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DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR SETTLEMENT MOUNTAIN ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SETTLEMENT MOUNTAIN ESTATES, ("Declaration") is hereby adopted by Viking Construction, Inc., its successors and assigns ("Declarant"), and is made effective as of the date recorded in the Kootenai County Recorder's Office.

RECITALS:

(A) For any real property that has been or becomes annexed into the Subdivision, Viking Construction, Inc. is hereby appointed as the acting Declarant for the Subdivision, with all the corresponding rights and administrative functions (hereinafter "Declarant").

(B) This Declaration affects and concerns the real property located in Kootenai County, Idaho and more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference ("Property" or "Subdivision").

(C) Plat depicting the Property was recorded or will be recorded in the Kootenai County Recorder's Office ("Plat").

(D) Declarant desires to subject the Property to the terms of this Declaration, as set forth herein. Declarant intends to develop a residential community on the Property pursuant to the local ordinance and the Homeowner's Association Act. Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Declaration, which are deemed to be covenants running with the land mutually burdening and benefiting each of the Lots within the Subdivision.

(E) Declarant has deemed it desirable, for the efficient preservation of the values and amenities of the Subdivision, to create an entity which possesses the powers to administer and enforce the provisions of this Declaration. For such purposes, Declarant will file Articles of Incorporation for Settlement Mountain Estates Homeowners Association, Inc. ("Articles") and cause to be registered with the Idaho Secretary of State Settlement Mountain Estates Homeowners Association, Inc. ("Association"). The Association is governed by the terms of this Declaration, the Articles, and the Bylaws, which are attached hereto as **Exhibit "B."**

(F) No provision of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration such as: (1) completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable County ordinances; (4) assignment of Declarant rights under this Declaration in whole or part; and (5) Declarant rights with respect to subsequent phases, expansion, or reduction/de-annexation of the Subdivision.

- (G) These Recitals are made a part of this Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I - DEFINITIONS

1.0 Unless the context clearly requires the application of a more general meaning, the following terms when used in the Governing Documents shall have the following meanings:

- (A) “Act” shall mean the Homeowner’s Association Act, Idaho Code § 55-3201 *et. seq.*
- (B) “Architectural Control Committee” or “ACC” shall mean the Architectural Control Committee created by Association in accordance with the Governing Documents, which shall govern the entire Subdivision. Declarant shall retain the authority to appoint the Board and correspondingly the ACC until Declarant no longer owns any property within the Subdivision.
- (C) “Articles” shall have the meaning set forth in the Recitals.
- (D) “Assessment” shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, lot-type assessment, special assessment, limited assessment, individual assessment, late fee, or other charge.
- (E) “Association” shall mean Settlement Mountain Estates Homeowners Association, Inc. and, as the context requires, the duly elected and authorized Board of Directors through its officers, directors, and managers.
- (F) “Board” means the Board of Directors of the Association elected or appointed directors serving as the management body of the Association.
- (G) “Bulk Service Contract” or “Bulk Service Provider” shall mean a service provider for items such as internet, television, cable, satellite, telephone, data, solar power, and similar utilities and services.
- (H) “Bylaws” shall have the meaning set forth in the Recitals.
- (I) “County” shall mean Kootenai County, Idaho and its appropriate departments, officials, and committees.
- (J) “Common Expenses” means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for: (A) providing services, insurance, and other benefits to Owners as set forth in this Declaration; (B) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (C) levying, collecting and enforcing the assessments; (D) operating the Association; and (E) creating budgets for any such costs, expenses and liability as required by this

Declaration or the Act.

(K) "Declarant" shall mean and refer to Viking Construction, Inc., and its successors and assigns.

1. "Declarant Related Entity or Entities" shall mean Declarant, parent companies, subsidiaries, assigns, successors, related or designated construction entities, or other entities established by Declarant or Declarant's members for the purpose of owning, developing, constructing and/or selling Lots or Dwellings in the Subdivision.

(L) "Declaration" as defined in the Recitals.

(M) "Design Guidelines" may be adopted by the Declarant, ACC, or Board governing Improvements in the Subdivision.

(N) "Dwelling" shall mean the single-family residence built or to be built on any Lot, together with all Improvements located on or with respect to the Lot concerned that are used in connection with such residence. Pipes, wires, conduits, or other utility lines or installations constituting a part of the Dwelling or serving only the Dwelling shall be part of the Dwelling.

(O) "Governing Documents" shall mean this Declaration, Plat(s), Bylaws, Articles, Rules, Design Guidelines, Fee Schedule, and any other documents or agreements binding upon an Owner.

(P) "Improvement" shall mean all structures and appurtenances of every type and kind, including, but not limited to: facilities, amenities, Dwellings, garages, sheds, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the Lot.

(Q) "Lot" shall mean any numbered lot shown on any official and recorded Plats, including the Dwelling and all Improvement located thereon. Lot may also refer to or be interchangeable with Dwelling in certain contexts.

(R) "Manager" shall mean any entity or person engaged by the Board to manage the Subdivision.

(S) "Member" or "Owner" shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Kootenai County, Idaho) of a fee simple or an undivided interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary of trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. Owner may include a non-natural, but legally recognized entity, such as a limited liability company, corporation, partnership, limited partnership, trust, and/or other legally entity recognized by Idaho State law. Accordingly, such an Owner may designate a natural person of its selection as Owner's agent to serve and act in the Owner's place. Notwithstanding the foregoing, an Owner may designate only one natural person

to serve as its agent at any one time.

(T) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Idaho.

(U) "Plat(s)" shall mean an official and recorded plat of the Subdivision, including all subsequent phases, if any, when recorded, as approved by County, and recorded in the office of the Kootenai Recorder, as it may be amended from time to time.

(V) "Rules" shall mean any instrument adopted by the Board for the regulation and management of the Subdivision, which may include both activities, rights and easements in and to the Lots.

