

DANIEL J. ENGLISH 24P I 2106624000
KOOTENAI CO. RECORDER Page 1 of 24
AAA Date 06/22/2007 Time 11:59:12
REC-REQ OF PIONEER TITLE COMPANY
RECORDING FEE: 72.00
2106624000 SC

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

BLACK HAWK RANCH

KOOTENAI COUNTY, IDAHO

Table of Contents

	Page
ARTICLE 1. DEFINITIONS.....	2
1.1 "Architectural Committee".....	2
1.2 "Articles".....	2
1.3 "Assessment".....	2
1.4 "Association".....	2
1.5 "Board" or "Board of Directors".....	2
1.6 "Bylaws".....	2
1.7 "Common Area".....	2
1.8 "Common Expenses".....	2
1.9 "Declarant".....	2
1.10 "Declaration".....	2
1.11 "Lot".....	2
1.12 "Member".....	3
1.13 "Mortgage".....	3
1.14 "Mortgagee".....	3
1.15 "Mortgagor".....	3
1.16 "Owner" or "Owners".....	3
1.17 "Person".....	3
1.18 "Plat".....	3
1.19 "Project Documents".....	3
1.20 "Property" or "Project".....	3
ARTICLE 2. ASSOCIATION ADMINISTRATION, MEMBERSHIP, AND VOTING RIGHTS.....	3
2.1 Organization of Association.....	3
2.2 Duties and Powers.....	3
2.3 Membership.....	3
2.4 Transferred Membership.....	4
2.5 Two Classes of Membership: Voting Requirements.....	4
2.6 Membership Meetings.....	4
2.7 Board of Directors.....	4
2.8 Use of Agent.....	4
ARTICLE 3. RIGHTS IN COMMON AREA.....	4
3.1 Common Area.....	4
3.2 Limited Common Area.....	5
3.3 Damage by Member.....	5
ARTICLE 4. ARCHITECTURAL CONTROL.....	6
4.1 Prohibition of Alteration and Improvement.....	6
4.2 Development Plans and Approval.....	6
4.3 Architectural Committee.....	6

4.4	Architectural Guidelines.....	6
ARTICLE 5. REPAIR AND MAINTENANCE		8
5.1	Repair and Maintenance Rights and Duties of Association.....	8
5.2	Repair and Maintenance Rights and Duties of Owners	8
ARTICLE 6. ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS		8
6.1	Creation of the Lien and Personal Obligation of Assessments	8
6.2	Purpose of Assessments	9
6.3	Regular Assessments.....	9
6.4	Extraordinary Assessments	9
6.5	Special Assessments.....	9
6.6	Allocation of Assessments	10
6.7	Date of Commencement of Assessment: Due Dates.....	10
6.8	Transfer of Lot by Sale or Foreclosure	10
6.9	Enforcement of Assessment Obligation; Priorities; Discipline.....	10
6.10	Payment of Taxes Assessed Against Common Area or Personal Property of Association.....	11
ARTICLE 7. EASEMENTS AND UTILITIES.....		11
7.1	Common Area Easements	11
7.2	Limited Common Area Easements.....	11
7.3	Irrigation System Easements	11
7.4	Encroachment and Utility Easements.....	12
7.5	Utility Services	12
ARTICLE 8. USE RESTRICTIONS.....		12
8.1	Use of Individual Lots.....	12
8.2	Limited Commercial Use	12
8.3	Lot Maintenance.....	13
8.4	Nuisances.....	13
8.5	Mobile and Modular Homes/Trailers	13
8.6	Vehicle and Equipment Restrictions.....	13
8.7	Signs	13
8.8	Subdivision and Partition Prohibited.....	13
8.9	No Warranty of Enforceability.....	13
ARTICLE 9. INSURANCE.....		14
9.1	Duty to Obtain Insurance; Types.....	14
(a)	Hazard Insurance	14
(b)	Liability Insurance	14
(c)	Fidelity Bonds.....	14
9.2	Lenders' Requirements.....	14
9.3	Waiver of Claim Against Association.....	14
ARTICLE 10. DESTRUCTION OF IMPROVEMENTS		15
10.1	Restoration of Common Area	15
10.2	Restoration of Residential Improvements.....	15
ARTICLE 11. EMINENT DOMAIN		15
11.1	Awards, Repair, Restoration, and Replacement	15
11.2	Awards for Owners' Personal Property and Relocation Allowances	15

ARTICLE 12. RIGHTS OF MORTGAGEES.....	16
ARTICLE 13. DURATION AND AMENDMENT	18
13.1 Duration	18
13.2 Amendment.....	18
ARTICLE 14. DECLARANT'S RIGHTS AND RESERVATIONS.....	18
ARTICLE 15. GENERAL PROVISIONS	19
15.1 Enforcement.....	19
15.2 Invalidity of Any Provision	19
15.3 Conflict of Project Documents.....	19

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

BLACK HAWK RANCH

KOOTENAI COUNTY, IDAHO

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration"), is made on the date hereinafter set forth, by TP DEVELOPMENT, INC., a Nevada corporation ("Declarant"), with reference to the following facts:

A. Declarant is the owner of that certain subdivision project comprising eight (8) Lots of approximately five (5) acres each, located along the Spokane River near the City of Post Falls, in Kootenai County, Idaho, commonly known as "Black Hawk Ranch." The land encumbered by this Declaration (referred to herein as the "Property" or the "Project") is more particularly described as follows:

All land located within the Plat of "BLACK HAWK RANCH," according to the Plat filed 2007, in Book "K" of Plats, Pages 11, *et seq.*, as Instrument No. 210655600, records of Kootenai County, Idaho;

B. In addition to ownership of individual Lots, the purchasers will hold a membership in an incorporated nonprofit Association of all Owners, known or to be known as the Black Hawk Ranch Owners Association, Inc., which Association will operate and maintain certain properties and facilities within the Plat, initially consisting of an Entry Monument Area, a Perimeter Fence, and an Irrigation System, all of which are referred to herein as the Common Area. The Common Area shall be operated and maintained for the benefit of the Owners of all Lots within the Property. The Owners of some of the Lots shall also have rights to a Limited Common Area, to be used for access to, and use and enjoyment of the Spokane River.

C. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Lots and the Owners thereof.

D. Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and every part thereof, in accordance with the plan for the subdivision and sale of the Property as a residential community. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and its successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property.

ARTICLE 1.
DEFINITIONS

1.1 "Architectural Committee" shall mean the Architectural Committee created pursuant to Article 4 of this Declaration.

1.2 "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

1.3 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating, insuring and managing the Common Area, which is to be paid by the Lot Owners as determined by the Association under this Declaration. Assessments may be designated as Regular Assessments, Extraordinary Assessments, or Special Assessments, as those terms are more specifically defined in Article 6 of this Declaration.

1.4 "Association" shall mean the Black Hawk Ranch Owners Association, Inc., an Idaho nonprofit corporation, formed by Declarant in conjunction with the development of the Project, the Members of which shall be Owners of Lots within the Property as provided herein.

