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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PINERIDGE TOWNHOMES**



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## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINERIDGE TOWNHOMES

This Declaration is made as of the date hereinafter set forth by the signature of the undersigned Declarant.

### RECITALS

A. Declarant is the owner of certain real property ("**Property**") located on Warm Springs Road in the City of Ketchum County of Blaine, State of Idaho, which is more particularly described as Section 12, Township 4 North, Range 17 East, B.M., Block 1 Pineridge PUD, according to the Pineridge Large Block Plat recorded on March 15, 2005, as Instrument No. 517424, in the official records of Blaine County, Idaho.

B. Declarant is constructing on the Property a development project ("**Project**") consisting of thirty-two (32) residential Townhomes (as hereinafter defined) contained in seven (7) buildings. Thirteen (13) of the thirty-two (32) Townhomes shall be encumbered by a deed restriction limiting, among other things, ownership and resale of the thirteen (13) designated Townhomes ("**Deed Restricted Townhomes**"). The Deed Restricted Townhomes are referenced on the Plat Map (as hereinafter defined) as Sublots 2, 3, 6, 7, 13, 14, 16, 19, 21, 22, 25, 27, and 28. The Townhomes are joined by a common party wall on the Property so that each Townhome is located on a separate parcel of land.

C. Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

### ARTICLE I INTERPRETATION

1.1 Declarant is Original Owner. Declarant is the original Owner of the Property and all improvements located thereon and Declarant will continue to be deemed the Owner thereof except as conveyances or documents changing such Ownership regarding specifically described lots within the Property are filed of record.

1.2 Captions and Schedules. Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. Any schedules or exhibits referred to herein and attached hereto shall be deemed incorporated herein by reference as though fully set forth where such reference is made.

1.3 Definitions.



1.3.1 The "Articles" mean the Association's Articles of Incorporation and their amendments.

1.3.2 The "Association rules" mean the rules and regulations regulating the use and enjoyment of the Common Area adopted by the Board from time to time.

1.3.3 The "Association" means the Pineridge Townhomes Owners Association, Inc., an Idaho nonprofit corporation, its successors and assigns.

1.3.4 The "Board" means the board of directors of the Association.

1.3.5 The "Bylaws" mean the Association's Bylaws and their amendments.

1.3.6 The "Common Area" means the entire Property except all Lots as defined in this Declaration or as shown on the Plat Map (as hereinafter defined), including those parts that are designated as part of the common area as Limited Common Area (as hereinafter defined). The Association shall hold fee simple title to the Common Area for the benefit of the members of the Association. Each member of the Association shall own a percentage interest in the Association in accordance with Exhibit "A" attached hereto and made a part hereof; as such, Exhibit "A" shall set forth the allocation of expenses relating to the Common Area and for purposes of tax assessment under and for purposes of liability relating to the Common Area shall be expressed as a percentage of the entire ownership interest in the Association. Exhibit "A" shall also set forth each member's allocated percentage interest for voting rights.

1.3.7 "Declarant" shall mean Thunder Spring III LLC, an Idaho limited liability company, or its successors and assigns.

1.3.8 "Declaration" shall mean this Townhome Declaration and any amendments thereof.

1.3.9 "Development Rights" shall mean the right to complete the Project in its entirety, and to take any and all actions necessary to do so, including without limitation the rights and actions set forth in Section 2.6.3 hereof.

1.3.10 "Limited Common Area" shall mean those areas designated on the Plat Map for use of a certain Owner or Owners to the exclusion, limitation or restriction of others.

1.3.11 "Lot" or "Sublot" shall mean and refer to any one of the separate legally described parcels constituting a portion of the Property and depicted on the Plat Map of the Pineridge Townhomes recorded in Blaine County, Idaho.

1.3.12 "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Townhome including contract purchasers, but excluding those having such interests merely as security for the performance of an obligation.



1.3.13 "Party Wall" shall mean the wall, which is built as part of the original construction of a Townhome and placed on the dividing line between the Lots.

1.3.14 "Persons" shall include natural persons, partnerships, corporations, associations and personal representatives.

1.3.15 "Plat Map" shall mean that land survey map, preliminary and/or final, as the case may be, which depicts all or any portion of the Project, is executed by the Declarant, and is recorded in the Office of the Clerk and Recorder in Blaine County, Idaho.

1.3.16 "Property" shall mean and refer to all of the Lots and other real property described in paragraph A above.

1.3.17 "Townhome" shall mean the single family residential unit located on a Lot and separated from the adjoining Townhome unit or units by a Party Wall, and appurtenant easements.