(W) "Subdivision Improvements" shall mean all improvements to be installed outside the boundaries of Lots or within easements that are necessary to provide access and utility service to the Lots and including other construction work required to comply with any conditions of County to the approval of the Subdivision or any Plat(s) thereof.

ARTICLE II - EASEMENTS & OTHER RIGHTS

2.1 The Association shall be the trustee for all Owners with respect to easements, licenses, and agreements impacting the Subdivision in general consistent with the Declaration and Idaho law.

2.2 Easements in Favor of Association. The Lots are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees, and independent contractors:

- (a) For inspection during reasonable hours of the Lots in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair, and replacement (if applicable), as required by the Declaration;
- (c) For correction of emergency conditions in the Subdivision; and
- (d) Landscaping. The Association shall have an easement and related access rights in order to maintain any landscaping that is the Association's responsibility.

2.3 Reservation of Access and Utility Easements. Declarant hereby reserves an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement right.

2.4 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property, consistent with Idaho Code 50-1302 and the Plats and Governing Documents, and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Dwellings, (b) to maintain sales or leasing offices, management offices and models throughout the Subdivision and to maintain one or more advertising signs with respect to the sales of Lots, or other property in the Subdivision, (c) construction, installation and maintenance thereon of roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (d) construction, installation and maintenance on lands within, adjacent to, or serving the Property.

2.5 Parking Areas. The Association may adopt rules governing parking, vehicles and equipment in the Subdivision.

2.6 Right to Modify Lot Boundaries and Interior Boundary Lines. Declarant reserves the unilateral right to modify Lot boundaries and interior boundary lines and/or combine Lots so long as it owns the Lots.

2.7 Income generated from negotiation, installation or provision of certain utilities and amenities. Declarant and/or Declarant Related Entities invest time, experience, infrastructure and/or capital in the negotiation, provision or installation of certain utilities and amenities (e.g., internet, cable, fiber, phone, solar power, etc.) that provide services and benefits to owner in the Subdivision that would not otherwise be available or at a reduced cost. Any income gained by these parties from these efforts may be retained by the Declarant, Declarant Related Entities, or their assigns, even after the Class B Control Period. The Association may enter into contracts with third parties related to the provisions of such utilities and amenities for the benefit of Owners in the Subdivision, which utilities and amenities may be paid for through Assessments. Owners contracting separately with individual third-party providers will still be required to pay any normal and customary access fee for applicable bulk rate contract services entered into by the Association.

ARTICLE III - MEMBERSHIP, VOTING CLASSES & CONTROL PERIOD

3.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Lot and such membership shall automatically terminate when the Owner cease to have an ownership interest in the Lot. Upon the transfer of an ownership interest in a Lot the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Lot is held. Notwithstanding the foregoing, the Declarant shall also be granted membership rights as a Class "B" Member, as defined below.

3.2 The Association shall have two (2) classes of voting membership, Class "A" and

Class "B", as follows:

- (a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Unless otherwise stated herein, Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Only an Owner that is current on all Assessments and/or other fees thirty days in advance of the meeting or vote shall be deemed in good standing and entitled to vote. With regard to any approval that requires a specified percentage of total membership, the total membership shall be calculated from the total number of Owners eligible to vote at the time such approval is sought. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association that Person shall be entitled to cast all votes appertaining to that Lot. But if more than one such Person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.
 - (b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, except as set forth in (i) below, the Class "B" membership shall receive five hundred (500) votes for each recorded Lot or Dwelling owned by Declarant.
 - (i) Within 180 days after 75% of the Lots have been conveyed to owners other than Declarant or Declarant Related Entities, the Owners (other than Declarant) may elect one of the Directors of the Board. The Board shall conduct elections pursuant to the Bylaws.
- 3.3 The Class "B" Control Period runs until the first to occur:
- (a) 12 months following transfer and occupation of 95% of the Lots; or
 - (b) When, at its discretion, the Class B Member so determines.

3.4 Notwithstanding, Declarant may exercise its discretionary termination of control in whole or in part as to any portion of the Subdivision at its sole election and determination. In doing so as to a portion of the Subdivision, it does not waive any reversionary or remaining control as to all other portions of the Association, the control of which is not expressly terminated by Declarant.

ARTICLE IV - ASSOCIATION & ASSESSMENTS

4.1 Organization. The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation.

4.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or

equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Lot; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense; and (6) any other action or remedy allowed by the Governing Documents or Idaho law.

- (a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Subdivision at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.
- (b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Idaho law.
- (c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

4.3 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing the Subdivision. The Association's rulemaking authority may govern conduct and activities in the Property.

- (a) During the Class B Control Period, Declarant may adopt rules in its sole discretion.

4.4 Violation Deemed a Nuisance. Any violation of the Governing Documents that is permitted to remain on the Property is deemed a nuisance and is subject to abatement by the Association.

- (a) Any single or continuing violation of the covenants contained in this Governing Documents may be enjoined in an action brought by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.

- (b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.
- (c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.
- (d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

4.5 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Association. The Association has the power to levy assessments against each Lot as necessary to carry out its functions. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with their interest in a Lot, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest, and costs of collection (including reasonable attorney fees).

- (a) Assessments. All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt themselves or their Lot from liability for payment of assessments by waiver of their rights or by abandonment of their Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee.
- (b) Special Assessment. The Association may levy special assessments for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments.
- (c) Individual Assessment. The Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Subdivision or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.
- (d) Lot Type Assessment. An assessment based upon a specific Lot or housing product,

- and the related costs and services provided for that Lot Type.
- (e) The Association may levy other assessments or fees, as authorized by the Governing Documents.

4.6 Budget. The Board is authorized and required to adopt a budget annually. The Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget. The budget shall estimate and include the total amount for the Common Expenses and may include an amount for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories. Unless otherwise established by the Board, regular Assessments shall be paid annually.