1.5 "Board" or "Board of Directors" shall mean the Board of Directors of the Association, as it shall be constituted from time to time.

1.6 "Bylaws" shall mean the Bylaws of the Association as restated or amended from time to time.

1.7 "Common Area" shall mean the Entry Monument Area (including the Project identification sign and all landscaping and other improvements therein), the Perimeter Fence, and the Irrigation System. Rights to all portions of the Common Area are established by easements reserved and created in this Declaration and/or in the Plat for the Project. The Common Area shall also include any additional property or property rights obtained by the Association in the future, all of which areas shall be operated and maintained for the benefit of the Owners of all Lots. The Common Area shall also include limited easement rights reserved and created in this Declaration, so that certain Lots shall have rights of access to, and for the use and enjoyment of certain frontage along the Spokane River, with such areas and rights being designated as Limited Common Area. The Common Area and the Limited Common Area are described in more detail in Article 3.

1.8 "Common Expenses" shall mean the actual and estimated expenses of maintenance, improvement, repair, operation, and management of the Common Area, and of administration of the Association, and any reasonable reserve for such purposes as determined by the Board, and all sums designated Common Expenses by or pursuant to the Project Documents.

1.9 "Declarant" shall mean TP Development, Inc., a Nevada corporation, and its successors-in-interest and assigns with respect to the Property, but excluding members of the public purchasing completed Lots.

1.10 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as it may be amended from time to time.

1.11 "Lot" shall mean any of the numbered separate residential parcels as designated on the Plat.

1.12 "Member" shall mean a member of the Association, as defined in the Articles of Incorporation and Bylaws of the Association.

1.13 "Mortgage" includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Lot.

1.14 "Mortgagee" includes a mortgagee, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a security interest in any Lot.

1.15 "Mortgagor" includes a mortgagor, the grantor of a deed of trust, real estate contract vendee, or other person granting a security interest in any Lot.

1.16 "Owner" or "Owners" shall mean the record holder or holders of title to a Lot within the Property. This shall include any person having a fee simple title to any Lot, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Lot is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner."

1.17 "Person" shall mean any natural person, corporation, partnership, association, trustee, or other legal entity.

1.18 "Plat" shall refer to the recorded plat for "Black Hawk Ranch", as amended or supplemented from time to time.

1.19 "Project Documents" shall mean this Declaration, the Plat, and the Articles, Bylaws, and Rules and Regulations of the Association, as each shall be amended from time to time.

1.20 "Property" or "Project" shall mean the entire real property covered by this Declaration.

ARTICLE 2.

ASSOCIATION ADMINISTRATION, MEMBERSHIP, AND VOTING RIGHTS

2.1 Organization of Association. The Association is or shall be incorporated under the name of Black Hawk Ranch Owners Association, Inc., as a nonprofit corporation under the Idaho Nonprofit Corporation Act.

2.2 Duties and Powers. The duties and powers of the Association are those set forth in this Declaration, and in the Articles and Bylaws, together with its general and implied powers as a nonprofit corporation, generally to do any and all things that a nonprofit corporation organized under the laws of the State of Idaho may lawfully do and which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws.

2.3 Membership. The Owner of a Lot shall automatically, upon becoming the Owner of that Lot, be a Member of the Association, and shall remain a Member thereof until such time as his or her ownership ceases for any reason, at which time his or her membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

2.4 Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his or her name to the purchaser of his or her Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

2.5 Two Classes of Membership; Voting Requirements. The Association shall consist of two (2) classes of voting membership established according to the Articles, generally providing that, for a limited time, the Declarant shall have, with respect to Lots owned by the Declarant, triple the voting power otherwise allocated to those Lots. Voting power attributable to each Lot shall be equal, with each Lot having one (1) vote on all matters with respect to which a vote is to be taken (subject to the weighted voting in favor of the Declarant as provided in the Articles). The voting power necessary to support specific actions of the Association shall be as set forth in the Articles and Bylaws.

2.6 Membership Meetings. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

2.7 Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

2.8 Use of Agent. The Board of Directors, on behalf of the Association, may contract with an employee or independent contractor, for the performance of maintenance and repair of the Common Area, and for conducting other activities on behalf of the Association, as may be determined by the Board, subject to such limitations as may be set forth in the Bylaws.

ARTICLE 3. **RIGHTS IN COMMON AREA**

3.1 Common Area. As described in the Definitions above, the Common Area shall consist of:

(a) the landscaped Entry Monument Area located at the entrance to the Project at the northwest corner of the intersection of Rapids Bend Lane and Calm Waters Court, within the southeast portion of Lot 2, including the Project identification sign and all landscaping and other improvements therein;

(b) the Perimeter Fence, running along the perimeter of the Project, except along the river frontage (with the Perimeter Fence being a low decorative fence, not intended to provide security to the Project). The Perimeter Fence along the east boundary of the Project is originally installed near Richards Road, and within a thirty (30) foot strip being within or immediately adjacent to the right-of-way for Richards Road. Such strip is subject to future road expansion by the Post Falls Highway District for the widening of Richards Road, according to the terms of a Permit to Use Right of Way Agreement, dated October 25, 2006, between such District and the Declarant. Among other provisions, such Agreement requires the relocation of the Perimeter Fence outside the above-

described strip area at the request of the District, which relocation shall be at the expense of the Association; and

(c) all components of the Irrigation System (being the pumping and pipe system taking water from the Spokane River and delivering it to the boundary of each of the Lots. The pump and pumphouse are located by the Spokane River on Lot 5. The distribution line is located primarily along the boundary common to Lots 4 and 5, within an easement depicted on the Plat, and beneath and along both sides of Calm Waters Court and Rapids Bend Lane. The Common Area portion of the Irrigation System includes and terminates at the stub to each of the private Lots, with the individual Lot Owners being fully responsible for the pipe and delivery system servicing only the individual Lots. In addition to the operation, maintenance, repair, and replacement of the Irrigation System, the Board shall have the right to enact Rules and Regulations governing the use of water provided and pumped by the Irrigation System, including without limitation, the right to designate days and/or hours of use, based on the capacity of the System (e.g., odd and even days for irrigation for different Lots), and to meter consumption of water and to levy charges based on such consumption.

Access, maintenance, repair, replacement, and operation easements for all such elements of the Common Area are hereby reserved to the Association, and all such Common Area shall be operated and maintained by the Association for the benefit of the Owners of all Lots. The Common Area shall also include any other property or property rights conveyed to or held by the Association in the future for the benefit of all Lots within the Project.

The membership of the Association shall have the exclusive right to the use and benefit of all parts of the Common Area in accordance with the purposes for which it is intended, subject to such restrictions as may be imposed by the Board from time to time.

