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**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF MERLIN POINTE SUBDIVISION (Merlin Cottages)**

THIS AMENDMENT to Declaration of Covenants, Conditions and Restrictions of Merlin Pointe Subdivision (Merlin Cottages) is made on the date hereinafter set forth by Merlin Pointe, LLC ("Declarant").

WHEREAS, Declarant has heretofore filed of record the Declaration of Covenants, Conditions and Restrictions of Merlin Pointe Subdivision (hereinafter the "Declaration"), which Declaration was recorded on March 8, 2019, as Instrument No. 2019-018607, records of Ada County, Idaho; and

WHEREAS, pursuant to Article II, Section 4 and Article XV, Section 3 of the Declaration, Declarant may amend the Declaration at any time that Declarant owns any real property subject thereto; and

WHEREAS, Declarant currently owns property subject to the Declaration.

NOW, THEREFORE, Declarant hereby declares that the Declaration is hereby amended as follows:

1. Article III, Section 4, Paragraph A shall be amended by deleting the language stricken below to read as follows:

"A. Initiation and Transfer Assessments: Upon the initial conveyance of each Lot by Declarant to a third party Owner, the purchaser thereof shall pay an Initiation Assessment to the Association in the amount of \$600.00, and upon each subsequent transfer of each Lot, the purchaser thereof shall pay a Transfer Assessment to the Association in the amount of \$600.00. ~~One half of each Initiation and Transfer Assessment paid to the Association shall be held in a reserve to fund the Association's responsibility for the maintenance, repair and replacement of the roofs of the Dwelling Units and for the painting of the exterior surfaces of the Dwelling Units as set forth in Article VIII, Section 1, below.~~ "

2. Article VIII, Section 1 shall be amended by deleting the language stricken below to read as follows:

"Section 1. Association Responsibility: The Association shall provide maintenance to and be responsible for the Common Areas, and any other facilities and improvements described herein as being the Association's responsibility in a competent and attractive manner, including the watering, mowing, fertilizing and caring for shrubs and trees in perpetuity. ~~The Association shall also be responsible for the maintenance, repair and replacement of the roofs of the Dwelling Units and for the painting of the exterior surfaces of the Dwelling Units.~~ In the event the need

for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests, invitees, employees, agents or contractors the costs of such maintenance or repairs shall be assessed to such Owner as set forth in Article III, Section 4, Paragraph D, above. The Association reserves an easement for ingress, egress and maintenance as may be reasonably necessary to perform the maintenance duties of the Association.”

3. Article VIII, Section 2 shall be amended by deleting the language stricken below to read as follows:

“Section 2. Owner’s Responsibility: ~~Except to the extent that the Association is specifically made responsible therefore as set forth in the immediately preceding Section, each~~ Each Owner shall be responsible for maintaining and keeping in good order and repair such Owner’s Dwelling Unit and all outbuildings, private decks, fences, courtyards, landscaping and lawn contiguous to his Dwelling Unit in a competent and attractive manner. To the extent reasonably necessary, each Owner shall be responsible to coordinate the maintenance and repair of the exterior surfaces and structural elements of his Dwelling Unit ~~(which are not the responsibility of the Association)~~ with the Owners of the other Dwelling Units contained in the common building, the cost of which shall be shared by such Owners in proportion to the to the area of such exterior surfaces or structural elements as are affected by the repair or maintenance work owned by each. Each Owner shall further be responsible to cut or otherwise control the weeds and other noxious plants on his Lot so as to avoid any unsightly condition or hazard or nuisance to the neighborhood. In the event of damage or destruction of a Dwelling Unit or Dwelling Units by fire or other casualty, the Owner(s) must complete repair and/or replacement of the Dwelling Unit(s) within one hundred eighty (180) days of the damage or destruction, subject to reasonable delays caused by inclement weather.

Except as amended herein, the Declaration shall remain in full force and effect with no other change or modification.

DATED this 22 day of April 2019.

Declarant:

Merlin Pointe, LLC

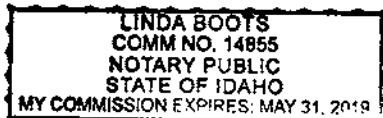
By: Black Creek Limited Partnership, its Sole Member

By: Thomas T. Nicholson
Thomas T. Nicholson, General Partner

STATE OF IDAHO)
 : ss.
County of Ada)

On this 22 day of April, 2019, before me, a notary public, personally appeared Thomas T. Nicholson, known or identified to me to be the general partner of Black Creek Limited Partnership, the sole member of Merlin Pointe, LLC, the limited liability company that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

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



Linda Boots
NOTARY PUBLIC, State of Idaho
Residing at Boise ID
My Commission Expires: 5/31/19



FOR RECORDING INFORMATION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

MERLIN POINTE SUBDIVISION (Merlin Cottages)

Lots 4 through 8, Block 1

Lots 1-31, Block 2

Lots 1 through 9, Block 3

Lots 1 through 10, Block 4

* * * * *

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

W I T N E S S E T H

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

MERLIN POINTE SUBDIVISION NO. 1, according to the official plat thereof, recorded on the 11th day of February, 2019 in Book 115 of Plats at pages 17375 through 17378, as Instrument No. 2019-011084, records of Ada County, Idaho; and

WHEREAS, Declarant desires to subject the above-described Properties, except Lots 1 through 3, Block 1, Lot 11, Block 4, and Lots 1 through 6, Block 5 thereof, to certain protective covenants, conditions, restrictions, reservations, easements, liens, and charges for the benefit of the Properties and their present and subsequent Owners as hereinafter specified, and will convey the Properties subject thereto;

NOW, THEREFORE, Declarant hereby declares that all of the Properties above described, except Lots 1 through 3, Block 1, Lot 11, Block 4, and Lots 1 through 6, Block 5 thereof, shall be held, sold and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of, and which shall run with the Properties and be binding on all parties now or hereafter having any right, title or interest therein or to any part hereof, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

The following terms shall have the following meanings:

Section 1. "ARCHITECTURAL CONTROL COMMITTEE" shall mean the committee to be appointed pursuant to Article XI, Section 1, below.

Section 2. "ASSESSMENT" shall mean a payment required of Association members, including Initiation, Transfer, Annual, Special and Limited Assessments as provided for in this Declaration.

Section 3. "ASSOCIATION" shall mean and refer to the Merlin Pointe Homeowners Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 4. "BOARD" shall mean and refer to the Board of Directors of the Association.

