act, omission, error, or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, the Grantor, or the Architectural Committee, or any other committee, or any owner of the Association, or the Grantor, provided that such person, upon the basis of such information as may be possessed by such person, has acted in good faith without willful or intentional misconduct.

5.7 Budgets and Financial Statements. Financial statements for the Association shall be prepared regularly and copies shall be distributed to each Member of the Association as follows:

5.7.1 A pro forma operating statement or budget, for each fiscal year shall be distributed not less than sixty (60) days before the beginning of each fiscal year. The operating statement shall include a schedule of Assessments received and receivable, identified by the Building Lot number and the name of the person or entity assigned.

5.8 Meetings of Association. Each year the Association shall hold at least one (1) meeting of the Members, according to the schedule for such meetings established by the Bylaws; provided, however, that such meeting shall occur no later than November 1 each year. Only Members shall be entitled to attend Association meetings, and all other persons may be excluded. Notice for all Association meetings, regular or special, shall be given by regular mail to all Members, and any person in possession of a Building Lot, not less than ten (10) days, nor more than thirty (30) days, before the meeting and shall set forth the place, date, and hour of the meeting and the nature of the business to be conducted. All meetings shall be held within the Property or as close thereto as practical at a reasonable place selected by the Board. The presence at any meeting in person of the Class B Member, where there is such a Member, and of the Class A Members representing Owners holding at least thirty percent (30%) of the total votes of all Class A Members, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than ten (10) days nor more than thirty (30) days from the time the original meeting was scheduled. A second meeting may be called as the result of such an adjournment, provided notice is given as provided above. At any such meeting properly called, the presence of any Member shall constitute a quorum.

ARTICLE VI: RIGHTS TO COMMON AREAS

6.1 Use of Common Area. Every Owner shall have a right to use each parcel of the Common Area, which right shall be appurtenant to and shall pass with the title to every Building Lot, subject to the following provisions:

6.1.1 The right of the Association holding or controlling such Common Area to levy and increase Assessments;

6.1.2 The right of the Association to suspend the voting rights and rights to use of, or interest in, the Common Area recreational facilities (but not including access to private streets, cul-de-sacs and walkways of the Property) by an Owner for any period during which any Assessment or charge against such Owner's Building Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Association Rules; and,

6.1.3 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such

conditions as may be permitted by the Articles and the Bylaws and agreed to by the Members. No dedication or transfer of said Common Area shall be effective unless an instrument agreeing to such dedication or transfer signed by Members representing two-thirds (2/3) of each class of Members has been recorded.

6.1.4 The right of the Association to prohibit the construction of structures or Improvements on all Common Areas which interfere with the intended use of such areas as private street, parking area, cul-de-sacs and walkways.

6.1.5 The right of the Association to protect wildlife habitat.

6.2 CCHD Maintenance. Notwithstanding the Association is obligated to maintain the Common Area and facilities contained therein, it is hereby provided that Ada County Highway District ("ACHD") may elect to maintain any part or facility of the Common Area should the Association fail to maintain the Common Area. In the event that ACHD determines, in its sole reasonable discretion, that the Association is not adequately maintaining the Common Area, ACHD shall, before undertaking maintenance of the Common Area, provide written notice of its intention to begin maintenance of the Common Area within a thirty (30) day period, within which time frame the Association may undertake to initiate and conclude all maintenance defects as identified by ACHD. In the event the Association shall fail to commence and conclude maintenance of the Common Area to the extent such items of specific maintenance are identified by ACHD within the prescribed thirty (30) days, then in such event, ACHD may begin to undertake maintenance of the Common Area.

If the Association fails to maintain the Common Area, ACHD is hereby granted a license to enter upon any portion of the Common Area to perform necessary inspection and maintenance. Should ACHD engage in maintenance of the Common Area after having provided notice to the Association and having provided the Association an opportunity to undertake such maintenance, ACHD shall be entitled to and empowered to file a ratable lien against Building Lots in Rock Creek Subdivision with power of sale to secure payment of the costs in connection with such maintenance. This section shall not be amended without prior written approval from ACHD.