3.2 Limited Common Area. In addition to the Common Area described in the preceding Paragraph 3.1, the Declarant hereby reserves and creates for the benefit of Lots 4, 5, 6, 7, and 8, a non-exclusive easement over and across Lots 4 and 5, for pedestrian access to, and for the use and enjoyment of a portion of Lot 5, being an area of the frontage of said Lot 5 on the Spokane River. The access easement shall be primarily along the common boundary of said Lots 4 and 5 (coinciding to a large extent to the easement for the Irrigation System described in Paragraph 3.1(d) above), and shall include any stairs and/or ramp access way down to the Spokane River and a portion of the river frontage of Lot 5, all as depicted on the Plat. Such easement areas shall be referred to herein as Limited Common Area, and shall be available to said Lots 4, 5, 6, 7, and 8 for normal, reasonable, and quiet riverfront activities (e.g., including picnicking, swimming, and sunbathing, but excluding camping and boat launching). The Limited Common Area, while limited to such Lots, shall be used and maintained by the Association, in that the primary components requiring maintenance would be the access road and the stairs/ramp to the Spokane River, which are to be used also for access to and operation and maintenance of the Irrigation System. Other than the road access and the stairs/ramp, no improvements shall be constructed or maintained within the Limited Common Area, which shall be maintained in essentially its natural condition.

3.3 Damage by Member. Each Member shall be liable to the Association for any damage to the Common Area, if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any improvement by the

Member, or by any tenant, guest, or other invitee of the Member. The Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the Member may be liable as described above. The cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against the Lot and may be enforced as provided hereby for the enforcement of other Assessments.

ARTICLE 4. **ARCHITECTURAL CONTROL**

4.1 Prohibition of Alteration and Improvement. Subject to the exemption of Declarant hereunder, no building, sign, fence, wall, obstruction,, awning, improvement, or structure of any kind, shall be commenced, erected, painted, altered, or maintained upon any Lot or the Common Area, nor shall any alteration or improvement of any kind be made thereto unless and until the same has been approved in writing by the Board or by an Architectural Committee (the "Committee") appointed by the Board as provided in this Article.

4.2 Development Plans and Approval. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements or alterations, together with detailed landscaping plans, shall be submitted to the Board or Committee for approval as to quality of workmanship and design. No such application shall be deemed received until actually received by the Board or Committee (evidenced by a signed receipt). However, no permission or approval shall be required to rebuild in accordance with plans and specifications previously approved by the Board or Committee.

The Board or Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Article 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 approved plans. Any application submitted pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or materials shall have been transmitted to the applicant within twenty (20) days after the date of receipt by the Board or Committee of all required materials.

4.3 Architectural Committee. If a Committee is to be appointed, all members thereof shall be appointed by the Board. There shall be not less than three (3) nor more than five (5) members of the Committee, as determined by the Board. Unless and until a Committee is appointed, the functions of the Committee shall be undertaken by the Board.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder. Neither the Committee nor any member of the Committee shall be liable in damages or otherwise for decisions made in good faith pursuant to the authority granted in this Article.

4.4 Architectural Guidelines. The Board or Committee shall have the authority to adopt Architectural Guidelines(which may include architectural stipulations and requirements as well as procedural and enforcement provisions), and to augment, amend, or otherwise modify

such Guidelines from time to time; provided that they shall at all times be consistent with the remaining Project Documents and building restrictions imposed by law. The Guidelines shall, at a minimum, include the following provisions:

(a) Homes shall contain a minimum of 2500 square feet for a single-story structure, 4000 square feet for a two-story structure, and 4000 square feet for other multi-level structures (e.g., a "tri-level"). Compliance with such minimums shall be determined by reference only to usable living space, exclusive of basements (whether or not finished), garages, shops, patios, decks, and other areas not intended as part of the living quarters. Accessory structures and outbuildings (including detached garages) shall be permitted, with the location and design to be approved by the Board or Committee. Permitted outbuildings shall be architecturally consistent with the primary residence on the Lot, as determined by the Board or Committee. All improvements shall comply with the setback requirements of Kootenai County and any other municipal agency having jurisdiction; provided that no structure shall be located closer than forty-five (45) from the high water line of the Spokane River;

(b) The work of construction, altering or repairing any structure shall be diligently performed from its commencement until completion and, in any event, the exterior appearance thereof (exclusive of landscaping) shall be completed within one (1) year after the commencement of construction. Landscaping shall be completed within one (1) year following the earlier of completion or occupancy of the primary residence. All construction shall conform to requirements established by any municipality or governmental agency having jurisdiction over the Property;

(c) All homes shall have lap siding of either natural wood or HardiPlank type material, and all trim shall be natural stone, cultured stone or brick. All homes shall include an enclosed garage designed to accommodate at least three (3) cars. All exterior colors shall be of a natural palette (color and hue) that will blend with the environment, in the opinion of the Board or Committee;

(d) Roofs shall have a minimum pitch of 6 and 12, unless otherwise specially approved by the Board or Committee. All roofs shall be shingle or tile of architectural grade, having a useful life of at least 25 years (or comparable quality as approved by the Board or Committee). Composition roofing shall be of the laminated multi-ply variety with contrasting or other distinctive tab lines. Wood roofing material is prohibited due to fire danger;

(e) All outbuildings shall be of material, color and design so as to blend with the main dwelling, in the opinion of the Board or Committee;

(f) Fencing around the perimeter of the Project shall be installed by the Declarant. The initial installation shall be a low decorative fence, not intended to provide security to the Project. Within the individual Lots, fences shall be approved by the Board or Committee.

(g) Basements and cellars are strongly discouraged. If a basement or cellar is desired, the design shall be fully engineered and shall include an engineered drainage

system, this provision being necessary because of the presence of substantial groundwater in the area and the possibility of flooding;

(h) No metal buildings or metal roofs shall be allowed (either on the primary residence or on outbuildings);

(i) All outdoor lighting shall be indirect or directed in a downward direction so as to minimize the impact on surrounding Lots. The Guidelines may also set forth further specifics as to focus and intensity of lighting; and

(j) All designs must provide for stormwater run-off from impervious surfaces (roofs, driveways, etc.), which shall be directed to the roadside ditches and wet ponds.

Without limiting the authority granted to the Board or Committee herein, the Guidelines may also specify landscaping requirements (including numbers and species of trees and shrubs), and acceptable building materials. Also, in addition to the Guidelines adopted according to this Article, all construction shall comply with the terms of Article 8 below (Use Restrictions).

In appropriate cases, the Board or Committee shall have the authority to grant reasonable variances to these or other Guidelines; provided that such variances may be granted only with the unanimous approval of the Board or Committee.

ARTICLE 5.

REPAIR AND MAINTENANCE

5.1 Repair and Maintenance Rights and Duties of Association. The Association shall operate, maintain, repair and replace the Common Area (including the Limited Common Area) and facilities thereon, or shall contract for such operation, maintenance, repair and replacement to assure maintenance of the Common Area and facilities thereon in good condition, reasonable wear and tear excepted. The Association shall have no obligation to maintain any Lot or improvements on any Lot; however, in the event an Owner fails to maintain his or her Lot or improvements thereon as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and demand it be done within sixty (60) days from the giving of such notice (or within such shorter time as may be appropriate in the case of an emergency). In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, lien his or her Lot for the amount thereof.