Section 5. "COMMON AREA" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners. The initial Common Area to be by the Association is described as Lot 1, Block 2, Lot 9, Block 3 and Lot 10, Block 4, Merlin Pointe Subdivision No. 1, according to the official plat thereof.

Section 6. "DECLARANT" shall mean and refer to Merlin Pointe, LLC, an Idaho limited liability company, and subject to the provisions of Article XV, Section 4, its successors, heirs and assigns.

Section 7. "DECLARATION" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions as the same may be amended from time to time.

Section 8. "DWELLING UNIT" shall mean that portion or part of any structure intended to be occupied by one family as a dwelling unit, together with the vehicular parking garage adjoining or adjacent thereto, and all projections therefrom.

Section 9. "IMPROVEMENT" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Properties, including but not limited to buildings, fences, streets, drives, driveways, sidewalks, bicycle paths, curbs, landscaping, signs, lights, mail boxes, electrical lines, pipes, pumps, ditches, waterways, recreational facilities, and fixtures of any kind whatsoever.

Section 10. "INSTITUTIONAL HOLDER" shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 11. "LOT" or "LOTS" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 12. "MEMBER" shall mean a member of the Association as set forth in this Declaration.

Section 13. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 14. "PLAT" shall mean a final subdivision plat covering any real property in Merlin Pointe Subdivision No.1, as recorded in the Office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto. "Plat" shall also mean a final subdivision plat covering any additional real property which may be annexed into the subdivision project described herein pursuant to the provisions of Article XIV, below.

Section 15. "PROPERTIES" shall mean and refer to that certain real property hereinabove described.

Section 16. "SUBDIVISION" shall mean the Merlin Pointe Subdivision as shown on the final Plat recorded in the Office of the County Recorder, Ada County, Idaho. "Subdivision" shall also include any additional real property shown on a final plat which is annexed into the subdivision project pursuant to the provisions of Article XIV, below.

ARTICLE II: PROPERTY RIGHTS

Section 1. Enjoyment of Common Area: Each Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject, however, to the following provisions:

A. The right of the Association to levy reasonable assessments for the maintenance of the Common Area and any improvements or facilities located thereon.

B. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners.

C. The right of the Board to promulgate reasonable rules and regulations governing the right of use of the Common Area by the Owners, from time to time, in the interest of securing maximum safe and fair usage thereof, without unduly infringing upon the privacy or enjoyment of any Owner or occupant of a Lot, including without being limited thereto, reasonable regulations and restrictions regarding vehicle parking thereon.

D. Any and all easement rights granted to the Owners or reserved to the Declarant in this Declaration.

Section 2. Delegation of Use: Any member may delegate, in accordance with the rules and regulations adopted from time to time by the directors, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers, provided the persons to whom such rights are delegated reside on the Properties at the time of use.

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

A. Itself, its employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees, easements and rights-of-way on, over and across all or any part of the streets for vehicular and pedestrian ingress and egress to and from any part of the Properties, or any adjacent real property owned by Declarant, or its successors or assigns while the Properties are under construction and until the Declarant has sold all Lots;

B. Itself, its employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements, access and rights-of-way on, over, under and across all or part of the Common Area and utility easements on, over and under all Lots and Common Area as provided on any recorded Plat of the Property for installation, use, maintenance and repair of all lines, wires, pipes, pumps, water wells, facilities, and other things necessary for all such services, provided that any installation, maintenance or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and

C. Itself, its employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees, the right to use the Common Area where applicable, to facilitate and complete the development of the Properties, and any annexed property, including without limitation the use of the Common Area where applicable, for:

1. Construction, excavation, grading, landscaping, parking and/or storage;
2. Maintenance and operation of a sales office and model units for sales purposes;
3. The showing to potential purchasers of any unsold Lot, unit or improvements within the Properties;
4. Display of signs and flags to aid in the sale of any unsold Lots and Dwelling Units, or all or part of the Properties;

5. Construction, operation and maintenance of all or any portion of any Common Area by Declarant, its successors or assigns;

Section 4. Right to Amend Declaration: Declarant reserves the right to amend this Declaration in accordance with the provisions of Article XV, Section 3, below.

Section 5. Reservation of Development Rights: No provision of this Declaration shall be construed as to prevent or limit Declarant's right to complete development of the Properties and to construct Improvements thereon, nor Declarant's right to maintain model homes, construction, sales or leasing offices or similar facilities on any portion of the Properties, nor Declarant's right to post signs incidental to construction, sales or leasing. Any development plans or schemes for the Properties in existence prior to or following the effective date of this Declaration are subject to change at any time by Declarant, and impose no obligation on Declarant as to how the Properties are to be developed or improved.

ARTICLE III: HOMEOWNERS ASSOCIATION

Section 1. Management: The affairs of the Association shall be conducted by a Board of Directors and such officers as the Board may elect or appoint, in accordance with the Association's Articles of Incorporation and Bylaws, as the same may be amended from time to time.

Section 2. Membership: Every Owner of a Lot which is subject to this Declaration shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the payment of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Such ownership shall be the sole qualification for membership and shall automatically commence upon a person becoming such Owner and shall automatically terminate and lapse when such ownership in said property shall terminate or be transferred.

Section 3. Voting Rights: The Association shall have two classes of voting membership:

CLASS A: Class A Members shall be all Owners, with the exception of the Declarant. The Class A Members shall be non-voting Members of the Association until such time as voting rights of the Class B Member(s) expire, as provided below. Upon the Class A Members becoming entitled to voting rights, each Class A Member shall be entitled to one (1) vote for each Lot owned and when more than one (1) person holds an interest in a Lot, all such persons shall be Class A Members but the vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot owned by a Class A Member(s).

CLASS B: Class B Members shall be the Declarant, and its successor(s) in title to which successor the Declarant has specifically granted such Class B voting rights in writing; provided, that if such voting rights are not so granted, such successor shall be considered to be a Class A Member with respect to each Lot owned. The Class B Members shall be entitled to one (1) vote for each Lot owned. The Class B membership and the Class B voting rights shall be converted to Class A

membership on the earlier of when (i) the Declarant (or its successors in title to whom the Declarant has granted the Class B voting rights, as above provided) no longer owns a Lot within the Subdivision or (ii) the Declarant voluntarily relinquishes its Class B voting rights.

The foregoing notwithstanding, in the event any additional real property owned by Declarant shall be annexed into the subdivision project described in this Declaration pursuant to the provisions of Article XIV, below, the Class B membership shall not be deemed to have converted to Class A membership above, and the Class B membership shall remain in existence (or be deemed reinstated if previously converted to Class A membership) as respects all Lots owned by Declarant.