4.7 Transfer Fee. Pursuant to Idaho Code § 55-3102(4)(f), upon the sale or transfer of a Lot within the Association, a transfer fee in the amount of \$250 shall be paid to the Association at the time of conveyance or transfer. This fee may be increased from time to time by the Board consistent with inflation. This transfer fee shall be for the benefit of the Association, its members and property and shall be utilized for purposes set forth in the Association's Governing Documents. Declarant may establish such other fees and charges for set up, as allowed by law. Declarant and Declarant Related Entities are exempt from the Transfer Fee.

4.8 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Lot on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide. Notwithstanding, Assessments for those Lots owned by Declarant or their assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Dwellings on the Lot (collectively "Declarant's Related Entities") shall not commence until the completed Lot is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Declaration changing the allocation assessments with regard to Declarant or Declarant Related Entities shall be valid without the consent of the Declarant.

4.9 Fines & Hearing Process. Following notice and procedure, as required by the Idaho Code §55-115(2), the Association shall have the power to assess a fine against an Owner and/or their Lot for a violation of the terms and conditions of the Governing Documents in an amount established by the Board. The Board may designate a manager or agent to assist in the violation, fine and hearing process. Further, the Board may independently take legal action, when needed, to correct or enjoin violations of the Declaration.

4.10 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Idaho law.

4.11 Due Date, Charges & Interest. The Board may adopt Rules and policies to provide

further detail or that expressly modify this section. Unless otherwise established by the Board, monthly assessments shall be due and payable annually and late if not received within 15 days of the due date. The Board may charge a late fee in an amount set by the Board, for each unpaid or late assessment. In addition to late fees, interest may accrue on all unpaid balances at 18% per annum. The Board may also impose other reasonable charges imposed by a manager related to collections.

4.12 Lien. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except liens that by law would be superior thereto.

4.13 Foreclosure Sale. The Association shall have all rights and power of foreclosure granted by the law, including non-judicial foreclosure through power of sale in the same manner as a deed of trust. The Association may also bid for the Lot at foreclosure sale, acquire, hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of any Special Assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

4.14 Other Remedies. All rights and remedies of the Association shall be cumulative, and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner, including purchaser or seller, and other obligees. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

4.15 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Lot the amount of any assessment that is more than sixty (60) days past due.

4.16 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

4.17 Appointment of Trustee. Such lien may be foreclosed by appropriate action in court or through power of sale in the same manner as a deed of trust by the Association, its attorney or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale in deeds of trust or any

other manner permitted by law. The Association hereby appoints Burt R. Willie, Esq., a licensed member of the Idaho State Bar, or subsequently designated and qualified individual, with power of sale, the Lot and all Improvements to the Lot for the purpose of securing payment of assessments and fees under the terms of this Declaration.

ARTICLE V - ARCHITECTURAL CONTROL COMMITTEE

5.1 Architectural Control Committee ("ACC"). An Architectural Control Committee may be appointed by the Declarant to oversee any construction, re-construction, remodeling or altering of exterior Improvements in the Subdivision. If no ACC is appointed, the Board will assume the duties and responsibilities of the ACC. Declarant shall remain empowered to appoint the ACC until it turns over such authority in writing to the Association.

5.2 Design Guidelines. The Declarant and/or ACC may adopt Design Guidelines that may include additional detail and restrictions governing the design of Improvements in the Subdivision.

5.3 Approval by Board or ACC Required. No exterior Improvement of any kind will be constructed or commenced on any Lot(s) within the Subdivision without the prior, written approval of the ACC, which plans must be harmonious with existing Improvements and the existing character within the Subdivision. The overall architectural style and detailing of each Improvement (including each Dwelling) and the associated landscaping and site use is subject to ACC review and approval. Approval of the ACC will be sought in the following manner:

- (a) Plans Submitted. A written rendering, prepared by a licensed architect or engineer when requested by the ACC, of the proposed remodeling or construction must be submitted. The Plans shall also include: (1) a description of how debris will be removed; (2) name, address and phone number of contractor(s) performing the work; (3) when construction or remodeling will begin and conclude; and (4) proposal to mitigate any nuisance to other Owner(s).
- (b) Review. Within 45 days from receipt of the submitted plans, the ACC will review the plans and respond in writing to the Owner determining whether or not the plans comply with the conditions imposed by the Declaration and are consistent with and in architectural harmony with other Improvements within the Subdivision. The ACC may: (1) approve the plans; (2) reject the plans; (3) request additional information; or (4) require that certain conditions be met.
- (c) Failure to Act. If the ACC fails to respond, Owner may complete the construction in accordance with the submitted plans. Notwithstanding the Improvement(s) shall not violate the terms and condition of the Declaration or Design Guidelines and shall be in architectural harmony and consistent with the other Improvements in the Subdivision.

5.3 Variances. The ACC cannot grant any variance that has the effect of modifying

applicable zoning or building code regulations or directly violates the Governing Documents. The burden of obtaining a variance is entirely on the applicant.

5.4 Declarant, Board and ACC Not Liable. The Declarant, Board, ACC and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted for review. The Owners' shall have no claim against the Declarant, Board or ACC as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has an equal duty and right to enforce these covenants against every other Owner and may seek independent redress if it believes the Declarant, Board or ACC has acted improperly.

5.5 Limitations on Review. The ACC shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the ACC prior to construction.

5.6 Architectural Review Fee. The ACC may charge a fee to an Owner submitting a plan for review not to exceed the actual costs to review the plans.

5.7 Exception for Declarant and Declarant Related Entities. The foregoing provisions of this Article shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant or Declarant Related Entities at any time during Class B Control Period.

5.8 Approved Builder. During the Class B Control Period, only contractors approved in advance by Declarant, in their sole discretion, may construct Improvement(s) upon the Lots.

ARTICLE VI - LOT MAINTENANCE

6.1 Lot Maintenance & Appearance. All maintenance, repair and replacement of Lots, Dwellings and Improvements located thereon shall be the sole responsibility of the Owner of the Lot. It is the obligation of each Owner to maintain their Lot, Dwelling and Improvements located thereon in a clean and sanitary condition and uncluttered at all times in order to preserve and enhance the enjoyment of the Subdivision. The open storage of any building materials (except during construction of Improvements) and open storage or parking of construction equipment, or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage (except as stored in tight containers in an enclosure such as garbage bins); lawn or garden furniture (except during the season of use); and the storage or accumulation of any other material, vehicles, or equipment on the Lot in any visually unappealing manner is prohibited. Further, no clothes lines, service yards, or storage yards shall be permitted.