5.2 Repair and Maintenance Rights and Duties of Owners. Each Lot Owner shall at his or her sole cost and expense maintain and repair his or her Lot and all improvements thereon, in good condition so as to be consistent with the balance of the Project, in the judgment of the Board.

ARTICLE 6.

ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it

shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following Assessments, which shall be established and collected as provided herein:

- (a) Regular Assessments;
- (b) Extraordinary Assessments; and
- (c) Special Assessments.

All Assessments, together with interest, costs, penalties and actual attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each Assessment is made, the lien to become effective upon recordation of a Notice of Assessment Lien. Each such Assessment, together with interest, costs, penalties and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself from liability for his or her contribution toward the Common Expenses by waiver of the benefit of any of the Common Area or by the abandonment of his or her Lot.

6.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of all the Owners of Lots in the entire Project for the improvement and maintenance of the Common Area for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repair and replacement of those portions of the Common Area which must be replaced on a periodic basis.

6.3 Regular Assessments. Until the end of the Association's fiscal year immediately following the closing of the sale of the first Lot in the Project, the maximum annual Regular Assessment for the entire Project shall be such amount as may be set forth in the Project budget prepared by Declarant. Thereafter, the Board shall determine and fix the amount of the maximum annual Regular Assessment for the entire Project at least sixty (60) days in advance of the start of each fiscal year; provided, however, that the maximum annual Regular Assessment may not be increased by more than twenty percent (20%) above the maximum annual Regular Assessment for the immediately preceding fiscal year, without the vote or written assent of a majority of the total voting power of the Association.

6.4 Extraordinary Assessments. In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated Regular Assessment; provided, however, that the aggregate Extraordinary Assessments for any fiscal year shall not exceed five percent (5%) of the budgeted gross expenses of the Association (excluding reserves) for that fiscal year, without the vote or written assent of a majority of the total voting power of the Association.

6.5 Special Assessments. In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments (without limitation as to amount or frequency) against a Lot and its Owner to reimburse the Association for costs incurred in bringing that Owner and his or her Lot into compliance with the Project Documents, including interest, penalties, actual attorneys' fees and costs.

6.6 Allocation of Assessments. Each Lot, including Lots owned by Declarant, shall bear an equal share of each aggregate Regular and Extraordinary Assessment (subject to the right of the Declarant to defer the commencement of Assessments against Lots owned by the Declarant as provided in Paragraph 6.7 below).

6.7 Date of Commencement of Assessment: Due Dates. The Regular Assessments provided for herein shall commence on the first day of the month following closing of the sale of the first Lot in the Project. Due dates of Assessments shall be established by the Board, on written notice to all Owners.

Notwithstanding the foregoing, Declarant shall have the right to defer, for up to ten (10) years from the date of recordation of this Declaration, the commencement of Declarant's Regular Assessment obligation. This deferral shall be available only for so long as the Declarant, at its expense, performs or subsidizes all actual Common Area maintenance and repair to the extent such maintenance and repair is not covered by Assessments against Lots not owned by the Declarant. Upon expiration of the deferral period, Lots owned by the Declarant shall be assessed in the same manner as all other Lots.

6.8 Transfer of Lot by Sale or Foreclosure. The sale or transfer of any Lot shall not affect any Assessment lien, or relieve the Lot from any liability therefor, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Lot pursuant to foreclosure or by deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer. Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid Assessments. Any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Lots, including the Lot for which the lien was extinguished.

In a voluntary conveyance of a Lot, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter for his or her share of the Common Expenses (and for his or her obligation for individual Special Assessments) up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

6.9 Enforcement of Assessment Obligation; Priorities; Discipline. If any part of any Assessment is not paid within ten (10) days after the due date, an automatic late charge equal to ten percent (10%) of the Assessment (but not less than \$25) shall be added to and collected with the Assessment. Additionally, if any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, the total unpaid Assessment (including the late charge) shall thereafter bear interest at the rate of eighteen percent (18%) per annum until paid. Each unpaid Assessment, whether Regular, Extraordinary or Special, shall constitute a lien on each respective Lot prior and superior to all other liens recorded subsequent to the recordation of the Notice of Assessment Lien, except (a) all taxes,

bonds, assessments and other levies which, by law, would be superior thereto; or (b) labor or materialmen's liens arising under Idaho law (timely and duly filed) if the legal effective date is prior to the recording of the Notice of Assessment Lien. Such lien, when delinquent, may be enforced by sale by the Association (acting through the Board), its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Idaho law applicable to the exercise of powers of sale in deeds of trust (with the Board having the right and authority to appoint an independent trustee), or by judicial foreclosure as a mortgage, or in any other manner permitted by law. During any such foreclosure proceeding, the foreclosing party shall be entitled to the appointment of a receiver to collect rent becoming due with respect to the subject Lot. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at the foreclosure sale, and to acquire and hold, lease, encumber, and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent, interest, costs, penalties, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may temporarily suspend the voting rights of a Lot Owner who is in default in payment of any Assessment, after notice and hearing -according to the Bylaws.

6.10 Payment of Taxes Assessed Against Common Area or Personal Property of Association. If any taxes are assessed against the Common Area or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under this Article, and, if necessary, an Extraordinary Assessment may be levied against the Lots in an amount equal to said taxes (regardless of the limitation on Extraordinary Assessments set forth in Paragraph 6.4 above).

ARTICLE 7.

EASEMENTS AND UTILITIES

7.1 Common Area Easements. Declarant expressly reserves, for the benefit of the Association and all Owners, non-exclusive easements for access to and for the use, enjoyment, operation, maintenance, repair, and replacement of all elements and portions of the Common Area, and all facilities thereon, consistent with its intended purposes.

7.2 Limited Common Area Easements. Declarant expressly reserves, for the benefit of the Owners of Lots 4, 5, 6, 7, and 8, the easements for the access to, and the use and enjoyment of the Limited Common Area, as described in Paragraph 3.2, above, consistent with its intended purposes.

7.3 Irrigation System Easements. Declarant expressly reserves, for the benefit of the Association and all Owners, non-exclusive easements for the access to, and for the use, enjoyment, operation, maintenance, repair, and replacement of all elements of the Irrigation System, consisting of the pump, pumphouse, and related equipment located by the Spokane River, together with the water delivery lines located within the irrigation easements, being 20 feet in width and reflected on the Plat. The Irrigation System shall be maintained by the Association as part of the Common Area, but only to and including the stubs servicing each individual Lot. The individual delivery lines, running from the stubs to service the individual

Lots, shall not be deemed part of the Irrigation System (Common Area) and shall be privately maintained by the individual Lot Owners.

7.4 Encroachment and Utility Easements. Each Lot is hereby declared to have an easement over each other Lot for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any improvement, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that no valid easement for encroachment shall be created in favor of an Owner or Owners if said encroachment occurred due to the gross negligence or willful misconduct of said Owner or Owners.

Declarant also expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant, transfer and relocate the same) for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, telephone, television and other utility lines and services, as may be deemed appropriate to service the Property.