6.3 Designation of Common Area. Grantor shall designate and reserve the Common Area in the Declaration, Supplemental Declarations, and/or recorded Plats, deeds, or other instruments, and/or as otherwise provided herein.

6.4 Delegation of Right to Use. Any Owner may delegate, in accordance with the respective Bylaws and Association Rules of the Association, such Owner's right of enjoyment to the Common Area, to the members of such Owner's family in residence, and such Owner's tenants or contract purchasers who reside on such Owner's Building lot. Only Grantor or the Association shall have the right to delegate the right of enjoyment to the Common Area to the general public, and such delegation to the general public shall be for a fee set by Grantor or the Association.

6.5 Damages. Each Owner shall be fully liable for any damage to any Common Area which may be sustained by reason of the negligence or willful misconduct of the Owner, such Owner's resident tenant or contract purchaser, or such Owner's family and guests, both minor and adult. In the case of joint ownership of a Building Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited Assessment against the Building Lot and may be collected as provided herein for the collection of other Assessments.

ARTICLE VII: ASSESSMENTS

7.1 Covenant to Pay Assessments. By acceptance of a deed to any property in the Subdivision, each Owner of such property hereby covenants and agrees to pay when due all Assessments or charges made by the Association, including all Regular, Special, and Limited Assessments and charges made against such Owner pursuant to the provisions of this Declaration or other applicable instrument.

7.1.1 Assessment Constitutes Lien. Such Assessments and Charges, together with interest, costs, and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment or charge is made.

7.1.2 Assessment is Personal Obligation. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such property beginning with the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them but shall remain such Owner's personal obligation regardless of whether he remains an Owner.

7.2 Regular Assessments. All Owners, including the Grantor, are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board.

7.2.1 Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by an Association, including legal and attorneys' fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management, and operation of the Common Areas, including all Improvements located on such areas owned and/or managed and maintained by such Association, and an amount allocated to an adequate reserve fund to be used for repairs, replacement, maintenance, and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis (collectively "Expenses").

7.2.2 Computation of Regular Assessments. The Association shall compute the amount of its Expenses on an annual basis. The Board shall compute the amount of Regular Assessments owed beginning the first day of the third month following the month in which the closing of the first sale of a Building Lot occurred in Rock Creek Subdivision for the purposes of the Association's Regular Assessment ("Initiation Date"). Thereafter, the computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of an Association. The computation of the Regular Assessment for the period from the Initiation Date until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one (1) year.

7.2.3 Amounts Paid by Owners. The Board can require, in its discretion or as provided in the Articles or Bylaws, payment of Regular Assessments in monthly, quarterly, semi-annual, or annual installments. The Regular Assessment to be paid by any particular Owner, except Grantor, for any given fiscal year shall be computed as follows:

7.2.3.1 As to the Association's Regular Assessment, each Owner shall be assessed and shall pay an amount computed by multiplying the Association's total advance estimate of Expenses by the fraction produced by dividing the Building Lots in the applicable Tract attributable to the Owner by the total number of Building Lots in such Tract.

7.2.3.2 The following Property subject to this Declaration shall be exempt from the assessments created herein:

(a) All properties expressly dedicated to and accepted by a local public authority;

(b) Property owned by the Grantor that has not received an occupancy permit from the City of Meridian.

7.3 Special Assessments.

7.3.1 Purpose and Procedure. In the event that the Board of an Association shall determine that its respective Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of such Association for any reason, including but not limited to costs of construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area, attorney's fees and/or litigation costs, other professional fees, or for any other reason, the Board thereof shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment against the portions of the Property within its jurisdiction which shall be computed in the same manner as Regular Assessments. No Special Assessment shall be levied which exceeds twenty percent (20%) of the budgeted

gross Expenses of such Association for that fiscal year, without the vote or written assent of the Owners representing a majority of the votes of the Members of such Association. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

7.3.2 Consistent Basis of Assessment. Every Special Assessment levied by and for an Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments for such Association.