Section 4. Assessments: Each Owner of any Lot, by acceptance of a deed therefore from Declarant (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association an Initiation Assessment, Transfer Assessments, Annual Assessments, Special Assessments and Limited Assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided:

A. Initiation and Transfer Assessments: Upon the initial conveyance of each Lot by Declarant to a third party Owner, the purchaser thereof shall pay an Initiation Assessment to the Association in the amount of \$600.00, and upon each subsequent transfer of each Lot, the purchaser thereof shall pay a Transfer Assessment to the Association in the amount of \$600.00. One-half of each Initiation and Transfer Assessment paid to the Association shall be held in a reserve to fund the Association's responsibility for the maintenance, repair and replacement of the roofs of the Dwelling Units and for the painting of the exterior surfaces of the Dwelling Units as set forth in Article VIII, Section 1, below.

B. Annual Assessments: The Annual Assessment levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Owners, for the operation, maintenance, repair and improvement of the Common Area and facilities located thereon, for the reasonable expenses incurred in the operation of the affairs of the Association, for the expenses incurred by the Association in connection with any of its obligations contained in this Declaration or in the Bylaws of the Association, to fund and maintain reasonable reserves, and for any other purpose reasonably authorized by the Board of the Association. The Annual Assessments provided for herein shall initially be in the amount of \$300.00. In addition to the Initiation Assessment set forth above, the then current Annual Assessment, adjusted according to the number of months remaining in the calendar year, shall be payable by the purchaser thereof at the closing of the initial sale by Declarant of each Lot. Thereafter, the Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each calendar year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The Annual Assessment shall be payable to the Association without demand in installments at such intervals as may be determined by the Board. The due dates shall be established by the Board and if not so established, such Assessment shall be due on January 1 of each calendar year. Failure of the Board to fix the amount of the Annual Assessment or to deliver or mail to each Owner a notice thereof, shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay the Annual Assessment. In such event, each Owner shall continue to pay the Annual Assessment last established by the Board until a new assessment amount is established.

C. Special Assessments: In addition to the Initiation, Transfer and Annual Assessments authorized above, the Board may levy, a Special Assessment payable over such period of time as the Board shall reasonably determine, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an improvement upon the Common Area, or for any unanticipated expenses or obligations, provided that any such assessment intended to pay the cost of initial construction of any new facility or improvement shall have the assent of two-thirds (2/3) of the votes of voting Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting called for the purpose of taking any action authorized under this paragraph above, shall be sent to all voting members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast forty percent (40%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

D. Limited Assessments: The Association shall have the power to incur expenses for the maintenance and repair of any Lot or Improvement, for the repair of damage to the Common Area caused by the negligence or willful misconduct of an Owner or his family, guests, invitees, agents, employees, or contractors, or for the correction of any violation of this Declaration, including monetary penalties therefore as set forth in Article XV, Section 1, below, if the responsible Owner has failed or refused to perform such maintenance or repair or to correct such violation after written notice of the necessity thereof has been delivered (as set forth herein below) by the Board to the responsible Owner. The Board shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such maintenance, repair or corrective action, together with any other cost or expense, including attorney's fees, arising out of or incident to such maintenance, repair or corrective action or the collection of the assessment therefore. Any such Limited Assessment shall be due within fifteen (15) days of the date written notice thereof is delivered to the responsible Owner. The notices required in this paragraph shall be delivered personally to such Owner or sent by first class or certified mail to the last known address of such Owner as shown on the records of the Association.

E. Uniform Rate of Assessment: The Initiation, Transfer, Annual and Special Assessments (but not Limited Assessments) must be fixed at a uniform rate for non-exempt Lots.

F. Creation of Lien and Personal Obligation of Assessments: The Initiation, Annual, Special and Limited Assessments, together with interest, costs of collection and reasonable attorney's fees shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such Assessment is made. Each such Assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successors in title, unless expressly assumed.

G. Effect of Nonpayment of Assessments; Remedies of Association: Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner

personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The provisions of this Paragraph G shall be in addition to any other enforcement rights of the Association, including, without limitation, the Association's right to suspend voting rights as set forth in Section 5 of this Article III, below.

H. Certificate of Payment: The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

I. Exempt Property: The following property, subject to this Declaration, shall be exempt from the Assessments created herein:

1. All Lots and other property expressly dedicated to and accepted by a local public authority;
2. All Lots and other property owned by the Association;
3. All Lots and other property owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

In lieu of paying Annual Assessments, Declarant will contribute, in a timely manner, nonrefundable monies to the Association in order to support budgeted or previously agreed to operating costs (excluding any amount for reserves) in excess of current Association operating revenues, so long as Declarant owns any Lots; provided, however that Declarant's obligation hereunder shall, at Declarant's option, cease at such time as Declarant's Class B membership shall be converted to Class A membership as set forth in Section 3, above or Declarant elects, by written notice to the Association to pay Annual Assessments pursuant to the provisions of this Section 4.

Section 5. Powers of Association: The Association shall have all powers of a nonprofit corporation organized under the laws of the State of Idaho, subject only to such limitations as are expressly set forth in the Association's Articles of Incorporation and Bylaws or this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under the Association's Articles of Incorporation and Bylaws or this Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of the Common Areas and the performance of other responsibilities set forth in this Declaration. Without intending to limit the foregoing, the Association shall have the following powers:

- A. The power to levy and collect assessments as set forth in this Declaration.
- B. The power to enforce this Declaration on its own behalf, or on behalf of any Owners who consent thereto, and to maintain actions and suits to restrain and enjoin any breach or threatened

breach of the Association's Articles of Incorporation and Bylaws, this Declaration or any rules or regulations adopted by the Board.

C. The power to enforce penalties as more specifically provided in this Declaration.

D. The power to adopt, amend, and repeal such rules and regulations as the Board deems reasonable and necessary as more particularly set forth in this Declaration.

E. The power to employ such agents and independent contractors as the Board deems reasonable and necessary including, without limitation, attorneys, accountants and managers, on such terms and conditions as the Board may determine.

F. The power to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed ninety (90) days for each infraction of any of its published rules and regulations.