6.2 Landscaping. Landscaping shall be installed in the front, sides and rear of the Dwelling and shall include a combination of lawn, trees, shrubs, groundcover, and rock, as may be further defined in the Design Guidelines. All landscaping shall be completed within one (1) year after the receipt of the certificate of occupancy for the Dwelling. No excavation for stone, gravel, or earth shall be made on the Lots, unless such excavation is made in connection with the erection of an Improvement or structure thereon. It is recommended that all Dwellings built on the Lots install a sprinkler system. Additional landscaping requirements will be contained in the Design Guidelines.

6.3 Repairs by Association. In the event that an Owner permits their Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 15 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision, plus 15%. In addition, each Owner hereby grants to the Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Idaho for the foreclosure of trust deeds. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

6.4 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as originally constructed. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the Board or ACC. Declarant shall be exempt from this provision.

6.5 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage before re-construction begins. Such temporary measures may be taken without the consent or approval of the Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances permit. Unless delayed by County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be

abated by the Association.

ARTICLE VII -USE LIMITATIONS & RESTRICTIONS

7.1 **Land Use and Building Type.** All Lots in the Property shall be used and occupied solely for single-family residential use. No Lot may be further subdivided. No Lot may be combined with another Lot without the consent of the ACC.

7.2 **Acceptable Business Uses.** An Owner may utilize their Lot for a home occupation business pursuant to city/county ordinance that may be carried on within the residences, so long as there exists no meaningful external evidence thereof, including sound, odor, or traffic.

7.3 **Zoning Regulations.** The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Subdivision. No Lot may be occupied in a manner that is in violation of any statute, law or ordinance.

7.4 **Construction.** No Improvement shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction, re-construction or remodeling unless any delays are approved in writing by the ACC.

7.5 **Temporary Improvements.** No Improvements of a temporary character and no trailer, basement, tent, shack, garage, barn or other outbuilding shall be placed or used on any Lot at any time as a residence either temporarily or permanently.

7.6 **Set Back Requirement for Improvements.** All Improvement set back must be in compliance with the applicable municipal or County set back requirements.

7.7 **Size Limitations.** The interior area of any Dwelling constructed on a Lot, exclusive of the basement, porches and garages, must be at least one thousand three hundred and one (1,301) square feet livable space.

7.8 **Drainage.** Drainage plans may be required by the Declarant or ACC. If drainage and flooding issues develop on any Lot, the Owner may be required to install additional facilities.

7.9 **Construction. Construction Materials.** Only materials approved by Declarant shall be used in the construction of Dwellings and other improvements. Declarant may establish rules for construction site maintenance in the Design Guidelines.

7.10 **Garages and Driveways.** Each Dwelling constructed on any Lot shall include an enclosed garage as an attached, integral part of the Dwelling structure. All driveways and approaches to detached shops must be constructed of concrete, asphalt or a comparable material

approved by the ACC. Shed and shops accessible by vehicles do require concrete, asphalt or comparable material approved by the ACC.

7.11 Roof and Chimneys. The roof of each Dwelling and each detached structure, including sheds and shops, shall be of 30-year or better architectural grade shingle.

7.12 Sheds, Outbuildings and Accessory Structures. No structures or buildings of any kind shall be erected, altered, placed or permitted on any Lot other than one detached Dwelling with an attached garage designed to house at least two automobiles, one additional outbuilding structure that may be used for purposes such as vehicle storage and/or as a shop, and one additional small storage outbuilding, such as a tool storage shed. All such buildings and structures must be approved by the ACC, and it is anticipated that the ACC will not approve any outbuildings unless it determines, in its sole discretion, that the requested outbuildings are constructed of materials and designed to reasonably match those of the Dwelling on that Lot; with any shop or larger outbuilding to have a plate height not higher than 16 feet measured from ground level, and not larger than 864 square feet, and no small storage shed to have a plate height higher than eight feet measured from ground level, and not larger than 120 square feet. The ACC has discretion to determine, among other things, whether the Lot has adequate space and a suitable location for installation of any such ancillary structures without adversely impacting the Lot or the view or appearance of the Lot from areas outside the Lot and, to reduce the maximum size allowable for any ancillary structure below that above stated if and when the ACC determines that it is appropriate to do so. Metal and plastic roofs and siding will not be allowed. Composite shingles and siding that reasonably match the Dwelling shall be required. Each Owner of a Lot proposing to construct or place an outbuilding on their Lot shall be solely responsible for assuring that the structure will not encroach on utility easements or city setbacks.

- (a) Dog runs, walls, decks, or gazebos shall not be allowed without prior approval of the ACC.
- (b) Internal Accessory Dwelling Units (located within the Dwelling or garage) are subject to such reasonable rules and restrictions as may be imposed by the ACC or otherwise established by the Board consistent with the requirements and limitations of Idaho Code § 55-3212(2). Detached, standalone accessory dwelling units are prohibited. Any internal accessory dwelling shall not exceed (800) square feet. The design must be architecturally consistent with the Dwelling, must be approved in advance by the Association, and must satisfy all required setbacks, as well as all criteria set forth in the Rules.

7.13 Fences and Walls. Hedges and Screen. No fence, wall, hedge, or mass planting (collectively "Fence" or "Fencing") that operates as a sight-obscuring line or structure may extend nearer to a street on the front yard side of the Lot than the edge of the house or garage constructed on such Lot that is closest to the street. No Fencing may create an unreasonable sight obstruction near street corners. Nothing in this subparagraph shall prevent Declarant's erection of a perimeter Fence as Declarant shall determine along some or all of the perimeter of the Property; erection of

temporary construction fencing; nor the erection of a necessary retaining wall or placement of a Fence on a side yard facing a street by an Owner other than Declarant, so long as the Fence is not extended toward the front yard side of the Lot past the edge of the house or garage. No wire, cyclone, or wood Fencing of any kind shall be placed so as to be visible from outside any Lot. It is anticipated that any Fence approved by the ACC will be required to be constructed of vinyl, wrought iron, or such other comparable material as determined by the ACC in its sole discretion.