7.4 Limited Assessments. Notwithstanding the above provisions with respect to Regular and Special Assessments, a Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member's Building Lot or restricted Common Area into compliance with the provisions of the governing instruments for Rock Creek Subdivision.

7.5 Uniform Rate of Assessment. Unless otherwise specifically provided herein, Regular and Special Assessments shall be fixed at a uniform rate per Building Lot for all Members of the Association.

7.6 Assessment Period. Unless otherwise provided in the Articles or Bylaws, the Assessment period shall commence on January 1st of each year and terminate December 31st of the year in which the Initiation Date occurs. The first Assessment shall be pro-rated according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments.

7.7 Notice and Assessment Due Date. Ten (10) days' prior written notice of Regular and Special Assessments shall be sent to the Owner of every Building Lot subject thereto, and to any person in possession of such Building Lot. The due dates for installment payment of Regular Assessments and Special Assessments shall be the first day of each month unless some other due date is established by the Board. Each monthly installment of the Regular Assessment of Special Assessment shall become delinquent if not paid within ten (10) days after the levy thereof. There shall accrue with each delinquent installment payment a late charge equal to ten percent (10%) of the delinquent installment. In addition, each installment payment which is delinquent for more than twenty (20) days shall accrue interest at eighteen percent (18%) per annum calculated from the date of delinquency to and including the date full payment is received by an Association. An Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Building Lot as more fully provided herein. Each Owner is personally liable for Assessments, together with all interest, costs and attorney's fees, and no Owner may exempt such Owner from such liability by a waiver of the use and enjoyment of the Common Areas, or by lease or abandonment of such Owners Building Lot.

7.8 Estoppel Certificate. The Association, upon at least twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request, a statement in writing

stating whether or not, to the knowledge of the Association, a particular Building Lot Owner is in default under the provisions of this Declaration, and further stating the dates to which any Assessments have been paid by the Owner. Any such certificate delivered pursuant to this paragraph 7.8 may be relied upon by any prospective purchaser or mortgagee of the Owner's Building Lot. Reliance on such Certificate may not extend to any default as to which the Signor shall have had no actual knowledge.

7.9 Special Notice and Quorum Requirements. Notwithstanding anything to the contrary contained in either the Bylaws or the Articles, written notice of any meeting called for the purpose of levying a Special Assessment, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessment, shall be sent to all Members of the Association and to any person in possession of a Building Lot in the applicable Tract, not less than fifteen (15) days nor more than thirty (30) days before such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total votes of the Association shall constitute a quorum. If such quorum is not present, subsequent meetings may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be fifty percent (50%) of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

ARTICLE VIII: ENFORCEMENT OF ASSESSMENT; LIENS

8.1 Right to Enforce. The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of Building Lot, upon becoming an Owner of such Building Lot, shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to paragraph 8.3 to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

8.2 Assessment Liens.

8.2.1 Creation. There is hereby created a claim of lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney's fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on

such respective Building Lot upon recordation of a claim of lien with the Ada County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Building Lot and Assessments on any Building Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

8.2.2 Claim of Lien. Upon default of any Owner in the payment of any Regular, Special or Limited Assessment issued hereunder, the Association may cause to be recorded in the office of the Ada County Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Building Lot(s) against which the same have been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

8.3 Method of Foreclosure. Such lien may be foreclosed by appropriate action in court or by sale by the Association establishing the Assessment, its attorney or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

8.4 Required Notice. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Building Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Building Lot(s) and a copy thereof is recorded by the Association in the Office of the Ada County Recorder.

8.5 Subordination to Certain Trust Deeds. The lien for the Assessments provided for herein in connection with a given Building Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Building Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in paragraph 8.6 with respect to a first mortgagee who acquires title to Building Lot, the sale or transfer of any Building Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such

sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

8.6 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of the Beneficiary under any deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Building Lot shall remain subject to this Declaration as amended.