Section 6. Management Agreement: Declarant, for so long as it owns any Lots, and the Association thereafter, shall have the right, power and authority to enter into an agreement with a qualified management company to provide management services to the Association, which services may include, without limitation, general management of the affairs of the Association, maintenance of the Common Areas and facilities located thereon, performance of any other obligation or responsibility of the Association set forth in this Declaration or in the Bylaws of the Association, and the operation and management of tenant occupied Dwelling Units. Any such agreement shall be subject to such terms and conditions as Declarant or the Association, as the case may be, shall determine are appropriate in the sound exercise of their business judgment, and may have a term of up to two (2) years.

Section 7. Duties of Association: In addition to the duties delegated to it by the Association's Articles of Incorporation and Bylaws and this Declaration, without limiting the generality thereof, the Association or its authorized agents shall have the obligation to conduct all business affairs of the Association and to perform each of the following duties:

A. Perform, or provide for the performance of, the operation, maintenance and management of the Common Areas and Improvements located thereon, and any other operation, maintenance and repair obligations set forth in this Declaration.

B. To obtain and maintain for the Association the policies of insurance set forth in Article XII of this Declaration.

C. Maintenance of an adequate reserve fund for the performance of its obligations, including the maintenance, repairs and replacement of the Common Areas and Improvements located thereon and any other Improvements and facilities which the Association is obligated to operate, maintain and/or repair.

Section 8. Liability of Board Members and Officers: Neither any member of the Board nor any officers of the Association shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the

Association, the Board, its officers, a manager or any other representative or employee of the Association, provided that said Board member, officer, manager or other person has, upon the basis of such information as was available, acted in good faith without willful or intentional misconduct.

ARTICLE IV: EASEMENTS

Section 1. General Drainage and Utility Easements: This Declaration shall be subject to all easements heretofore or hereafter granted and conveyed by Declarant for the installation and maintenance of utilities and drainage facilities and other easements that may be set forth on the Plat, or as may be required for the development of the Properties. In addition, Declarant hereby reserves to itself and for the benefit of the Association the right to grant additional easements and rights-of-way over the Properties, as appropriate, to utility companies and public agencies as necessary or expedient for the proper development of the Properties until close of escrow for the sale by Declarant of the last Lot in the Properties to a purchaser.

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

Section 3. Ada County Highway District License Agreement: Declarant, as "Licensee", has entered into a Temporary License Agreement dated June 12, 2018 and recorded on June 13, 2018 as Instrument No. 2018-054184, records of Ada County, Idaho (the "License") with the Ada County Highway District ("ACHD") which permits the Licensee to install certain landscaping improvements in ACHD's rights-of-way adjacent to the Subdivision, subject to the terms and conditions stated therein. Among other requirements, the License requires the Licensee to maintain all improvements placed in the rightofway, to remove, relocate and/or modify the improvements if ACHD so requires, and to hold harmless and defend ACHD against all claims arising out of Licensee's use of the rightofway or its failure to comply with the terms of the License. Declarant hereby assigns to the Association all of Declarant's rights, duties and obligations under the License, including, without limitation, the obligations described in this Section, and the Association shall assume and perform all such rights, duties and obligations from and after the date this Declaration is recorded in the office of the Ada County Recorder. In furtherance of the foregoing, the Association shall in all ways cooperate with the Declarant and execute, acknowledge and deliver any and all such further documents and instruments and do and perform any and all other acts as may be necessary to effect and carry out the said assignment and assumption, including, without limitation, executing any documents and instruments required by ACHD for such purposes.

Section 4. City Pathway: Lots 9 and 10 in Block 4 are subject to a City of Kuna pathway easement as shown on the Plat and/or in separate recorded instruments. The Association shall be responsible for the maintenance of the pathway. Neither the Association nor any Owner shall place across the pathway easement area any obstruction (such as, for example fencing) or in any manner otherwise interfere with the use of the pathway for its intended purposes.

ARTICLE V: STORM WATER DRAINAGE AND RETENTION SYSTEM

Section 1. Ada County Highway District Storm Water and Drainage Easement: Lot 9 of Block 3 and Lot 10 of Block 4, are servient to and contains an Ada County Highway District Storm Water Drainage System. This lot is encumbered by that certain Master Perpetual Storm Water Drainage Easement recorded on November 10, 2015, as Instrument No. 2015-103256, official records of Ada County, and incorporated herein by this reference as if set forth in full (the "Master Easement"). The Master Easement and the Storm Water Drainage System are dedicated to the Ada County Highway District pursuant to Section 402302, Idaho Code. The Master Easement is for the operation and maintenance of the Storm Water Drainage System.

Section 2. Operation and Maintenance: Operation and maintenance of the storm water drainage facilities shall be governed by the Operation and Maintenance Manual of the Storm Water Drainage System in Merlin Pointe Subdivision, which manual may only be modified with the written approval of the Ada County Highway District.

Section 3. Approval of Amendments: Any amendment of this Declaration, the Covenants, Conditions and Restrictions contained herein, or the manual referred to in Section 2, above, having any direct impact or affect on the Ada County Highway District's storm water drainage facilities shall be subject to prior review and approval by the Ada County Highway District.

Section 6. Grading: There shall be no interference with the established drainage pattern over any portion of the Properties, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Control Committee and ACHD. 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 Properties is completed by Declarant, or that drainage which is shown on any plans approved by the Architectural Control Committee and/or ACHD, which may include drainage from the Common Area over any Lot in the Properties.

ARTICLE VI: IRRIGATION WATER SUPPLY SYSTEM

Section 1. Irrigation Water Supply System: All Lots and Common Area to which delivery of irrigation water is feasible in the Declarant's discretion, shall have access to a pressurized irrigation water system ("Irrigation Water Supply System") to be constructed by Declarant and owned and operated by the City of Kuna (the "City") for the benefit of the Association, Declarant and Lot Owners, in accordance with the following provisions:

A. Use of the water delivered through the Irrigation Water Supply System shall be subject to such rules and regulations of the City as may from time to time be adopted by the City. The irrigation water supplied through the Irrigation Water Supply System is derived from the Boise River, and delivered by one or more irrigation entities and is subject to variability and availability from year to year, and generally only from approximately mid-April through mid-October of each year.

B. The City shall be responsible for the maintenance and repair of the Irrigation Water Supply System up to the stub provided for each Lot. Each Owner shall be responsible for the costs incurred in installing, operating, maintaining, repairing or replacing any component of the sprinkler irrigation system located on a Lot from and beyond the said stub.

C. Water from the Irrigation Water Supply System is non-potable and may contain weed seed, herbicides, pesticides or other contaminants over which the Declarant, and the City have no control. Each Owner shall be responsible to insure the irrigation water used on his Lot is not consumed by any person or used for culinary purposes.