7.5 Utility Services. Each Owner shall make all arrangements for and pay directly for all utilities and services furnished to or used by such owner, including without limitation, gas, electricity, garbage collection, telephone service, water service, sewer service, and television receiving. Unless and until community water and sewer service shall be available, each owner shall be responsible to provide his/her own water and septic disposal through a private well and water system, and a septic drainfield system to be constructed by and at the sole expense of such Owner. All such installations shall be in compliance with the requirements of any governmental agency having jurisdiction over such installations.

ARTICLE 8.

USE RESTRICTIONS

8.1 Use of Individual Lots. Lots shall be used only for single family residential purposes by the Owner and his or her family, or by a single-family tenant. Cattle, horses, and other livestock shall be permitted in reasonable numbers, provided they are not bred or maintained for commercial purposes and cause no unreasonable nuisance by noise, odor, or otherwise, in the opinion of the Board. However, no pigs, goats, poultry, shall be raised or maintained on any Lot. Not more than two (2) cats and two (2) dogs may be kept on any Lot (the right to keep dogs being conditioned by a requirement that they be kept leashed or within an enclosed area within the Lot at all times, and that barking does not become a nuisance in the opinion of the Board).

8.2 Limited Commercial Use. No Lot may be used for commercial or other non-residential purposes at any time, except according to the following terms and conditions:

- (a) Any commercial or other non-residential use must be approved unanimously by the Board;
- (b) Any commercial or other non-residential use must comply with all requirements of any governmental or quasi-governmental agency having jurisdiction over the Project;

(c) The proposed use shall not be apparent from other Lots, the Spokane River, or any public right of way (e.g., by signage or advertising, increased traffic flow through the Project, or increased parking on the street);

(d) Once granted, permission for such use may be revoked by a majority of the Board, upon a good faith determination that the actual use either violates the letter or spirit of this paragraph, or otherwise is deemed inconsistent with the residential character of the Project.

8.3 Lot Maintenance. Each Lot and the exterior appearance of improvements thereon shall be maintained in a clean, neat and orderly condition and in good repair at all times. All rubbish, trash and garbage shall be regularly removed from all Lots, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept, except in sanitary containers which shall be kept screened and concealed from the view of other Lots and all public ways. During any period prior to the commencement of construction, Lots shall nevertheless be maintained in good condition (according to the judgment of the Board), and weeds and debris shall not be allowed to accumulate.

8.4 Nuisances. No noxious, illegal, or offensive activities shall be carried on within any Lot; nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the other Owners of their respective Lots.

8.5 Mobile and Modular Homes/Trailers. No mobile, modular, or manufactured home or residential trailer shall be permitted on any Lot.

8.6 Vehicle and Equipment Restrictions. Permanent or seasonal storage of boats, trailers, campers or recreation vehicles shall only be permitted within an enclosed area (site-obscuring fence or garage), and no such equipment shall be parked on streets for more than 24 hours at any one time. No semi-truck and/or trailer shall be permitted to park on the streets except while making deliveries.

No mobile home, commercial vehicle, bus, truck (other than standard size pickup truck), inoperable automobile, or similar equipment, and no vehicle which is in an extreme state of disrepair, shall be permitted to remain on any part of the Property, other than temporarily (as for purposes of loading and unloading of passengers or personal property).

8.7 Signs. No signs shall be displayed to the public view on any Lot, except such signs as may be approved in writing by the Board. This restriction shall not apply to "For Sale" or "For Rent" signs, which shall be allowed provided they do not exceed three (3) square feet in size.

8.8 Subdivision and Partition Prohibited. Except as provided in this paragraph, no Owner shall bring any action for partition or division of any part of any Lot (it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project); provided, however, that a Lot Owner may bring an action for partition by sale of a Lot and division of the proceeds thereof.

8.9 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable

for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot agrees to hold Declarant harmless therefrom.

ARTICLE 9. INSURANCE

9.1 Duty to Obtain Insurance; Types. The following policies of insurance shall be obtained and maintained:

(a) **Hazard Insurance:** Each Owner shall maintain, with respect to its Lot, and the Association shall maintain, with respect to the Common Area, hazard insurance covering loss or damage to all parts of such ownership (and contents) in the amount of the full replacement value thereof, providing protection against all direct causes of loss. The insurance shall name the Association as an additional insured and shall contain the standard mortgage clause, naming the holders of first mortgages as the mortgagees.

(b) **Liability Insurance:** Each Owner, with respect to its Lot and improvements thereon, and the Association, with respect to the Common Area, shall maintain, at their respective cost, a comprehensive general liability insurance policy, with policy limits and endorsements deemed appropriate by the Board (but having a combined single limit of liability of not less than \$1,000,000.00), covering all occurrences within such Lot and the Common Area.

(c) **Fidelity Bonds:** If required by any first mortgagee, the Board shall also carry blanket fidelity bonds for anyone who either handles or is responsible for funds which are held or administered by the Association, whether or not they receive compensation for such services.

9.2 Lenders' Requirements. Notwithstanding the foregoing, the Association and each Lot Owner shall maintain insurance and fidelity bonds meeting the requirements for similar projects established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Mortgage Association ("TMC"), Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA"), so long as any of them shall be a holder, insurer, or guarantor of a mortgage on a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA, TMC, VA and/or FHA, as applicable.

9.3 Waiver of Claim Against Association. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

ARTICLE 10.
DESTRUCTION OF IMPROVEMENTS

10.1 Restoration of Common Area. Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Common Area, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction or repair of the Common Area shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Common Area shall be reconstructed or rebuilt substantially in accordance with the original construction plans, unless changes are adopted by the Board or the Architectural Committee. If the amount available from the proceeds of such insurance policies for such restoration and repair is not sufficient to cover the entire cost of restoration and repair, the Association shall be authorized to levy an Extraordinary Assessment to collect the deficiency from all owners and to proceed with the restoration.

10.2 Restoration of Residential Improvements. In the event of any destruction of any portion of any residential improvements, it shall be the duty of the Owner, subject to the rights of any first mortgagee, to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction and repair of the improvements shall be used for such purpose, unless otherwise provided herein. The improvements shall be reconstructed or rebuilt substantially in accordance with the original construction plans, unless changes are approved by the Board or the Architectural Committee. If the amount available from the proceeds of such insurance for such restoration and repair is insufficient, the cash required shall be provided by the owner.

ARTICLE 11.
EMINENT DOMAIN

11.1 Awards, Repair, Restoration, and Replacement. In the event of any taking of any Lot or portion of the Common Area in the Project by eminent domain (including actual condemnation or sale under threat of condemnation), the Owner of such Lot (or the Association, in the case of the Common Area) shall be entitled to receive the award for such taking (subject to the rights of any mortgagee thereof), and after acceptance thereof, he or she and his or her mortgagee(s) shall be divested of all interest in the Project if such Owner shall vacate his or her Lot as a result of such taking. The remaining portion of the Project shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such taking. In the event of a taking by eminent domain of more than one Lot at the same time, the Board may participate in the negotiations, and may propose the method of division of the proceeds of condemnation, where Lots are not valued separately by the condemning authority or by the court. In the event any Lot Owner or first mortgagee disagrees with the proposed allocation, he or she may have the matter submitted to arbitration under the rules of the American Arbitration Association.