ARTICLE IX: INSPECTION OF ASSOCIATION'S BOOKS AND RECORDS

9.1 Member's Right of Inspection. The membership register, books of account and minutes of meetings of the Board and committee of an Association shall be made available for inspection and copying by any Member of the Association or by such Member's duly appointed representatives, at any reasonable time and for a purpose reasonably related to such Member's interest as a Member at the office of the Association or at such other place as the Board of such Association shall prescribe. No Member or any other person shall copy the membership register for the purposes of solicitation of or direct mailing to any Member of the Association.

9.2 Rules Regarding Inspection of Books and Records. The Board shall establish reasonable rules with respect to:

9.2.1 Notice to be given to the custodians of the records by the persons desiring to make the inspection.

9.2.2 Hours and days of the week when such an inspection may be made.

9.2.3 Payment of the cost of reproducing copies of documents requested pursuant to this Article IX.

9.3 Director's Rights of Inspection. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association, and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

ARTICLE X: ARCHITECTURAL COMMITTEE

10.1 Creation. Within thirty (30) days of the date on which the Grantor first conveys a Building Lot to an Owner, Grantor shall appoint three (3) individuals to serve on the Architectural Committee ("Architectural Committee"). Each member shall hold office until such time as such member has resigned or has been removed, or such member's successor has been appointed, as provided herein.

A member of the Architectural Committee need not be an Owner. Members of the Architectural Committee may be removed by the person or entity appointing them at any time without cause.

10.2 Grantor's Right of Appointment. At any time, and from time to time, prior to ten (10) years after the recording date of this Declaration in which Grantor is the Owner of at least twenty percent (20%) of the aggregate Building Lots, Grantor shall have the exclusive right to appoint and remove all members of the Architectural Committee. At all other times, the Association Board shall have the right to appoint and remove all members of the Architectural Committee. If a vacancy on the Architectural Committee occurs and a permanent replacement has not yet been appointed, Grantor or the Board, as the case may be, may appoint an acting member to serve for a specified temporary period not to exceed one (1) year.

10.3 Review of Proposed Construction. The Architectural Committee shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Committee. The Board shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of Improvements shall be submitted for Architectural Committee review and approval. The Architectural Committee shall have the power to hire an architect, licensed with the State of Idaho, to assist the Architectural Committee in its review of proposals or plans and specifications submitted to the Architectural Committee. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the habitat of the Common Areas, or appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association.

10.3.1 Conditions on Approval. The Architectural Committee may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, and/or upon the agreement of the Applicant to reimburse an Association for the cost of maintenance, and may require submission of additional plans and specifications or other information before approving or disapproving material submitted.

10.3.2 Architectural Committee Rules and Fees. The Architectural Committee also may establish rules and/or guidelines setting forth procedures for and the required content of the applications and plans submitted for approval. Such rules may require a fee to accompany each application for approvals or additional factors which it will take into consideration in reviewing submissions. The Architectural Committee shall determine the amount of such fee in a reasonable manner. Such fees shall be used to defray the costs and expenses of the Architectural Committee, including the cost and expense of hiring an architect licensed by the State of Idaho, as provided above, or for such other purposes as established by the Board,

and such fee shall be refundable to the extent not expended for the purposes herein stated. If plans submitted are the same or substantially similar to plans previously approved by the Architectural Committee, fees may be reduced for such application approvals.

Such rules and guidelines may establish, without limitation, specific rules and regulations regarding design and style elements, landscaping, and fences and other structures such as animal enclosures as well as special architectural guidelines applicable to Building Lots located adjacent to public and/or private open space.