D. Any Owner desiring to connect an alternate source of irrigation water to the irrigation system on his Lot shall be responsible for the cost thereof (both for the connection and the water) and have a backflow prevention device installed to prevent the alternate source from being contaminated with non-potable irrigation water, in accordance with applicable law.

E. All Owners shall be required to pay the assessment levied by the City for the operation, maintenance, repair and replacement of the Irrigation Water Supply System and delivery of irrigation water regardless of actual use or non-use of water from the Irrigation Water Supply System.

Section 2. Easement: Declarant reserves to itself, its agents, contractors, subcontractors and employees, successors and assigns, a nonexclusive easement as depicted on or described in the Plat for construction of the pressurized Irrigation Water Supply System.-

ARTICLE VII: PARTY OR CONTIGUOUS WALLS ("PARTY WALLS")

Section 1. Creation; Use Rights: Each of the Dwelling Units constructed upon the Lots will include party walls, being the common walls between two Dwelling Units, separating the units. Such party walls are intended to be constructed upon the Lot boundary lines separating adjoining Lots. To the extent any party wall exists, encroaches or overlaps upon a Lot, there is hereby created a common reciprocal easement for the location of such party wall. Each Owner shall have the right to use the surface of any party wall contained within the interior of the Owner's Dwelling Unit. The Owner shall respectively own to the centerline of any party wall.

Section 2. General Rules of Law to Apply: Each wall which is built as a part of the original construction of the units upon the property and placed on the dividing line between the lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 3. Sharing of Repair and Maintenance: The cost of the reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, proportioned to such use. Such party wall shall be maintained in good condition by the Owners thereof, free of structural defects and using reasonable care to avoid injury to the adjoining property.

Section 4. Destruction by Fire or Other Casualty: If a party wall is destroyed or

damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions. Notwithstanding any other provisions of this paragraph, an Owner who by negligent or willful act or acts causes a party wall to be damaged and/or exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and/or repair to such party wall.

Section 5. Right to Contribution Runs with Land: The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owners, successors entitled.

ARTICLE VIII. MAINTENANCE RESPONSIBILITY

Section 1. Association Responsibility: The Association shall provide maintenance to and be responsible for the Common Areas, and any other facilities and improvements described herein as being the Association's responsibility in a competent and attractive manner, including the watering, mowing, fertilizing and caring for shrubs and trees in perpetuity. The Association shall also be responsible for the maintenance, repair and replacement of the roofs of the Dwelling Units and for the painting of the exterior surfaces of the Dwelling Units. In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests, invitees, employees, agents or contractors the costs of such maintenance or repairs shall be assessed to such Owner as set forth in Article III, Section 4, Paragraph D, above. The Association reserves an easement for ingress, egress and maintenance as may be reasonably necessary to perform the maintenance duties of the Association.

Section 2. Owner's Responsibility: Except to the extent that the Association is specifically made responsible therefore as set forth in the immediately preceding Section, each Owner shall be responsible for maintaining and keeping in good order and repair such Owner's Dwelling Unit and all outbuildings, private decks, fences, courtyards, landscaping and lawn contiguous to his Dwelling Unit in a competent and attractive manner. To the extent reasonably necessary, each Owner shall be responsible to coordinate the maintenance and repair of the exterior surfaces and structural elements of his Dwelling Unit (which are not the responsibility of the Association) with the Owners of the other Dwelling Units contained in the common building, the cost of which shall be shared by such Owners in proportion to the to the area of such exterior surfaces or structural elements as are affected by the repair or maintenance work owned by each. Each Owner shall further be responsible to cut or otherwise control the weeds and other noxious plants on his Lot so as to avoid any unsightly condition or hazard or nuisance to the neighborhood. In the event of damage or destruction of a Dwelling Unit or Dwelling Units by fire or other casualty, the Owner(s) must complete repair and/or replacement of the Dwelling Unit(s) within one hundred eighty (180) days of the damage or destruction, subject to reasonable delays caused by inclement weather.

Section 3. Failure of Owner to Maintain: If an Owner fails to perform his maintenance responsibilities as set forth herein, the Association shall, upon fifteen (15) days prior written notice

to the Owner, have the right to correct such condition, and to enter upon the Owner's Lot for the purpose of doing so, and seek reimbursement of the cost thereof in accordance with the provisions of Article III, Section 4, Paragraph D, above.

ARTICLE IX: PROPERTY USE RESTRICTIONS

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

Section 1. Lot Use: No Lot, with the exception of the Common Area shall be used except for single-family residential purposes. No Lot or the Common Area shall be used for the conduct of any trade, business or professional activity. All Lots and improvements constructed thereon must comply with all applicable governmental rules, ordinances, laws, statutes and regulations. The Owner of each Lot shall complete construction of Dwelling Unit as permitted herein within six months after the date of the first conveyance of the Lot to an Owner by Declarant.

Section 2. Conditional Reversionary Interest in Declarant: No Owner shall convey or attempt to convey any Lot to any third party without first having obtained approval from the Architectural Control Committee for the dwelling to be constructed thereon and without first having commenced construction of such a dwelling in conformance with this Declaration and any architectural guidelines promulgated thereunder. In the event of any violation or nonobservance of the above conditions, Declarant or its successors and assigns shall have the right to terminate all of such Owner's right, title and interest in and to the Lot and to reenter and retake the Lot, and the Lot shall revert to and become the property of the Declarant, subject only to the requirement that Seller shall tender to Buyer the amount of the purchase price paid by the Owner to Declarant for the said Lot, less any amount of any indebtedness for which the Lot may then serve as security. The foregoing conditions shall be binding upon and observed by each Owner and its heirs, successors and assigns and shall run in favor of and be enforceable by Declarant and its successors and assigns, it being the intention of the Declarant that these conditions shall be a covenant running with each Lot.

Section 3. Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of said Properties, except that two dogs, cats or other household pets may be kept within a Dwelling Unit or within a fenced area as may be approved by the Architectural Control Committee. Any animals outside a Dwelling Unit or fenced area must be on leashes, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings. The term "fenced area" as used in this paragraph shall be interpreted to include any electronic pet containment system; provided, however, that the boundary of any such system shall be approved by the Architectural Control Committee and that in no event shall the said boundary extend beyond the front plane of the Dwelling Unit constructed on said Lot.