11.2 Awards for Owners' Personal Property and Relocation Allowances. Where all or part of the Project is taken by eminent domain, each owner shall have the exclusive right to claim all of the award made for such Owner's personal property, and any relocation, moving expense, or other allowance of a similar nature designed to facilitate relocation.

ARTICLE 12.

RIGHTS OF MORTGAGEES

In order to induce various lenders and lending agencies, including without limitation, The Mortgage Corporation ("TMC"), the Government National Mortgage Association ("GNMA") and the Federal National Mortgage Association ("FNMA"), the Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA") to participate in the financing of the sale of Lots within the Project, this Article 12 is included in this Declaration. To the extent these added provisions, pertaining to the rights of such lenders and lending agencies, conflict with any other provisions of this Declaration or any other of the Project Documents, these added restrictions shall control. For purposes of this Article 12, the terms "Eligible Holder" and "Eligible Insurer or Guarantor" refer to a holder, insurer or guarantor of any first mortgage on a Lot, who has provided a written request to the Association, to be notified of any proposed amendment or action described in Paragraph 12.5 or Paragraph 12.6 below.

12.1 Notwithstanding any other provision of Project Documents, no amendment or violation of the Project Documents shall operate to defeat or render invalid the rights of any mortgagee of a Lot made in good faith and for value, provided that after the foreclosure of any such mortgage, such Lot shall remain subject to the Project Documents.

12.2 Each first mortgagee of a mortgage encumbering any Lot, which obtains title to such Lot pursuant to judicial foreclosure or the powers provided in such mortgage, shall take title to such Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued after the time such mortgagee recorded its mortgage, and prior to the time such mortgagee acquires title to such Lot.

12.3 First mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours; (2) require from the Association the submission of annual audited financial reports and other financial data; (3) receive written notice of all meetings of the owners; and (4) designate, in writing, a representative to attend all such meetings.

12.4 Each Owner hereby authorizes the first mortgagee of a first mortgage on his or her Lot to furnish information to the Board concerning the status of the first mortgage and the loan which it secures.

12.5 Lot Owners shall have the right to amend the Project Documents in accordance with Article 13 below, subject to the rights of Eligible Holders to participate in the amendment process as provided in this Paragraph. Amendments of a material nature shall be agreed to by (a) the Declarant (so long as the Declarant owns any Lot in the Project); (b) Lot Owners representing at least seventy-five percent (75%) of the total allocated votes in the Association, excluding votes held by the Declarant; and (c) Eligible Holders representing at least fifty-one percent (51%) of the votes of Lots that are subject to mortgages held by Eligible Holders. A change affecting any of the following would be considered as material:

- Voting rights;
- Assessments, assessment liens, or subordination of assessment liens;
- Reserves for maintenance, repair and replacement of Common Area;

- Responsibility for maintenance and repairs;
- Reallocation of interests in the Common Area, or rights to its use;
- Boundaries of any Lot;
- Convertibility of Lots into Common Area or vice-versa;
- Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;
- Insurance or fidelity bonds;
- Leasing of Lots;
- Imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot;
- A decision by the Association to establish self-management when professional management had been previously required by an Eligible Holder;
- Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;
- Any action to terminate the legal status of the Project after substantial destruction or condemnation (when Lot owners are considering termination of the legal status of the Project for reasons other than substantial destruction or condemnation, approval must be obtained from Eligible Holders representing at least seventy-five percent (75%) of the votes of Lots that are subject to mortgages held by Eligible Holders); or
- Any provisions that expressly benefit mortgage holders, insurers, or guarantors.

If the Association determines that an addition or amendment to the Project Documents is not a material change, the approval of Eligible Holders shall be implied by the failure of an Eligible Holder to submit a response to a written proposal for an amendment within thirty (30) days after the proposal is made.

12.6 Each Eligible Holder and each Eligible Insurer or Guarantor is entitled to timely written notice of the following:

- Any condemnation or casualty loss that affects either a material portion of the Project or the Lot securing its mortgage;
- Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
- A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- Any proposed action that requires the consent of a specified percentage of Eligible Holders.

In addition to the foregoing, the Board shall have the power and authority, without the vote of the Association, to enter into such contracts or agreements on behalf of the Association (and, if necessary, to record an appropriate amendment to this Declaration, without a formal vote of the Owners) as are required in order to satisfy the guidelines of the VA, FHA, TMC, the FNMA or the GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first mortgages encumbering Lots. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their residential Lots, if such agencies approve the Property as a qualifying Project under their respective policies, rules and regulations, as adopted from time to time.

ARTICLE 13. **DURATION AND AMENDMENT**

13.1 Duration. This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirements of an amendment to this Declaration as set forth in Paragraph 13.2.

13.2 Amendment. Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association at which the proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an owner at a meeting of the Members of the Association. The resolution shall be adopted by the vote, in person or by proxy, or written consent of (1) the Declarant, for so long as the Declarant owns any Lot in the Project; and (2) Lot Owners representing at least seventy-five percent (75%) of the total allocated votes in the Association, excluding votes held by the Declarant.

Notwithstanding the foregoing, the following special voting provisions shall apply:

- (a) Amendments of material nature shall be enacted in compliance with the provisions of Article 12 of this Declaration;
- (b) The specified percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes prescribed for action to be taken under that provision;

A certificate, signed and sworn to by two (2) officers of the Association, that the record Owners of the required number of Lots (and the necessary number of Owners, and the required number of first mortgagees, where applicable) have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years.

ARTICLE 14. **DECLARANT'S RIGHTS AND RESERVATIONS**

Declarant is undertaking the work of development of the Project and the establishment of a single-family residential community on the Property. The completion of that work and the sale, rental, and other disposal of the Lots is essential to the establishment and welfare of the

Property as a single-family residential community. In order that said work may be completed as rapidly as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its contractors, or subcontractors from doing on the Property or any Lot, whatever is reasonably necessary or advisable in connection with the completion of the work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a single-family residential community, and disposing of the same by sale, lease or otherwise; or

(c) Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the identification of the Project or for the sale, lease or disposition thereof.

So long as Declarant, its successors-in-interest and assigns, owns one or more of the Lots established and described in this Declaration and except as otherwise specifically provided herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

In the event Declarant shall convey all of its right, title and interest in and to the Property to any third person, then and in such event, Declarant shall be relieved of the performance of any further duty of obligation hereunder, and such third person shall be obligated to perform all such duties and obligations of the Declarant.

ARTICLE 15.

GENERAL PROVISIONS

15.1 **Enforcement.** The Association (acting through the Board), any Owner, and Kootenai County, 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 this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

15.2 **Invalidity of Any Provision.** Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

15.3 **Conflict of Project Documents.** If there is any conflict among or between the Project Documents, priority shall be given to Project Documents in the following order: this Declaration, the Plat, the Articles, the Bylaws, and the rules and regulations of the Association. Notwithstanding the foregoing, any provision in any of the Project Documents which is for the protection of mortgagees shall have priority over any inconsistent provision in that document or in any other Project Document.