## **ARTICLE II PROPERTY RIGHTS AND GENERAL RESTRICTIONS**

2.1 Property Rights. All of the Property shall be held, used and enjoyed subject to the limitations and restrictions set forth in this Declaration. Ownership of each Townhome within the development shall include a Lot and a membership in the Association, and any exclusive or non-exclusive easement or easements appurtenant to such Lot over the Common Area as described in this Declaration or the deed to the Lot.

### 2.2 Common Area.

2.2.1 Indemnification. Each Owner shall be liable for any damage to the Common Area and/or Limited Common Area that may be sustained by reason of the negligence of that Owner, members of his family, his contract purchasers, tenants, guests, invitees or pets, but only to the extent that any such damage is not covered by insurance. Each Owner, by acceptance of his deed, agrees for himself and for the members of his family, his contract purchasers, tenants, guests, invitees and pets, to indemnify each and every other owner, and to hold each and every owner and the Association harmless from, and to defend each and every owner and the Association against, any claim of any person for personal injury or property damage occurring within the unit of that particular owner and within any exclusive easements over the Common Area and/or Limited Common Area appurtenant to the owner's Townhome, unless the injury or damage occurred by reason of the negligence of any other owner or person temporarily visiting in said Lot or portion of the Common Area and/or Limited Common Area subject to an exclusive easement appurtenant to the Townhome or is fully covered by insurance.

2.2.2 Owner's Obligation For Taxes. To the extent allowed by law, all Townhomes, including an Owner's percentage ownership interest in the Association, shall be separately assessed and taxed so that all taxes, assessments and charges which may become liens prior to first mortgages under local law shall relate only to the individual Townhomes and not to



the development as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the county assessor of the county in which the development is located against his Townhome and against his personal property.

2.2.3 Future Construction. Nothing in this Declaration shall limit the right of Declarant, its successors and assigns, to complete construction of improvements to the Common Area, Limited Common Area and to Townhomes owned by Declarant or to alter them or to construct additional improvements as Declarant deems advisable before completion and sale of the entire development. The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of any Declarant's interest in the development, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor.

2.2.4 Enforcement. The failure of any owner to comply with any provision of this Declaration or the Articles or Bylaws shall give rise to a cause of action in the Association and any aggrieved owner for the recovery of damages or for injunctive relief, or both.

### 2.3 Easements.

2.3.1 Right to Use. Subject to the provisions of this Declaration each Owner shall have the right to use, enjoy and receive the benefit of any easements created hereunder. Every owner of a Lot shall have a non-exclusive easement of use and enjoyment in, to and throughout the Common Area and for ingress, egress and support over and through the Common Area; however, such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to Lots over the Common Area, if any.

2.3.2 Utility Easement. There is hereby created an easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities and service lines and systems including, but not limited to, water, sewers, gas, telephones, electricity, television, cable, or communication lines and systems for those utilities initially installed by the Declarant.

2.3.3 Easement for Owner Duties and Association Duties. There is hereby reserved to the Association, the Declarant and each Owner, or their duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Owners as set forth herein and of the Association as set forth herein, each as the case may be.

2.3.4 Easement for Encroachments. Each Lot is hereby declared to have an easement over all adjoining Lots for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any building located on any Lot, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachment so long as they shall exist, and the rights and obligations of the Owner shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said Owner or Owners. In the event any building or improvement on a Lot is partially or totally destroyed, and then repaired or



rebuilt, the Owners agree that minor encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. The foregoing encroachment shall not be construed to be encumbrances affecting the marketability of title to any Lot.

2.3.5 Easement Over Lots. There is hereby reserved to each Owner an easement over each Lot to the extent reasonably necessary to permit said Owner to repair, maintain and improve the improvements on said Owner's Lot; and to permit said Owner to move personal property in and out of the improvements on said Owner's Lot. Provided, each Owner shall utilize only such portion of another Lot, and only for such duration as is reasonably necessary to accomplish a permitted purpose and in a manner that will not unnecessarily disturb the peaceful enjoyment of such other Lot by the Owner thereof; and at said Owner's sole expense, repair any damage caused to such other Lot and improvements to as near the original condition as reasonably practicable.

2.3.6 Landscaping Easement. There is hereby reserved to the Association an easement over each Lot to the extent reasonably necessary to permit the Association to repair, maintain and improve all front landscaping improvements on each Owner's Lot.

#### 2.4 Party Walls.

2.4.1 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Party Walls.