Section 4. Garbage and Refuse Disposal: No part of said property shall be used or maintained as a dumping ground for rubbish, trash or other waste. No garbage, trash or other waste shall be kept or maintained on any part of said property except in a sanitary container. Any

incinerators or other equipment for the storage or disposal of such material must not violate setback restrictions, must be enclosed with an aesthetic screen or fence, as may be approved by the Architectural Committee, shall be kept in a clean and sanitary condition, and must be used and maintained in accordance with all applicable laws, ordinances and regulations.

Section 5. Nuisance: No noxious, offensive or unsightly conditions (including but not necessarily limited to sights and sounds) shall be permitted upon any part of said property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. All exterior lighting shall be placed in such a manner to minimize glare and excessive light spillage onto neighboring Lots.

Section 6. Residing in Outbuildings: No trailer, truck camper, tent, garage, barn, shack or other outbuilding shall at any time be used as a residence temporarily or permanently on any part of said Properties.

Section 7. Antennas: Antennas, satellite dishes, or other devices for the transmission or reception of television, radio or electric signals or any other form of electromagnetic radiation shall not be erected on any Lot except as may be approved by the Architectural Committee.

Section 8. Parking and Storage of Vehicles and Equipment: Parking of boats, trailers, motorcycles, trucks (except one ton in size or smaller), truck campers, motor homes, recreational vehicles, and like equipment, or commercial equipment or machinery, junk cars or other unsightly vehicles, shall not be allowed on any Lot nor on the Common Area, except in fully enclosed buildings or under such circumstances, if any, as may be prescribed in writing by, and in the sole discretion of the Board of Directors of the Association, which discretion may not be challenged for having been exercised unreasonably; provided, however, that boats, trailers, campers, motor homes and similar recreational vehicles may be parked on a Lot for a period not to exceed 48 hours while in immediate use by an Owner, being prepared for use, or being prepared for storage after use. All other parking or storage of any other equipment shall be prohibited, except as approved in writing by the Board of Directors of the Association. Any vehicle awaiting repair or being repaired shall be removed from the subdivision within 48 hours. Any automobile or other vehicle used by any Owner shall be parked in the driveway or garage which is a part of his Dwelling Unit.

Section 9. Owner Occupancy; Leasing Restrictions: Unless otherwise approved in writing by the Board of Directors of the Association, to the extent permitted by law, no Dwelling Unit shall be occupied by any persons other than the Owner thereof and persons related to the Owner by blood or marriage, together with their guests, if any, after that date which is one (1) year after the date that (i) construction of all Dwelling Units in the Properties have been completed and (ii) each such Dwelling has been Owner occupied. Upon expiration of the time period set forth in the preceding sentence, no more than twenty percent (20%) of the Dwelling Units in the Properties shall be occupied by any persons other than the Owner thereof and persons related to the Owner by blood or marriage, together with their guests, if any; and no Dwelling Units in excess of the maximum percentage permitted herein shall be leased or rented to, or occupied by, any other persons without the written consent of the Board of Directors of the Association. In furtherance of the foregoing, the Board of Directors of the Association may adopt policies and procedures providing for the verification of compliance with the occupancy

requirements contained herein and all Owners shall execute any affidavits and respond to any surveys requested by the Association which are reasonably necessary in order to comply with the requirements of this paragraph. The foregoing notwithstanding, the Board of Directors of the Association may, in its sole and absolute discretion, which discretion may not be challenged for being unreasonably exercised, grant temporary waivers to the limitation provided herein in cases of hardship or where other circumstances make the limitation unreasonable. Any such waivers may be made subject to such conditions as the Board of Directors may deem appropriate and all such waivers shall be in writing and signed by a majority of the Board. Any lease (as defined below) between an Owner and his tenant shall provide that the terms of the lease shall be subject in all respects to the provisions contained in this Declaration, the Association's Articles of Incorporation and its Bylaws, and any adopted rules and regulations, and that any failure by said tenant to comply with the terms of such documents shall be a default under such lease. For the purposes of this Declaration, a "lease" shall mean any agreement for the leasing or rental of a Dwelling Unit or any portion of a Lot (including a month-to-month rental agreement); and all such leases shall be in writing.

Section 10. Fences: No fences shall be constructed on any Lot except as may be approved, in advance, by the Architectural Control Committee as to design, color, height, materials and location. No such fence shall extend beyond the front plane of the Dwelling Unit constructed or to be constructed on the Lot.

Section 11. Drilling and Exploration: No oil or mining exploration or development of any kind or nature nor any structures in connection therewith shall be permitted to be erected, maintained or used on any Lot and no minerals shall be permitted to be extracted on any Lot.

Section 12. Signs: No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a Dwelling Unit and Lot for sale by displaying a single, neat sign of not more than six (6) square feet on a Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on their Lot during construction of improvements only by written approval of Declarant.

Section 13. Subdividing: No Lot may be further subdivided, nor may any easement or other interests therein less than the whole be conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prohibit an Owner from transferring and selling a Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property. The provision of this section shall not apply to the division of any Lot between adjoining Lots.

Section 14. Mail Boxes: Mail boxes shall be provided for each Dwelling Unit in one or more clusters to be constructed and located by Declarant in consultation with the Postal Service. All such mailbox facilities shall be maintained by the Association.

ARTICLE X: BUILDING RESTRICTIONS

Section 1. Building Restrictions: With the exception of Common Area Lots, no buildings shall be erected, altered, placed or permitted to remain on any Lot other than residential

structures which may not exceed thirty-five feet (35') in height, and a private garage for two (2) or more motor vehicles. No Dwelling Unit may be occupied by more than one (1) family. The minimum square footage of living space (excluding the garage) of each Dwelling Unit shall be 1200 square feet. No manufactured homes shall be permitted to be placed or installed on any Lot.

Section 2. Setbacks: All improvements must be constructed or maintained on a Lot within the minimum building setbacks as set forth on the Plat or as otherwise required by the applicable governmental agency having jurisdiction.

Section 3. Construction Requirements: Each Dwelling Unit shall be constructed in accordance with the approval granted therefor by the Architectural Control Committee as set forth in Article XI, below. All exterior surfaces of any Improvement, including roofs, shall be comprised of such materials and colors as are set forth in the Design Guidelines adopted by the Architectural Control Committee pursuant to the provisions of Article XI, below, or as otherwise approved by the Architectural Control Committee. Each Dwelling Unit must have at least two exterior lights, can or fixed, illuminating the garage door openings, one exterior light, can or fixed, for the front entryway(s). All driveways must be concrete.

Section 4. Landscaping: Each Lot shall be fully landscaped in accordance with a landscape plan approved by the Architectural Control Committee in accordance with the provisions of Article XI, below. No changes may be made to any landscaping unless in compliance with the said plan and approved in writing by the Architectural Control Committee.