THE UNDERSIGNED, being the Declarant herein, has executed this Declaration on

June 19th, 2007.

DECLARANT:

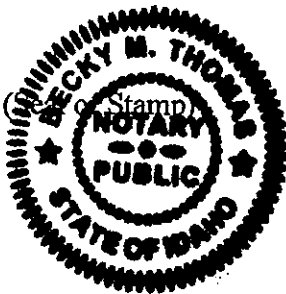
TP DEVELOPMENT, INC.,
a Nevada corporation

By: [Signature]
Gregory R. Haerr, President

STATE OF Idaho
County of Kootenai : ss.

On this 19th day of June, 2007, before me, Becky M. Thomas
a Notary Public in and for the state of Idaho, personally appeared GREGORY R. HAERR,
known or identified to me to be the President of TP DEVELOPMENT, INC., the corporation that
executed the foregoing instrument and the person who executed the instrument on behalf of said
corporation, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Becky M. Thomas
Notary Public for State of Idaho
Residing at Coeur d'Alene, Idaho
Commission expires 12-11-12

MEMORANDUM OF AGREEMENT

This Agreement is made effective this 3 day of July, 2007, by and between TP Development, Inc. (hereinafter the "Developer"), the Black Hawk Ranch Owners Association Inc, (hereinafter the "HOA"), and Blaine Lynda Howell (hereinafter "Buyer").

RECITALS

WHEREAS, the Developer, as owner of the newly platted Black Hawk Ranch Subdivision (hereinafter "Subdivision"), has irrigation water right for 58 acres, acquired with the land originally purchased, but not yet registered with the Idaho Department of Water Resources in its name; and,

WHEREAS, this original irrigation water right, license No. 19604, dating from April 14, 1945 is currently in the name of Herbert L. Barrett; and,

WHEREAS, the Developer has installed an irrigation pump system designed to irrigate 40 acres comprising the entirety of the Black Hawk Ranch Subdivision with underground irrigation stubs to each of the 8 lots in Subdivision; and,

WHEREAS, the HOA is responsible, defined by the recorded Black Hawk Ranch Subdivision CC&Rs, for administering and maintaining this irrigation system; and,

WHEREAS, the Buyer is purchasing one of the 8 lots in Black Hawk Ranch Subdivision; and,

WHEREAS, an application for irrigation water rights registration with the Idaho Department of Water Resources has not been completed by the Developer nor HOA by the time Buyer completes the purchase of their Subdivision lot:

AGREEMENT

NOW THEREFORE, the Developer, HOA, and Buyer make the following agreements:

1. Consideration. The parties acknowledge the various considerations described herein as being sufficient and acceptable for the agreements and promises contained herein individually and in their aggregate; and,
2. Transfer of Irrigation Water Rights to Subdivision. Developer agrees to transfer and register 40 acres of its 58 acre water right to the HOA. The Developer agrees to transfer and register the remaining 18 acre water right, for use with Black Hawk Ranch Phase II, to TP Post Falls LLC water right No. 95-2092.

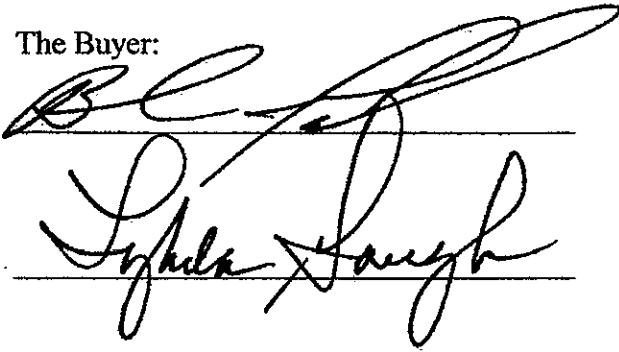
3. HOA Agreement. HOA agrees with the above Transfer of Irrigation Water Rights to Subdivision, and to sign any and all documents required by the Idaho Department of Water Resources to effect above transfers; and,
4. Buyer Agreement. Buyer agrees with the above Transfer of Irrigation Water Rights to Subdivision, and to sign any and all documents required by the Idaho Department of Water Resources to effect above transfers. Buyer hereby agrees to relinquish any and all claims of irrigation water right from the original irrigation water right License No. 19604. Buyer's irrigation water will be administered and maintained by the HOA, and will remain with the HOA for all successors and assigns of Buyer.
5. No Amendment to Approvals. This Agreement shall not amend the Subdivision approvals except as expressly stated herein.
6. Assignment. This Agreement shall be binding upon any and all successors and assigns of any or all of the Subdivision. This Agreement may not be assigned without written Developer and HOA authorization.
7. Amendment. This Agreement shall not be modified or amended except by written amendment signed by both Developer and HOA.
8. Notice. Any notice required of made necessary under this Agreement or pursuant to the performances thereof shall be sent by first-class mail, addressed as follows:

TP Development, Inc.
5469 Walker Estates Cir
Holladay, UT 84117

Black Hawk Ranch Owners Association, Inc.
10740 N Lakeview Dr
Hayden, ID 83835

SIGNED:

The Buyer:



Handwritten signature of the buyer, appearing to be "Lynne Haugh", written over a horizontal line.

The Developer:



Handwritten signature of Gregory Haerr, written over a horizontal line.

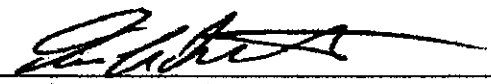
Gregory Haerr, President

The HOA:



Handwritten signature of Gregory Haerr, written over a horizontal line.

Gregory Haerr, Director



Handwritten signature of Darrin Pelton, written over a horizontal line.

Darrin Pelton, Director



Handwritten signature of Rheanna Lyn Pelton, written over a horizontal line.

Rheanna Lyn Pelton, Director

MEMORANDUM OF AGREEMENT

This Agreement is made effective this 28 day of August, 2007, by and between TP Development, Inc. (hereinafter the "Developer"), the Black Hawk Ranch Owners Association Inc. (hereinafter the "HOA"), and James Goodwin, Jr. (hereinafter "Buyer").

RECITALS

WHEREAS, the Developer, as owner of the newly platted Black Hawk Ranch Subdivision (hereinafter "Subdivision"), has irrigation water right for 58 acres, acquired with the land originally purchased, but not yet registered with the Idaho Department of Water Resources in its name; and,

WHEREAS, this original irrigation water right, license No. 19604, dating from April 14, 1945 is currently in the name of Herbert L. Barrett; and,

WHEREAS, the Developer has installed an irrigation pump system designed to irrigate 40 acres comprising the entirety of the Black Hawk Ranch Subdivision with underground irrigation stubs to each of the 8 lots in Subdivision; and,

WHEREAS, the HOA is responsible, defined by the recorded Black Hawk Ranch Subdivision CC&Rs, for administering and maintaining this irrigation system; and,

WHEREAS, the Buyer is purchasing one of the 8 lots in Black Hawk Ranch Subdivision; and,

WHEREAS, an application for irrigation water rights registration with the Idaho Department of Water Resources has not been completed by the Developer nor HOA by the time Buyer completes the purchase of their Subdivision lot:

AGREEMENT

NOW THEREFORE, the Developer, HOA, and Buyer make the following agreements:

1. Consideration. The parties acknowledge the various considerations described herein as being sufficient and acceptable for the agreements and promises contained herein individually and in their aggregate; and,
2. Transfer of Irrigation Water Rights to Subdivision. Developer agrees to transfer and register 40 acres of its 58 acre water right to the HOA. The Developer agrees to transfer and register the remaining 18 acre water right, for use with Black Hawk Ranch Phase II, to TP Post Falls LLC water right No. 95-2092.