2.4.2 Cost of Repair. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the two Owners who make use of that wall.

2.4.3 Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has the use of the wall may restore it, and the other Owner who makes use of the wall shall contribute one-half of the cost of restoration thereof without prejudice, however, subject to the right of any such Owner(s) to call for a larger contribution from the other Owner(s) under any rule of law regarding liability for negligent or willful acts or omissions.

2.4.4 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful acts causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

2.4.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section 2.4 shall be appurtenant to the land and shall pass to such Owner's successors in title.

2.4.6 Lien. The Owner(s) incurring the costs and who have a right to contribution pursuant to this Section 2.4, shall have a lien upon the Townhome of the non-contributing Owner(s) and may prepare a written notice of lien setting forth the amount of such costs, and identifying the Townhome upon which the costs in question were incurred and the name(s) of the Owner(s) thereof. The lien for such costs shall attach upon recordation of the



notice of lien. Such lien shall be prior to any Declaration of homestead recorded after the recording of this Declaration. The lien shall continue until fully paid or otherwise satisfied. When the lien has been fully paid or satisfied, a further notice releasing the lien shall be recorded. The lien may be foreclosed in the same manner as provided in the laws of the State of Idaho for the foreclosure of lien on real property, or as otherwise provided by law. In any such foreclosure, the Owner(s) of the Townhome being foreclosed upon shall be required to pay the costs, expenses and reasonable attorney's fees in connection with the preparation and recordation of the notice of lien and in connection with the foreclosure. The costs expended for which the lien is filed shall also be the personal and individual debt of the defaulting Owner(s) and suit to recover a money judgment (together with all costs, expenses and reasonable attorney's fees) therefore may be maintained without foreclosing or waiving the lien.

## 2.5 General Restrictions.

2.5.1 Antennas and Line. No exterior radio, television or other telecommunication antenna, including, without limitation, any satellite dish, shall be erected or maintained in the Property, except that a satellite dish may be permitted upon proper screening with prior written approval by the Board. All power, telephone, and cable or other telecommunication lines shall be located underground, unless prior written approval is obtained from the Board or the architectural committee if one exists.

2.5.2 Insurance Rates. Nothing shall be done or kept in the Property which will increase the rate of insurance on any of the Property, nor shall anything be done or kept in the Property which would result in the cancellation of insurance of any Property or which would be in violation of any law.

2.5.3 No Further Subdividing. Neither, no Lot or Common Area, or Limited Common Area may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof (excluding Grantor) without the prior written approval of the Board; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Board for the transfer or sale of any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property.

2.5.4 Parking. Subject to the provision set forth below regarding unsightly articles, parking of vehicles shall be limited to interior garage space for those Townhomes that have garages, and for those Townhomes that do not have garages, parking of vehicles shall be limited to the areas demarcated on the Plat Map as Limited Common Area for a particular Sublot. All fire lanes shall remain free of all vehicles at all times. Guest parking areas shall be clearly marked and shall be limited to those areas only and to use by guests only. No parking shall be permitted at any location on the Property unless specifically designated for parking by the Association. All parking spaces shall be used for parking operable vehicles only; further, there shall be no working on vehicles in any outdoor space for periods of time in excess of four hours. No boat, trailer, recreational vehicle, camper, commercial truck (excluding a pick-up truck) or vehicle shall be parked or left within the Project. No Owner may use any parking space assigned to another. No Owner may use any parking space for storage or use any parking in any manner that obstructs or interferes with any other Owner's parking rights or that constitutes a



safety hazard. Without limiting the generality of the powers of the Association with respect to parking, the Association is specifically authorized, but not obligated, to remove any vehicle parked in any area not designated for parking, or any vehicle parked in any space that is assigned to another person or reserved for a specific use, or any vehicle parked in an obstructing or hazardous manner, in all cases at the expense of the Owner or occupant that owns such vehicle. Notwithstanding the foregoing, expenses incurred by the Association in connection with such removal (and storage, if necessary) shall be a personal obligation of such Owner, even if the expense was incurred due to the Owner's guest, tenant or invitee; further, if the Owner fails to pay such amount within seven (7) days after notice to Owner of the amount owed, then the failure to pay shall be a default by the Owner and such expenses shall automatically become a reimbursement assessment determined and levied against such Owner enforceable by the Association as provided herein.