7.14 Signs and Flags. Consistent with Idaho Code §§ 55-3209-3210, the following restrictions and criteria governing signs and flags in the Subdivision shall apply:

- (a) The following definitions shall apply:
 - i. "Political Sign" shall mean any fixed, ground-mounted display in support of or in opposition to a candidate for office or a ballot measure.
 - ii. "State Permitted Flag" shall mean one each of the following flags, in good repair, not to exceed four feet by six feet (4' x 6') in dimension: the flag of the state of Idaho, the POW/MIA flag, or an official or replica flag of any branch of the United States armed forces.
 - iii. "U.S. Flag" shall mean one standard United States of America flag, in good repair, not to exceed four feet by six feet (4' x 6') in dimension.
- (b) Prohibited Signs and Displays. Any sign or display not expressly authorized by this Policy is prohibited.
- (c) For Sale Signs. A single "for sale" sign advertising a Lot/Dwelling for sale not larger than eighteen (18) inches by twenty-four (24) inches is allowed subject to adopted rules of the Association.
- (d) Political Signs. Political Signs are subject to the following restrictions:
 - i. The maximum size per Political Sign is 18" x 24" inches.
 - ii. A maximum of two (2) total Political Signs for an Owner's Lot (including all structures thereon);
 - iii. Political Signs must not be posted in a manner so as to cause any safety hazard;
 - iv. Political Signs may not be accompanied by sound, music, or other materials attached to the Political Sign.
 - v. Political Signs can be posted a maximum of eight (8) weeks prior to election day/ballot approval deadline;
 - vi. Political Signs must be removed no later than one (1) week after election day/ballot approval deadline; and
 - vii. Political Signs must otherwise comply with applicable Idaho law.
- (e) Other Signs and Displays. All other signs and similar displays are prohibited regardless of their politics, message or viewpoint.
- (f) U.S. Flag. One U.S. Flag shall be allowed to be displayed provided it

complies with the Freedom to Display the American Flag Act of 2005 and this Policy. The U.S. Flag shall be displayed consistent with all legal requirements including, but not limited to, illumination, order, and respect.

- i. Given the size and proximity of the neighboring residences, as well as safety and visibility concerns, the flag dimensions should be no larger than four feet by six feet (4' x 6') and flag poles not to exceed 25 feet in height.
 - ii. Prior approval for poles, equipment, and lighting for the flag must be received from the Board prior to any installation or construction.
 - iii. The flag may not be displayed in a manner that causes a safety hazard.
- (g) State Permitted Flags. State Permitted Flags shall be allowed to be displayed provided it complies with state and local ordinances and this Policy.
 - (h) Other Flags. All other flags and similar displays are prohibited regardless of the message or viewpoint.
 - (i) Declarant is exempt from these restrictions.

7.15 Animals. No animals or livestock of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other domestic household pets may be kept, provided that such animals are not kept, bred or maintained for any commercial purpose, and provided further that no more than three (3) animals may be kept or maintained on any Lot. Commercial purposes shall mean the birthing of more than one (1) litter per year. It shall be the obligation of each Owner to maintain and restrain all animals and its pens in accordance with the Rules to eliminate disturbance or annoyance to others.

- (a) Up to three hen chickens or similar poultry may be maintained on a Lot. Rooster are prohibited.
- (b) NO PIT BULLS, ROTTWEILERS, DOBERMAN PINSCHERS, WOLVES AND WOLF-CROSSES, CROSSES OF ANY OF THE FOREGOING AND DOG BREEDS DETERMINED BY THE ASSOCIATION TO HAVE SIMILAR REPUTATIONS FOR AGGRESSIVE TENDENCIES SHALL BE PERMITTED ANYWHERE IN THE PROPERTY BY ANY PERSON FOR ANY REASON AT ANY TIME. For purposes of this provision, PIT BULL is defined as including the American Stafford Shire Terrier as identified by the AKC and the Stafford Shire Bull Terrier as identified by the AKC, and the American Pit Bull Terrier as identified by the United Kennel Club.
- (c) Animals that are properly qualified as service or assistance animals, pursuant to the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, may be exempted from certain restrictions contained herein. Notwithstanding, the Board may adopt Rules with respect to specific requirements and information needed to properly apply

to the Board for an accommodation for a service or assistance animal, including equal application of leash rules and other requirements.

- (d) Pets must be restrained and not allowed to roam free.

7.16 Refuse Storage and Disposal. No rubbish, trash, garbage, refuse or debris shall be placed or allowed to remain on the Property except trash kept and maintained within the interior Dwelling or detached structures in sanitary containers. Garbage cans provided by waste management services for regular pickup may be stored in the garage or in the side yard, behind the fence screened from view, and shall be placed in the street or other designated area only on the designated collection day. All equipment for the storage or disposal of such material shall be kept in a clean, neat and sanitary condition.

7.17 Sight Distance at Intersections. No fence, wall, hedge, political sign or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street Property lines and a line connecting them at points forty-five (45) feet from the intersection of the street lines, or in the case of a rounded Property corner from the intersection of the street Property lines extended. The same sight-line limitation shall apply on any Lot within fifteen (15) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7.18 Passenger Vehicles and Recreational Vehicles & Equipment. The Association may adopt rules further governing the parking and storage of all vehicles in the Subdivision.