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

10.3.4 Architectural Committee Decisions. Decisions of the Architectural Committee and the reasons therefor shall be transmitted by the Architectural Committee to the Applicant at the address set forth in the application for approval within twenty (20) days after filing all materials required by the Architectural Committee. Any materials submitted pursuant to this Article X shall be deemed approved unless written disapproval by the Architectural Committee shall have been mailed to the Applicant within twenty (20) days after the date of filing said materials with the Architectural Committee. The Architectural Committee shall have the power to hire an architect, licensed with the State of Idaho, to assist the Architectural committee in its review of proposals or plans and specifications submitted to the Architectural Committee. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the habitat of the Common Areas, or appearance of the surrounding area of the Property as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association.

10.4 Meetings of the Architectural Committee. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time by resolution unanimously adopted in writing, designate an Architectural Committee representative (who may, but need not be, one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to paragraph 10.9. In the absence of such designation, the vote of any two (2) members of the Architectural Committee, or the written consent of any two (2) members of the Architectural Committee taken without a meeting, shall constitute an act of the Architectural Committee.

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

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

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

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

10.7.2 Within sixty (60) days thereafter, the Architectural Committee or its duly authorized representative may inspect such Improvement. If the Architectural Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying the particular noncompliance, and shall require the Owner to remedy the same.

10.7.3 If upon the expiration of thirty (30) days from the date of such notification, or any longer time the Architectural Committee determines to be reasonable, the Owner shall have failed to remedy such noncompliance, the Architectural Committee shall notify the Board in writing of such failure. Upon notice and hearing, as provided in the Bylaws, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of the announcement of the Board ruling unless the Board specifies a longer time as reasonable. If the Owner does not comply with Board ruling within such period, the Board, at its option, may either remove the non-complying improvement or remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Limited Assessment against such Owner for reimbursement pursuant to this Declaration.

10.7.4 If for any reason the Architectural Committee fails to notify the Owner of any noncompliance with sixty (60) days after receipt of the written notice of completion from the Owner, the work shall be deemed to be in accordance with the approved plans.

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

10.9 Variances. The Architectural Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, floor area, or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations may require. However no variances will be granted for construction of structures or Improvements, including without limitation manicured lawns, in the Common Areas. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Committee, and shall become effective upon recordation in the office of the county Recorder of Ada County. If such variances are granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Building Lot and particular provision hereof covered by the variance, nor shall it affect any way the Owners obligation to comply with all governmental laws and regulations affecting such Owners use of the Building Lot, including but not limited to zoning ordinances or requirements imposed by any governmental or municipal authority.

ARTICLE XI: ANNEXATION OF ADDITIONAL PROPERTIES

11.1 By Grantor. Grantor intends to develop the property described on Exhibit A and other properties and may, in Grantor's sole discretion, deem it desirable to annex some or all of such properties to the Property covered by this Declaration. Tracts may be annexed to the Property and brought within the provisions of this Declaration as provided herein by Grantor, its successors or assigns, at any time, and from time to time, without the approval of any Owner or Association. The use and development of such Tracts shall conform to all applicable land use regulations, as such regulations are modified by variances.

11.2 By Association. In addition to the provisions concerning annexations by Grantor specified in section 11.1 above, Tracts may be created, subject to the same conditions, by the Association upon the exercise by Members of at least two-thirds percent (2/3%) of the votes of the Association.

11.3 Rights and Obligations of Owners of Annexed Tracts. Subject to the provisions hereof, upon the recording of a Supplemental Declaration as to any Tract all provisions contained in the Declaration shall apply to the Tract in the same manner as if it were originally covered by this Declaration, subject to such modifications, changes and deletions as are specifically provided in such Supplemental Declaration, such Tract shall be treated for all purposes as a Tract as defined above. The Owners of lots located in the Tracts shall become members of the Association and shall become liable for their appropriate share of Assessments. Title to the Common Areas which are to be owned and managed by the Association within said Tracts shall be conveyed to the Association, free and clear of any and all encumbrances and liens, subject to reservations, easements, covenants, conditions and restrictions then of record including those set forth in this Declaration or any Supplemental Declaration applicable to such Tracts.