2.5.5 Wildlife; Household Animals. The capturing, trapping or killing of any wildlife within the Property is prohibited, except in circumstances posing an imminent threat to the safety of persons. No horses, cattle, livestock, household animals (except as specifically set forth below) or other animals of any kind shall be raised, bred or kept or maintained on any Lot. Up to two adult dogs, and up to two adult cats may be kept on each Lot, provided the following: (i) that they are not kept, bred or maintained for any commercial purpose, (ii) that such animals are not allowed to run at large and dogs shall not be allowed to bark excessively at any time of the day or night, (iii) that all dogs while outside of a Townhome shall be on a leash at all times except if contained in a fenced backyard of Sublots 1, 2, 3, 4, 5, 6, 7, or 8; and (iv) Owners or caretakers of all dogs are to immediately clean up after their pets. Further, subject to the terms below, birds, other small caged animals, and other ordinary household pets may be maintained on any Lot. Any animal determined in the sole discretion of the Board to be running at large, creating a nuisance, making objectionable noise, endangering any person's health, safety, or property, or otherwise constituting an inconvenience to any Owner, shall be removed upon written request of the Board. If the owner of the animal fails to honor such request for removal within thirty (30) days after such written request, the Board shall be entitled to remove the animal, without liability therefor. The keeping of such animals as well as all other common household pets shall be further subject to such fines, rules and limitations as may be set forth in the rules promulgated by the Association.

2.5.6 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate within the Property and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No noise, light, smell or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, chimes or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property without the prior written approval of the Board.

2.5.7 Repair of Buildings. No improvement upon any Lot within the Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair as required of an Owner and the Association, respectively, hereunder.



2.5.8 Improvements and Alterations. There shall be no excavation or construction or alteration that in any way alters the exterior appearance of any improvement within the Property, nor removal of any improvement in the Property (other than repair pursuant to Section 2.7 hereof) without the prior written approval of the adjoining property owner pursuant to Article III hereof and approval of the Board.

2.5.9 No Hazardous or Offensive Activities. No activities shall be conducted on any portion of the Property and no improvements shall be constructed on any Lot which are or might be unsafe or hazardous or reasonably offensive to any person or property. Without limiting the generality of the foregoing, no firearms (which shall be defined as including, without limitation, "B-B" guns, pellet guns and other firearms of all types and sizes) shall be discharged upon any portion of the Property, and no open fires shall be lighted or permitted on any portion of the Property except in contained natural gas or propane barbecue units while attended and in use for cooking purposes or within safe and well-designed interior fireplaces.

2.5.10 Unsightly Articles. No unsightly articles shall be permitted to remain so as to be visible from any roads or streets or adjoining Lots. Without limiting the generality of the foregoing, commercial vehicles, motor homes, trailers, mobile homes, trucks other than pickups, boats or other watercraft, tractors, vehicles other than automobiles, oversized, stored or inoperable vehicles, campers, snowmobiles and other recreational vehicles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure and none of same may be used, either temporarily or otherwise, as a sleeping facility while located within the Property. Further, patios and balconies shall not be used as a storage facility for anything other than a natural gas or propane barbecue, plants, and patio furniture; therefore, without limitation, the storage of bikes, toys, camping equipment, sporting equipment, and building supplies shall be considered unsightly articles which are prohibited on the patios and balconies if they are visible from any roads, streets or other Sublots. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or as appropriately screened from view.

2.5.11 No Logging, Mining and Drilling. No portion of the Property shall be used for the purpose of logging, mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, except that Grantor or the Association may, by appropriate permit, grant, license or easement, allow the drilling of wells for the extraction of water.

2.5.12 General. Lots shall be used only for single-family residential purposes. Any business, trade, garage sale, moving sale, rummage sale or similar activity is prohibited; provided, however, that an Owner may conduct business activities within a residence located upon a Lot so long as such business activities (i) are not observable or detectable from the exterior of the residence, (ii) comply with all governmental rules, regulations and ordinances, (iii) do not involve regular visitation by clients, customers, suppliers or other business invitees,



(iv) do not involve any kind of door-to-door solicitations within the Property, (vi) do not constitute a nuisance, or a hazardous, illegal or offensive use, or threaten the security or safety of other persons, and (vii) otherwise are in compliance with this Declaration.

## 2.6 Special Declarant Rights.

Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the "**Special Declarant Rights**"). Declarant's Special Declarant Rights include the following:

2.6.1 Completion of Improvements. The right to complete improvements indicated on the Plat Map filed with this Declaration.

2.6.2 Exercise of Development Rights. The right to exercise any Development Right reserved in Section 2.7 of this Declaration.

2.6.3 Sales Management and Marketing. The right to locate, relocate and maintain sales offices, management offices, signs advertising the Lots or Townhomes, and models within any Townhomes and in the Common Areas. Declarant shall have the right to show Lots and the Townhomes to prospective purchasers and to arrange for the use of any recreational facilities within the Common Elements by prospective purchasers.