- (a) Recreational Vehicles & Equipment shall include, but is not limited to: watercraft, boats, trailers, motorhomes, buses, RVs, campers, camper vans, fifth wheel trailers, side-by-sides, atvs, snowmobiles, dirt bikes, maintenance equipment, commercial vehicles and equipment, and large trucks and other vehicles (over 23 feet in length, seven feet in width, or seven feet in height).
- (b) No Recreational Vehicles & Equipment or dilapidated, un-repaired, inoperable or unsightly vehicles or similar equipment shall be parked or store on any portion of the Property (including streets and driveways) unless enclosed by a structure or screen from view behind the side yard fence.
- (c) Temporary loading and unloading is permitted for nonconsecutive periods of no more than twenty-four (24) hours. Garages are for vehicle parking, however, cars and trucks that are operable, in good repair, and in regular use by the Owner may be parked in the driveway.

7.19 Antennae and Satellite Receiver. No outside television antennas, radio aerials, satellite dishes, or similar devices or structures shall be installed on any Lot or the exterior of any structure located thereon, except that such devices smaller than one (1) meter in diameter shall be permitted only on the side and rear portions of the roof or structure.

7.20 Hazardous Activities. No activity shall be conducted on or in any Dwelling or Lot which is or might be unsafe or hazardous to any person, the Property or any other tangible item of value. Without limiting the generality of the foregoing, no firearms shall be discharged upon said Property and no open fires shall be lighted or permitted on any property except in a self-contained barbecue unit or outer fireplace, except such controlled and attended fires required for clearing or maintenance of land.

7.21 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and reasonably limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the City and/or County. Holiday or seasonal decorative lights, that otherwise comply with the terms of the Governing Documents, are permitted.

7.22 No Annoying Sounds. No speakers or other noise making devices may be used or maintained on any Lot which creates noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

7.23 Swamp Coolers or Evaporative Coolers. No Owner shall place upon any part of the Subdivision or Lot any swamp cooler or evaporative cooler.

7.24 Nuisances. No noxious or offensive activity shall be carried out upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

7.25 Energy Conservation Equipment. No solar energy device, solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed within the Subdivision without the prior written consent of the ACC. Consistent with Idaho Code § 55-115(4), the Association may create rules for the location where solar panels or solar collectors may be installed on roofs as long as installation is permitted within an orientation to the south or within forty-five (45) degrees east or west of due south; and such rules for the installation of solar panels or solar collectors consistent with an applicable building code or to require that panels or collectors be parallel to a roof line, conform to the slope of the roof, and that any frame, support bracket, or visible piping or wiring be painted to coordinate with the roofing material; or such other rules and restrictions as may be consistent with any future provision of Idaho law impacting the location and installation of solar panels or solar collectors.

7.26 No Short Term or Nightly Rentals. Daily, nightly, weekly or monthly occupation is prohibited (whether pay or not), and Lots shall not be advertised or listed for short term rental

on such sites as Airbnb, VRBO, HomeAway, Flipkey, Wimdu, House Trip and similar international, national or local providers.

- (a) Declarant and Declarant Related Entities are exempt from this restriction.

7.27 Long Term Leasing. Any occupancy by tenant(s) for longer than six months shall be considered a long-term lease. Any long-term lease shall be in writing, shall be for an initial term of at least six months, and shall provide as a term of the agreement that the occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease. If a lease does not include these provisions, it shall nonetheless be deemed to be part of the lease and binding on the Owner and the occupant.

- (a) An Owner shall provide the Board with information identifying the occupants, vehicles, phone numbers, and other applicable contact information.
- (b) A copy of any lease agreement shall be delivered to the Association prior to occupation by the tenants.
- (c) The Owner(s) of a Lot shall be responsible for the occupant's or any guests' compliance with the Governing Documents. In addition to any other remedy for noncompliance with this Declaration, the Association, following notice to the Owner, shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph. For purposes of this subparagraph, each Owner in accepting the deed to a Lot expressly consents to such authority and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments and pursue any and all remedies available to remove the offending non-owner occupant.
- (e) The Board may adopt Rules requiring:
 - (i) Reporting and procedural requirement related to non-owner-occupied Dwellings; and
 - (ii) Other reasonable administrative provisions consistent with, and as it deems appropriate to enforce, the requirements of this Declaration.
- (g) Declarant and Declarant Related Entities are not subject to the restrictions set forth in this Article.

ARTICLE VIII - INSURANCE

8.1 Insurance Requirement. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or

in addition to embedded, included coverage, or endorsements to other policies.

8.2 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, and failures. The policy should include:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) Provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

8.3 Comprehensive General Liability (CGL) Insurance. The Association may obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, against liability incident to operation or membership in the Association.

8.4 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds coverage.

8.5 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association, as insurance trustee; and shall not be payable to a holder of a security interest. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

8.6 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

8.7 Owners' Individual Coverage. **EACH OWNER SHOULD PURCHASE**

INDIVIDUAL INSURANCE COVERAGE FOR THEIR LOT, DWELLING AND IMPROVEMENTS.

ARTICLE IX - MISCELLANEOUS PROVISIONS

9.1 Association Litigation.

(a) Notwithstanding any other provision to the contrary in this Declaration, the Association shall not file, commence or maintain any lawsuits, actions or legal proceedings against Declarant, the individual managers, owners, members or officers of Declarant, Declarant's contractors, or any other person or entity involved in the construction of the Lots unless and until all of the following requirements have been satisfied:

(i) The Association has obtained a legal opinion from an attorney licensed to practice law in Idaho having at least ten (10) years of experience in litigation practice, with the legal opinion providing in substance the following: (i) a description of the factual allegations and legal claims to be asserted in the action; (ii) an analysis of the facts and legal claims explaining why it would be in the best interests of the Association to file and pursue such action, taking into account the anticipated costs and expenses of litigation, the likelihood of success on the merits of the claims, and the likelihood of recovery if a favorable judgment is obtained by the Association; and (iii) providing a budget of the estimated amounts of legal fees, costs, expert witness fees and other expenses likely to be incurred in connection with such action (the "Litigation Budget"); and

(ii) The Association has collected funds from the Owners, by special assessment or otherwise, equal to at least one-half (1/2) of the Litigation Budget.