Section 5. Grading and Drainage: Each Owner shall be responsible to assure that the finished grade and elevation of his Lot is properly constructed so as to convey all water from sprinklers and storm runoff to the front of the Lot and into the street adjacent to the front yard (or in the case of a corner lot, the street adjacent to the side yard), and to prevent the migration or accumulation thereon of drainage waters from the Common Area or any other Lots within the Properties. The Declarant shall have no liability or responsibility for any damages which may be caused as a result of the failure of an Owner to comply with the provisions of this Section.

Section 6. Job Site Maintenance: Job sites are to be kept clean during construction. All dirt, nails, gravel and other building materials must be removed from the street and sidewalk daily. Work vehicles shall not be parked in front of occupied houses, nor shall they block streets. Power and water must not be used from existing dwellings without the prior permission of the Owner. Dumpsters and portable toilets are the responsibility of the Owner or his contractor and shall be kept orderly at all times and emptied on a timely basis. All contractors and subcontractors shall be prohibited from keeping dogs at the job site. Each Owner shall be responsible to repair any damage to any road, mailbox, utility facility or other on-site or off-site improvement caused by the Owner or the Owner's agents or contractors during the construction of any improvements on the Owner's Lot. In the event an Owner or his contractor shall fail or refuse to comply with the job site maintenance requirements of this section, the Declarant or the Association may take such remedial action as it deems appropriate, including but not limited to the clean-up of the Properties, the costs of which may be added to and become a part of the assessment to which such Owner's Lot is subject.

ARTICLE XI: ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee: In order to protect the quality and value of the homes built on the Properties, and for the continued protection of the Owners thereof, an Architectural Control Committee is hereby established consisting of two or more members to be appointed by the Declarant for so long as it owns any Lot and thereafter by the Board of Directors of the Association. In the event of a tie in any vote or determination made by the Architectural Control Committee, the tie shall be broken by the Secretary of the Association (unless the Secretary is a member of the Architectural Control Committee, in which event the tie shall be broken by another officer of the Association designated by the Board).

Section 2. Approvals Required: No building, fence, wall, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, built, constructed, placed, or maintained upon any Lot, Common Area or other property, nor shall any exterior addition, change or alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location and such other detail as the Architectural Control Committee may require, shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with requirements of this Declaration. In the event the Architectural Control Committee fails to approve, disapprove, or specify the deficiency in such plans, specifications and location within thirty (30) days after submission to the Architectural Control Committee in such form as they may require, it shall be deemed approved.

The Architectural Control Committee shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations which, in its opinion, are not suitable or desirable for any reason, aesthetic or otherwise. In so passing in such design, the Committee shall have the privilege in the exercise of its discretion to take into consideration the suitability of the proposed structure or alteration, the materials of which it is to be built, and the exterior color scheme in relation to the site upon which it is proposed to be erected. The Architectural Control Committee may also consider whether the design of the proposed structure or alteration is in harmony with the surroundings, the effect of the structure or alteration when viewed from adjacent or neighboring property, and any and all other facts which, in the Architectural Control Committee's opinion, shall affect the desirability of such proposed improvement, structure or alteration. Actual construction shall comply substantially with the plans and specifications approved.

Section 3. Submissions: Requests for approval of the Architectural Control Committee shall consist of such documents and other materials as may be reasonably requested by the Architectural Control Committee including, without limitation, the following:

A. Site Plan: A site plan showing the location of buildings and all other structures and improvements, including fences and walls on the Lot, Lot drainage and all setbacks and other pertinent information related to the improvements.

B. Building Plan: A building plan which shall consist of preliminary or final blueprints, elevation drawings of the north, south, east, and west sides, detailed exterior specifications for each building which shall indicate, by sample, if required by the Architectural

Control Committee, all exterior colors, material and finishes, including roof, to be used. Garage, accessory and outbuildings to be located on a Lot shall be architecturally and visually compatible and harmonious with the principal building on the Lot as to style and exterior colors and shall not be higher than ten feet above the roof line of the principal building on the Lot.

C. Landscape Plan: A complete landscape plan for that portion of the Lot to be landscaped which shall show the location, type and size of trees, plants, ground cover, shrubs, berms and mounding, grading, drainage, sprinkler system, fences, free standing exterior lights, driveways, parking areas and walk ways.

Section 4. Rules and Regulations/Design Guidelines: The Architectural Control Committee is hereby authorized to adopt rules and regulations to govern its procedures and the requirements for making submissions and obtaining approval as the Committee deems appropriate and in keeping with the spirit of due process of law. The Architectural Control Committee is further hereby empowered to adopt such design guidelines as it shall deem appropriate, consistent with the provisions of this Declaration, pertaining to matters of design, materials, colors, and aesthetic interests. Any such rules and regulations and design guidelines may be amended from time to time, in the sole discretion of the Architectural Control Committee. The failure of the Architectural Control Committee to adopt any such rules and regulations or design guidelines shall not form the basis for an attack upon the exercise of Architectural Control Committee's discretion, it being the intent of this Declaration to provide the Architectural Control Committee with as broad discretion as is permissible under the law.

Section 5. Fees: The Architectural Control Committee may establish, by its adopted rules, a fee schedule for an architectural review fee to be paid by each owner submitting plans and specifications for approval. No submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Control Committee for the costs of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

Section 6. Variances: The Architectural Control 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. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Control Committee, and shall become effective upon recordation in the official records where this Declaration is recorded. If such variances are granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provision hereof covered by the variance, nor shall it effect in any way the Owner's obligation to comply with all governmental laws and regulations effecting such Owner's use of the Lot, including but not limited to zoning ordinances or requirements imposed by any governmental or municipal authority.

Section 7. Waiver: The approval of any plans, drawings or specifications for any structure, improvement, or alteration, or for any matter requiring the approval of the Architectural Control Committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications, or matters subsequently submitted for approval.