11.4 Method of Annexation. The addition of a Tract to the Property authorized under sections 12.1 and 12.2 shall be made by filing of record a Supplemental Declaration or other similar instrument with respect to the Tract, which shall be executed by Grantor or the Owner thereof and which shall annex such property to the Property. Thereupon each Tract shall be part of the Property, shall be subject to this Declaration and encompassed within the general plan and scheme hereof as modified by such Supplemental Declaration, and shall be subject to the functions, powers, and jurisdiction of the Association established for the area encompassing such Tract. Such Supplemental Declaration or other appropriate document may contain such additions, modifications or deletions as may be deemed by Grantor or the Owner thereof desirable to reflect the different character, if any, of the Tract, or as Grantor or such Owner may deem appropriate in the development of the Tract. If any Tract is created, the Association shall have the authority to levy Assessments against the Owners located within such Tract, and the Association shall have the duty to maintain additional Common Area located within the Tract if so specified in any Supplemental Declaration.

11.5 De-annexation. Grantor may delete all or a portion of the property described on Exhibit A, including previously annexed Tracts, from the Property and from coverage of this Declaration and the jurisdiction of any Association so long as Grantor is the owner of all such Tracts and provided that a Supplemental Declaration of Deletion of Property is recorded in the Office of the Ada County Recorder in the same manner as a Supplemental Declaration of annexation. Members other than Grantor as described above, shall not be entitled to de-annex all or any portion of a Tract except on the favorable vote of seventy-five percent (75%) of all members of the Association and written approval of Grantor so long as Grantor owns any portion of the property described on Exhibit A.

ARTICLE XII: EASEMENTS

12.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Building Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Building Lots due to the unwillful placement or settling or shifting of the sidewalks and driveways constructed, reconstructed or altered thereon in accordance with the terms of this Declaration. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner. In the event a structure on any Building Lot is partially or totally destroyed, and then repaired or rebuilt, the owners of each Building Lot agree that minor encroachments over adjoining Building Lots that existed prior to the encroachment may be reconstructed pursuant to the easement granted by this paragraph 12.1

12.2 Easements of Access. All Owners of Building Lots will have a perpetual easement for access, ingress and egress over the Common Area, including but not limited to the private streets, parking areas, common trash dumpster areas, tot lot, lawn areas, basketball court, horseshoe pits, picnic areas, cul-de-sacs and walkways. This easements shall run with the land. Such easements may be used by Grantor, and by all Owners, their guests, tenants and invitees, residing on or temporarily visiting the property, for pedestrian walkways, recreation, vehicular access and parking and such other purposes reasonably necessary for the use and enjoyment of a building Lot of Common Area.

12.3 Drainage and Utility Easements. Grantor expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Building Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Building Lots, and Common Areas, resulting from the normal use of adjoining Building Lots or Common Areas, and for necessary maintenance and repair for any improvement including fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees, and landscaping. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Grantor for the installation and maintenance of utilities and drainage facilities that are required for the development of the property. In addition, Grantor hereby reserves for the benefit of any Association the right to grant additional easements and rights-of-way over the property and/or a tract, as appropriate, to the Property until close of escrow for the sale of the last Building lot in the property to a purchaser.

12.3.1 Improvement of Drainage and Utility Easement Areas. The owners of Building Lots are hereby restricted and enjoined from constructing any Improvements upon any drainage or utility easement areas as shown on the Plat of Rock Creek Subdivision or otherwise designated in any recorded document which would interfere with or prevent the easement from being used for such purpose; provided, however, that the Owner of such Building Lot and the Grantor, Association or designated entity with regard to the landscaping easement

described in this Article XII, shall be entitled to install and maintain landscaping on such easement areas, and also shall be entitled to build and maintain fencing on such easement areas subject to approval by the Association Architectural Committee, so long as the same would not interfere with or prevent the easement areas from being used for their intended purposes; provided, that any damage sustained to improvements on the easement areas as a result of legitimate use of the easement areas shall be the sole and exclusive obligation of the Owner of the Building Lot whose Improvements were so damaged.