(b) If any claims or actions falling within the scope of this Section are filed without satisfying all of the requirements set forth above, such claims/action shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied. In any action to enforce the requirements of this Section, the prevailing party shall be entitled to an award of reasonable attorney fees and costs. Individual Owners, however, shall not be allowed to file or pursue any actions or claims belonging to other Owners or to the Association.

(c) No action affected by this Section shall be conducted utilizing legal counsel who are compensated on a contingency fee or similar means of compensation in which litigation costs and attorney's fees are not paid on a current basis or are paid out of the settlement or judgment amount recovered by the Association in such action.

(d) This Section shall not apply to: (i) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (ii) the collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Association in proceedings instituted against it; or, (v) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of an express contract with the Association or its manager for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

9.2 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

9.3 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Lot, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

9.4 No Representations and Warranties. Each Owner and occupant understand, agrees, and acknowledges through taking title or residing in the Project that the Declarant, Association, and the Board have not made any representations or warranties of any kind related to the Project and that each Owner or occupant has not relied upon any reorientations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to the Project.

9.5 Amendment. At any time while this Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant's successors and assigns during the Class B Control Period at the sole discretion of the Declarant. Thereafter, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes in the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

9.6 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Project is conclusively deemed to have notice of this Declaration and

its contents, and to have consented to the application and enforcement of each of the provision of this Declaration against their Lot, whether or not there is any reference to this Declaration in the instrument by which they acquire interest in any Lot.

9.7 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

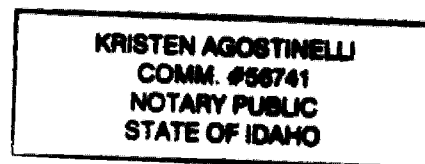
VIKING CONSTRUCTION, INC., DECLARANT


By: [Signature]
Its: Authorized Representative

STATE OF Idaho)
: SS
COUNTY OF Kootenai)

On this 5th day of January, 2026, personally appeared before me Verdell Olson, who being by me duly sworn, did say that they are an authorized representative of Viking Construction, Inc., and that the within and foregoing instrument was signed on behalf of said corporation and duly acknowledged to me that they executed the same.


Notary Public
Residing at: Hayden
My Commission Expires: 10/07/2028



SETTLEMENT MOUNTAIN ESTATES
 PORTION OF GOVERNMENT LOTS 2 AND 3, LOCATED IN
 SECTION 01, TOWNSHIP 9 NORTH, RANGE 05 WEST, BOISE MERIDIAN,
 CITY OF RAINBOW, MOONSHINE COUNTY, IDAHO

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Exhibit "B"
Bylaws

**BYLAWS OF SETTLEMENT MOUNTAIN ESTATES HOMEOWNERS
ASSOCIATION, INC.**

The following are the Bylaws of Settlement Mountain Estates Homeowners Association, Inc. ("Bylaws"), an Idaho nonprofit corporation ("Association"). Upon recordation of these Bylaws, they are binding upon the Association and all present and future Owners and/or occupants.

ARTICLE I - DEFINITIONS

Section 1.1 Definitions. All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Settlement Mountain Estates, recorded in the Official Records of the Kootenai County Recorder's Office, as amended ("Declaration").

ARTICLE II - MEETINGS OF MEMBERS

Section 2.1 Annual Meetings. An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board of Directors ("Board"). The Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below.

- (a) Declarant, compromising more than a majority of Owners, approves meetings held through available technology.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Board, or upon written request of the Owners holding at least fifty-one percent (51%) of all eligible votes. Notwithstanding, the Board remains the only authorized body to act for and on behalf of the Association. During the Class B Control Period, only the Declarant may call Special Meetings.

Section 2.3 Notice of Meetings. Unless otherwise required by law, all notices shall be given via electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than ninety (90) days, to each Owner at the email or electronic address provided by the Owner. Said notice is effective upon sending email or electronic communication. Any notices provided by U.S. mail shall be sent via U.S. First Class Mail and effective upon deposit in the mail. Such notice shall specify the location, day, and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

- (a) Upon becoming an Owner of the Association, or upon the written request by the Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Association unless the Owner has

opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Association, an Owner's Lot address shall be deemed to be their registered address for purposes of notice.

- (b) The location of meetings may also occur virtually, telephonically, or through other available technology.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Declaration, at any meeting of Owners, a quorum shall be established by those Owners present, in person or by proxy, at a properly noticed meeting. Notwithstanding, the Board remains the only authorized body to act for and on behalf of the Association. Further, a majority of those Owners present in person or proxy at such meeting may vote to reschedule the meeting based upon low attendance. Otherwise, the meeting shall proceed as scheduled.

Section 2.5 Proxies. At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Board at or before said meeting. Notwithstanding, any proxy delivered to the Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The proxy form provided with any notice of meeting may also provide an additional requirement and a deadline to return proxies. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of the Lot. If conflicting proxy votes for an Owner or Lot exist, said proxy votes will not be counted.

Section 2.6 Conduct of Meetings. The Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at an Association meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association meeting, work session or similar event regardless of the location without the written consent of the Association.

Section 2.7 Action Taken Without a Meeting. Under the direction of the Board, any action that may be taken at any annual or special meeting of Owners may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners eligible to vote on the action were present and voted, unless a different approval percentage for the action is specifically set forth in the Declaration. The Board may obtain such approvals and conduct business through mail or email/electronic ballots.

- (a) Ballots shall set forth each proposed action and provide the option of voting for or against each proposed action. The ballot must specify the period of time, up to 120 days, during which the Association shall accept written ballots. Following this period, the Association shall provide notice if such action was approved.

Section 2.8 Voting. Only an Owner that is current on all assessments and charges due and owing at least thirty (30) days prior a duly noticed meeting shall be deemed in good standing and eligible vote. The Association shall have two (2) classes of voting membership, Class "A" and Class "B," as set forth in the Declaration. The number of votes for each Lot/Acre shall be in accordance with the Declaration.