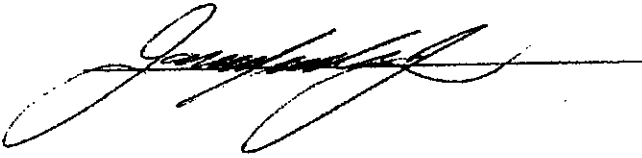
3. HOA Agreement. HOA agrees with the above Transfer of Irrigation Water Rights to Subdivision, and to sign any and all documents required by the Idaho Department of Water Resources to effect above transfers; and,
4. Buyer Agreement. Buyer agrees with the above Transfer of Irrigation Water Rights to Subdivision, and to sign any and all documents required by the Idaho Department of Water Resources to effect above transfers. Buyer hereby agrees to relinquish any and all claims of irrigation water right from the original irrigation water right License No. 19604. Buyer's irrigation water will be administered and maintained by the HOA, and will remain with the HOA for all successors and assigns of Buyer.
5. No Amendment to Approvals. This Agreement shall not amend the Subdivision approvals except as expressly stated herein.
6. Assignment. This Agreement shall be binding upon any and all successors and assigns of any or all of the Subdivision. This Agreement may not be assigned without written Developer and HOA authorization.
7. Amendment. This Agreement shall not be modified or amended except by written amendment signed by both Developer and HOA.
8. Notice. Any notice required of made necessary under this Agreement or pursuant to the performances thereof shall be sent by first-class mail, addressed as follows:

TP Development, Inc.
5469 Walker Estates Cir
Holladay, UT 84117

Black Hawk Ranch Owners Association, Inc.
10740 N Lakeview Dr
Hayden, ID 83835

SIGNED:

The Buyer:

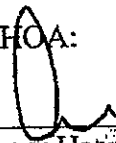


The Developer:

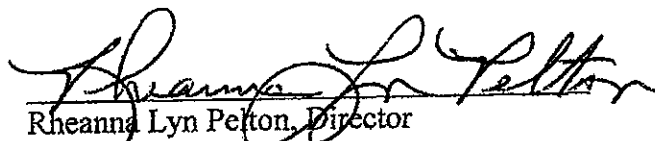


Gregory Haerr, President

The HOA:



Gregory Haerr, Director

Darrin Pelton, Director

Rheanna Lyn Pelton, Director

MEMORANDUM OF AGREEMENT

This Agreement is made effective this 9 day of September 2007, by and between TP Development, Inc. (hereinafter the "Developer"), the Black Hawk Ranch Owners Association Inc, (hereinafter the "HOA"), and Darrin Rotton, (hereinafter "Buyer").

RECITALS

WHEREAS, the Developer, as owner of the newly platted Black Hawk Ranch Subdivision (hereinafter "Subdivision"), has irrigation water right for 58 acres, acquired with the land originally purchased, but not yet registered with the Idaho Department of Water Resources in its name; and,

WHEREAS, this original irrigation water right, license No. 19604, dating from April 14, 1945 is currently in the name of Herbert L. Barrett; and,

WHEREAS, the Developer has installed an irrigation pump system designed to irrigate 40 acres comprising the entirety of the Black Hawk Ranch Subdivision with underground irrigation stubs to each of the 8 lots in Subdivision; and,

WHEREAS, the HOA is responsible, defined by the recorded Black Hawk Ranch Subdivision CC&Rs, for administering and maintaining this irrigation system; and,

WHEREAS, the Buyer is purchasing one of the 8 lots in Black Hawk Ranch Subdivision; and,

WHEREAS, an application for irrigation water rights registration with the Idaho Department of Water Resources has not been completed by the Developer nor HOA by the time Buyer completes the purchase of their Subdivision lot:

AGREEMENT

NOW THEREFORE, the Developer, HOA, and Buyer make the following agreements:

1. Consideration. The parties acknowledge the various considerations described herein as being sufficient and acceptable for the agreements and promises contained herein individually and in their aggregate; and,
2. Transfer of Irrigation Water Rights to Subdivision. Developer agrees to transfer and register 40 acres of its 58 acre water right to the HOA. The Developer agrees to transfer and register the remaining 18 acre water right, for use with Black Hawk Ranch Phase II, to TP Post Falls LLC water right No. 95-2092.

3. HOA Agreement. HOA agrees with the above Transfer of Irrigation Water Rights to Subdivision, and to sign any and all documents required by the Idaho Department of Water Resources to effect above transfers; and,
4. Buyer Agreement. Buyer agrees with the above Transfer of Irrigation Water Rights to Subdivision, and to sign any and all documents required by the Idaho Department of Water Resources to effect above transfers. Buyer hereby agrees to relinquish any and all claims of irrigation water right from the original irrigation water right License No. 19604. Buyer's irrigation water will be administered and maintained by the HOA, and will remain with the HOA for all successors and assigns of Buyer.
5. No Amendment to Approvals. This Agreement shall not amend the Subdivision approvals except as expressly stated herein.
6. Assignment. This Agreement shall be binding upon any and all successors and assigns of any or all of the Subdivision. This Agreement may not be assigned without written Developer and HOA authorization.
7. Amendment. This Agreement shall not be modified or amended except by written amendment signed by both Developer and HOA.
8. Notice. Any notice required of made necessary under this Agreement or pursuant to the performances thereof shall be sent by first-class mail, addressed as follows:

TP Development, Inc.
5469 Walker Estates Cir
Holladay, UT 84117

Black Hawk Ranch Owners Association, Inc.
10740 N Lakeview Dr
Hayden, ID 83835

SIGNED:

The Buyer:

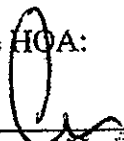


The Developer:

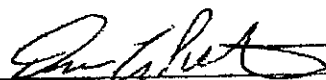


Gregory Haerr, President

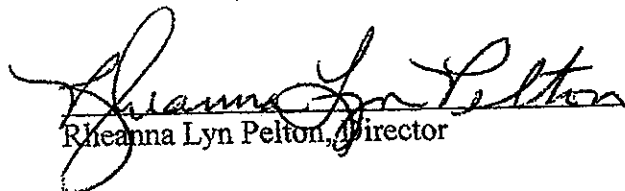
The HOA:



Gregory Haerr, Director



Darrin Pelton, Director



Rheanna Lyn Pelton, Director