Section 8. Liability: Neither the Architectural Control Committee nor any member thereof shall be liable to the Homeowners Association, any Owner, or any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control Committee or any members thereof, so long as the Architectural Control Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

Section 9. Certification by Secretary: The records of the Secretary of the Association shall be conclusive evidence as to all matters shown by such records and the issuance of a certificate of completion and compliance by the Secretary or Assistant Secretary of the Association showing that the plans and specifications for the improvement or other matters therein provided for have been approved and that said improvements have been made in accordance therewith, or a certificate as to any matters relating to and within the jurisdiction of the Association by the Secretary thereof, shall be conclusive evidence that shall fully justify and protect any title company certifying, guaranteeing or insuring title to said property, or any portion thereof or any lien thereon and/or any interest therein as to any matters referred to in said certificate, and shall fully protect any purchaser or encumbrancer from any action or suit under this Declaration. After the expiration of one (1) year following the issuance of a building permit therefore by municipal or other governmental authority, any structure, work, improvement or alteration shall, as to any purchaser or encumbrancer in good faith and for value and as to any title company which shall have insured the title thereof, be deemed to be in compliance with all the provisions hereof unless a notice of noncompliance executed by the Association shall have appeared of record in the Office of the County Recorder where this Declaration is recorded, or unless legal proceedings shall have been instituted to enforce completion or compliance.

Section 10. Construction and Sales Period Exception: During the course of construction of any permitted structures or improvements and during the initial sales period, the restrictions (including sign restrictions) contained in this Declaration or in any Supplemental Declaration shall be deemed waived to the extent necessary to permit such construction and the sale of all Dwelling Units; provided that, during the course of such construction and sales, nothing shall be done which will result in a violation of these restrictions upon completion of construction and sale. Further, Declarant shall have the right to select and use any individual Dwelling Units owned by it as models for sales purposes and may, by written authorization, permit other builders to use Dwelling Units owned by them as such models.

ARTICLE XII: INSURANCE AND BOND

Section 1. Required Insurance: The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance

coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time.

A. A multi-peril-type policy covering any Common Area improvements, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).

B. A comprehensive policy of public liability insurance covering all of the common areas, commercial spaces and public ways in the properties. Such insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of a Dwelling Unit Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

C. Workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

Section 2. Optional Insurance: The Association may obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho.

A. Liability insurance affording coverage for the acts, errors and omissions of its directors and officers, including members of the Architectural Control Committee and other committees as may be appointed from time to time by the Board of Directors of such association in such amount as may be reasonable in the premises.

B. The Association may obtain bonds and insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any personal property of the Association located thereon, its directors, officers, agents, employees and association funds.

Section 3. Additional Provisions: The following additional provisions shall apply with respect to insurance:

A. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.

B. Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its officers, the Owners and their respective servants, agents and guests; that it cannot be canceled, suspended or invalidated due to the conduct of any agent, officer or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

C. All policies shall be written by a company licensed to write insurance in the state of Idaho.

ARTICLE XIII: CONDEMNATION

If at any time or times, all or any part of the Common Area shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, all compensation, damages, or other proceeds therefrom, shall be payable to the Association owning the condemned Common Area.

ARTICLE XIV: ANNEXATION

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

Upon the recording of a Notice of Annexation containing the provisions set forth in this Section (which Notice may be contained within a Supplemental Declaration affecting such property), except as may be provided for therein, the covenants, conditions and restrictions contained in this Declaration shall apply to the added land in the same manner as if it were originally covered by this Declaration and originally constituted a portion of the project; and thereafter, the rights, privileges, duties and liabilities of the Declarant with respect to the added land shall be the same as with respect to the original land, and the rights, privileges, duties and liabilities of the Owners, lessees and occupants of Lots within the added land shall be the same as in the case of the original land, including, without limitation, the exercise of such voting rights as are set forth in Article III, Section 3, above. Notwithstanding the foregoing, any Supplemental Declaration may provide a special procedure for amendment of any specified provision thereof, e.g., by a specified vote of only the owners of Lots within the area subject thereto. Any provision of a Supplemental Declaration for which no special amendment procedure is provided shall be subject to amendment in the manner provided in this Declaration.

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

A. A reference to this Declaration, which reference shall state the date of recordation hereof and the Recorder's instrument number or the book and page of the official records of the County where this Declaration is recorded;

B. An exact legal description of the added land;

C. A statement that the provisions of this Declaration shall apply to the added land, except as set forth therein; and

D. A statement of the use restrictions applicable to the annexed property, which restrictions may be the same or different from those set forth in this Declaration.

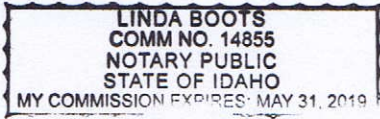
Section 3. De-Annexation: Declarant may delete all or a portion of the property described in this Declaration and any annexed property from the Properties and from coverage of this Declaration and the jurisdiction of the Association, so long as Declarant is the owner of all such property and provided that a notice of de-annexation is recorded in the official records of the County where this Declaration is recorded in the same manner as a notice of annexation. Members other than Declarant as described above, shall not be entitled to de-annex all or any portion of the Properties except on the favorable vote of all Members of the Association and approval of Declarant so long as Declarant owns any Lot, part, parcel or portion of the Properties.

ARTICLE XV: GENERAL PROVISIONS

Section 1. Enforcement: The Association or any Owner (including Declarant) or the Owner of any recorded mortgage upon any part of said property, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In addition to the foregoing, the Association shall be entitled to impose a monetary penalty, not to exceed the sum of \$100 per day, against an Owner who has caused or permitted a violation of any of the restrictions, conditions or covenants contained herein, provided that (a) a majority vote by the Board shall be required prior to imposing any fine on an Owner for a violation of any of the restrictions, conditions or covenants contained in this Declaration; (b) written notice by personal service or certified mail of the meeting during which such vote is to be taken shall be made to the Owner at least thirty (30) days prior to the meeting; (c) in the event the Owner begins resolving the violation prior to the meeting, no monetary penalty shall be imposed so long as the Owner continues to address the violation in good faith until fully resolved; and (d) no portion of any monetary penalty may be used to increase the remuneration of any member of the Board or agent of the Board. Any Owner challenging the monetary penalty imposed as provided herein, including any claim alleging defective notice, must commence legal action within one (1) year after the date of the imposition of the said penalty. Any monetary penalty imposed as provided herein shall be levied and collected by the Association as a Limited Assessment as provided in Article III, Section 3, above. Failure by the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event the Association or an Owner is required to initiate any action to enforce the provisions of this Declaration, the prevailing party therein shall be entitled to recover from the Owner against whom enforcement is sought, all attorney fees and costs incurred as a consequence thereof, whether or not any lawsuit is actually filed, and if such enforcement action is initiated by the Association, any such attorney fees and costs so incurred shall be added to and become a part of the assessment to which such Owner's Lot is subject.

Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

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



Linda Boots

Notary Public for Idaho

Residing at Boise ID

My Commission Expires 5/31/19