- (a) The votes appurtenant to any one Lot may not be divided and shall be voted in one block. If the vote of a majority of the Owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot. The Association shall honor the vote of: a duly authorized trustee or successor trustee of a trust that is an Owner; the duly authorized representative of a legal entity that is an Owner; and shall honor the vote of an individual that is a holder of a limited or general durable power of Attorney with respect to an Owner as though such vote were the vote of the Owner.

ARTICLE III - BOARD, SELECTION AND TERM OF OFFICE

Section 3.1 Number & Tenure. Except for the Board members appointed by Declarant during the Class B Control Period, which may delegate duties as set forth in the Articles and these Bylaws, the affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. At the first meeting of the Owners at which the election of Directors will take place following the Class B Control Period, the candidate who receives the most votes shall serve as a Director for three (3) years. The candidate that receives the second highest number of votes shall serve as a Director for two (2) years, and the third candidate who receives the third highest number of votes shall serve as Director for one (1) year. At each annual election, the successor to the Director whose term shall expire in that year shall be elected to hold office for the term of (3) years. Any change in the number of Directors may be made only by amendment of these Bylaws. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal.

Section 3.2 Eligibility. Following the Class B Control Period, all members of the Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Lot. Notwithstanding, only one member of a single household can be a member of the Board at any one time. During the Class B Control Period, eligibility requirements shall not apply.

Section 3.3 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director, except during Class B Control Period, may be removed from the Board with or without cause by a majority vote, a quorum being present, at a special meeting called for such purpose. In the event of death, resignation or removal of a Director, their successor shall be selected by the remaining Directors and shall serve for the unexpired term of their predecessor.

Section 3.4 Compensation. No Director shall receive compensation for any service he may render

to the Association. However, any Director may be reimbursed for actual and approved expenses incurred in the performance of their duties.

Section 3.5 No Estoppel or Reliance. No one may rely upon any authorization (from the Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

Section 3.6 Records Retention. The Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

ARTICLE IV - NOMINATION AND ELECTION OF DIRECTORS

Section 4.1 Nomination. Following the Class B Control Period, Nomination for election to the Board may be made by the Board, Owners from the floor at the annual meeting, or pursuant to other written notice and procedures established by the Board

Section 4.2 Election. Following the Class B Control Period, the election of Directors may be by vote or written ballot, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized. The Association may utilize available technology for casting and counting votes.

ARTICLE V - MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Board shall be held at least annually, or more frequently as determined by the Board. All notices shall be provided by email or other electronic means. Directors are required to provide an email or electronic address for purposes of notice of Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days. During the Class B Control Period, board meetings shall not be required but may be held at the sole discretion of Declarant.

- (a) Owners, and Owner representatives (if designated in writing in advance) may attend Board meetings and may be present for all discussions, deliberations, and decisions except when the Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of Board Meetings and have provided a valid email address.

Section 5.2 Special Meetings. When, in the discretion of the President or two members of the Board, circumstances require that a meeting be held sooner than the required five (5) day notice

for a regular meeting, a special meeting may be called by the President or by any two (2) Directors, after not less than twenty-four (24) hours' notice to each Director. During the Class B Control Period, only the Declarant may call Special Meetings.

Section 5.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 5.4 Conduct of Meetings. The Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at a Board meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Board meeting, work session or similar event regardless of the location without the written consent of the Association.

Section 5.5 Action Taken Without a Meeting. The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Governing Documents and Idaho law. The Board may delegate its authority to manager(s), subject to any limitations or provisions contained in the Governing Documents.

ARTICLE VII - OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Officers. The officers of this Association shall be a president, secretary, and treasurer, or as otherwise designated by the Board. Notwithstanding, during the Class B Control Period, Declarant may manage the Association as set forth in the Articles.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first Board meeting following the annual meeting of the Owners. Officers shall serve in their office for a period of one (1) year. Notwithstanding, nothing in these Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Appointed Officers may be

removed by the Board with or without cause.

Section 7.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Director or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by a majority of the Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, their successor shall be selected by the Board and shall serve for the unexpired term of their predecessor.

Section 7.5 Duties. The Board may adopt policies and resolutions to define the respective duties of Directors and Officers.

Section 7.6 Committees. The Board may appoint such committees as deemed appropriate in carrying out its purposes. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time.

ARTICLE VIII - MISCELLANEOUS

Section 8.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of asserting persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:

- (a) If the objecting person attended the meeting and no objection to the particular procedural issue was made at the meeting;
- (b) If the objecting person was not in attendance at the meeting but had proper notice of the meeting; or
- (c) 180 days following the meeting.

Section 8.2 Requirements for Objections. All objections except those made at the meeting shall be in writing. Whenever made, objections must specifically describe the circumstances giving rise to the objection and reference the specific provision of the Governing Documents or law that is alleged to have been violated, with a brief statement of the facts supporting the claimed violation.

Section 8.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation of the Governing Documents or Idaho law.

Section 8.4 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 8.5 Amendment. During the Class B Control Period, these Bylaws may be amended at any time by the Declarant. Following the Class B Control Period, these Bylaws may be amended

by Owners holding at least sixty-seven percent (67%) of all eligible votes. An amendment to these Bylaws shall be effective immediately upon recordation in the Office of the Kootenai County Recorder, State of Idaho.

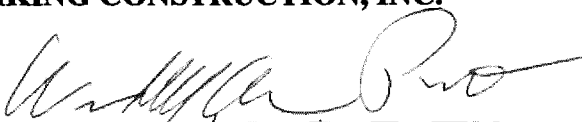
The foregoing Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Kootenai County Recorder, State of Idaho. Pursuant to Idaho Code § 30-30-601(3) and the Articles, the Declarant Viking Construction, Inc. is authorized to execute these Bylaws and may act for the Board during the Class B Control Period.

ACKNOWLEDGMENT

In witness hereof and under penalty of perjury, I hereby acknowledge that I am authorized by the Articles to execute these Bylaws on behalf of the Association.

Dated: 1/5/2026

VIKING CONSTRUCTION, INC.


By (printed): Wendell Olson
Its: President