12.4 Rights and Duties Concerning Utility Easements. The rights and duties of the Owners of the Building Lots within the Property with respect to utilities shall be governed by the following:

12.4.1 Wherever utility house connections are installed within the Property, which connections or any portions thereof lie in or upon Building Lots owned by an Owner other than the Owner of the Building Lot served by the connections, the Owner of the Building Lot served by the connections shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon any Building Lot or to have their agent enter upon any Building Lot within the Property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain the connections as and when it may be necessary.

12.4.2 Whenever utility house connections are installed within the Property, which connections serve more than one Building Lot, the Owner of each Building Lot served by the connections shall be entitled to full use and enjoyment of such portions of said connections as service to such Owner's Building Lot.

12.5 Driveway Easements. Whenever a driveway is installed within the Property (which in whole or in part lies upon a Building Lot owned) by an Owner other than the Owner of the Building Lot served, or installed to serve more than one Building Lot, the Owner of each Building Lot served or to be served by such driveway Building Lot shall be entitled to full use and enjoyment of such other Building Lot as required to service such Owner's Building Lot or to repair, replace, or maintain such driveway.

12.6 Disputes as to Sharing of Costs. In the event of a dispute between Owners with respect to the repair or rebuilding of utility connections or driveways, or with respect to the sharing of the cost therefor, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board which shall decide the dispute and, if appropriate, make an appropriate Assessment against any or all of the Owners involved on behalf of the prevailing Owner(s), which Assessment shall be collected and enforced in the manner provided by this Declaration for Limited Assessments.

12.7 General Landscape Easement. An easement is hereby reserved to each appropriate Association, its contractors and agents, to enter those portions of Building Lots, for the purpose of

installing, maintaining, replacing, and restoring exterior landscaping, and natural vegetation and habitat. Such landscaping activity shall include, by way of illustration and not of limitation, the mowing of lawns, irrigation, sprinkling, tree and shrub trimming and pruning, walkway improvement, seasonal planting, and such other landscaping activities within the Property as such Association shall determine to be necessary from time to time.

12.8 Overhang Easement. There shall be an exclusive easement appurtenant to each Building Lot over the Common Areas for overhanging eaves, and for any projections from the buildings, which projections shall not extend beyond the save line and shall be consistent with all building codes.

12.9 Maintenance and Use Easement Between Walls and Lot Lines. [Intentionally left blank]

12.10 Waterway Easements. Grantor hereby reserves for the benefit of the Association an easement for all Waterways and related pipes, pumps and other equipment over, across and under all Building Lots and Common Areas, to the extent reasonably required to maintain any water system installed by Grantor on the Property or pursuant to plans and specifications approved by the Architectural Committee. Any relocation of the water lines installed as a part of such system shall not be undertaken in any way which interrupts the flow of water through the system or damages the system in any other fashion. Grantor reserves the right to make any reconfiguration of any Waterway which it determines, in its own discretion, to be necessary, expedient or desirable, provided, however, that nothing herein shall reserve unto Grantor the right to take any action which would disturb, encroach upon, or endanger the foundation of any building, nor shall Grantor take any action which would materially alter any Waterway's proximity to improved property abutting such Waterways.

12.11 Sewer Covenants and Restrictions. All Lots within Rock Creek Subdivision shall be subject to and restricted by the following covenants and restrictions:

12.11.1 A monthly sewer charge must be paid after connecting to the Meridian City public sewer system, according to the ordinances and laws of Meridian City.

12.11.2 The Owner of the Building Lot shall submit to inspection by either the Department of Public Works or the Department of Building whenever a Building Lot is to be connected the City's sewage system and building sewer is constructed or installed on or with Owner's Lot.

12.11.3 The Grantor of this subdivision shall have the right and power to bring all actions against the Owner of the Property conveyed or any part thereof for the collection of any charges herein required and to enforce the conditions herein stated. This covenant shall run with the land.

12.12 Specific Landscape Easement. Grantor hereby reserves for the benefit of the Association a perpetual Landscape Easement. Such easement shall allow the Association to install and

maintain the berms, retaining walls, fences, and landscaping within the area defined as the Landscape Easement.

ARTICLE XIII: MISCELLANEOUS

13.1 Term. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions, and equitable servitudes of this Declaration shall run until December 31, 2025, unless amended as herein provided. After such date, such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by Members holding at least three-fourths (3/4) of the voting power of the Association and such written instrument is recorded with the Ada County Recorder. Further provided that the Association shall not be dissolved without the prior written approval of the City of Meridian and Ada County Highway District, such consent not to be unreasonably withheld provided that a responsible successor organization shall agree to perform those maintenance responsibilities arising from applicable city and county governmental requirements.

13.2 Amendment.

13.2.1 By Grantor. Except as provided in paragraph 13.3 below, until the recordation of the first deed to Building Lot in the Property, the provisions of this Declaration may be amended, modified, clarified, supplemented, added to (collectively, "amendment:") or terminated by Grantor by recordation of a written instrument setting forth such amendment or termination. Any amendment affecting only a particular Tract may be made by Grantor by an amendment to this Declaration at any time up to the recordation of the first deed to a Building Lot in such Tract.

13.2.2 By Owners. Except where a greater percentage is required by express provision in this Declaration, the provisions of this Declaration, other than this Article XIII, any amendment shall be by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment has been approved by the vote or written consent of Owners representing more than fifty percent (50%) of the votes in the Association, and such amendment shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Article XIII shall require the vote or written consent of Members holding ninety-five percent (95%) of the voting power of the Association.

13.2.3 Effect of Amendment. Any amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners and their respective properties notwithstanding that such Owners may not have voted for or consented to such amendment. Such amendments may add to and increase the covenants, conditions, restrictions, and easements applicable to the Property but shall not prohibit or unreasonably

interfere with the allowed uses of such Owner's property which existed prior to the said amendment.

13.3 Mortgage Protection. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat or render invalid the rights of the beneficiary under any first deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after foreclosure of any such first deed of trust such Building Lots shall remain subject to this Declaration, as amended.

13.4 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association, as provided in this paragraph 13.4.

13.5 Enforcement and Non-Waiver.

13.5.1 Right of Enforcement. Except as otherwise provided herein, any Owner of any Building Lot shall have the right to enforce any or all of the provisions hereof against any property within the Property and Owners thereof.

13.5.2 Violations and Nuisances. The failure of any Owner of a Building Lot to comply with any provision hereof, or with any provision of the Articles or Bylaws of any Association, is hereby declared a nuisance and will give rise to a cause of action in the Grantor, the Association or any Owner Building Lot(s) within the Property for recovery of damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Grantor, the Association, the Board, or a duly authorized agent of any of them, may enforce by self-help any of the provisions hereof only if such self-help is preceded by reasonable notice to the Owner.

13.5.3 Violation of Law. Any violation of any state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration and any or all enforcement procedures in law and equity.

13.5.4 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

13.5.5 Non-Waiver. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the right to enforce any such provision.

13.6 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

13.6.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the recitals of this Declaration.

13.6.2 Restrictions Severable. Notwithstanding the provisions of the foregoing paragraph 13.6.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

13.6.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural singular, and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter.

13.6.4 Captions. All captions and titles used in this Declaration are intended solely for convenience or reference and shall not affect that which is set forth in any of the provisions hereof.

13.7 Successors and Assigns. All references herein to Grantor, Owners, any Association, or person shall be construed to include all successors, assigns, partners, and authorized agents of such Grantor, Owners, Association, or person.

[Signature Page Follows]