2.6.4 Construction Easements. The right to use easements through Property for the purpose of making improvements within the Property.

2.6.5 Amendment of Declaration. The right to amend this Declaration in connection with the exercise of any Development Rights, including without limitation, the right to amend this Declaration to fulfill any requirements reasonably requested by a lender, title insurance company, fire and casualty insurer or a governmental agency.

2.6.6 Amendment of Plat Map. The right to amend the Plat Map in connection with the exercise of any Development Rights.

2.6.7 Signs. The right to maintain signs on the Property advertising the Lots and Townhomes for sale.

2.6.8 Parking/Storage. The right to use and to allow others to use all parking and storage areas in connection with its marketing efforts.

2.6.9 Declarant Control. There shall be a period of Declarant control ("**Declarant Control**") of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove officers and members of the Board, notwithstanding any voting requirements or other procedural requirements set forth herein or in the Bylaws. The period of Declarant Control shall commence upon filing of the Articles and shall terminate on the later of the following (unless terminated earlier by Declarant): (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Townhomes that may be created to Owners other than a Declarant; (ii) two (2) years after Declarant's last conveyance of a Townhome in the



ordinary course of business; or (iii) the completion of construction of the last phase of the Project, as determined by Declarant in its sole discretion.

## 2.7 Additional Reserved Rights.

In addition to the Special Declarant Rights set forth in Section 2.6 above, Declarant also reserves the following additional rights (the “**Additional Reserved Rights**”):

2.7.1 Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, ski-ways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners.

2.7.2 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and Common Area, for the benefit of the Owners and/or the Association. The term of any such contracts or agreements shall not exceed one (1) year, although the Board may renew them from year to year.

2.7.3 Easement Rights. The rights to an easement through the Property as may be reasonably necessary for the purpose of discharging Declarant’s obligations arising under this Declaration.

2.7.4 Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

## 2.8 Limitations on Declarant’s Special & Additional Reserved Rights.

Unless sooner terminated by an amendment to this Declaration executed by the Declarant, and except as specifically provided in Section 2.6.9 regarding Declarant Control, any Special Declarant Right or Additional Reserved Rights may be exercised by the Declarant so long as the Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right; (c) owns any Lot; or (d) holds a Security Interest in any Lot(s); provided, however, all Special Declarant Rights and Additional Reserved Rights shall terminate ten (10) years after the date of recording this Declaration.

## 2.9 Interference with Special Declarant Rights.

Neither the Association nor any Owners may take any action or adopt any rule and/or regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant.

## 2.10 Rights Transferable.

Any Special Declarant Rights or Additional Reserved Right created or reserved for the benefit of Declarant may be transferred to any person by an instrument describing the rights



transferred and recorded in the records of Blaine County Idaho. Such instrument shall be executed by the transferor Declarant and the transferee.

### ARTICLE III ALTERATIONS, NUISANCES, ETC.

3.1 Alterations. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade, landscaping or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state as of completion of the construction of the original improvements shall be made or done without the prior written approval of all the Owners of the adjoining Townhomes and the Board. No building, fence, wall, residence, or other structure shall be constructed or erected, altered, or built without the prior written approval of the Owners of the adjoining Townhomes and the Board. In the event the Board and/or any Owner fails to approve, modify or disapprove in writing an application submitted within thirty (30) days after plans and specifications in writing have been submitted to such Owner, approval will be deemed denied.

3.2 Nuisances. No nuisance shall be permitted to exist or operate upon any Lot or improvement thereon so as to be detrimental to any other Lot or Property in the vicinity thereof or to its occupants.

#### 3.3 Maintenance of Property.

3.3.1 Association Responsibilities. The Association shall control and maintain for and on behalf of each Owner from required dues and assessments paid by each Owner to the Association, the maintenance, repair and replacement of all Common Area improvements, including without limitation all landscaping and irrigation systems within the Common Area, and all landscaping easement areas on each Owner's Lot (as described above in Section 2.3.6) in a first class condition and in a good state of repair. In addition to the foregoing, the Association shall control and maintain the following: the roofs on all of the Townhomes, roof flashings, chimney caps, window flashing, underground utility lines up to a power box and/or meter, sewer lines, vents, annual testing of the flow sensor and the heating and maintenance of equipment in the riser rooms but not including the ball valve, exterior lights to the extent that such lights are controlled from a source of power located in the Common Area, stoops, porches, balconies, railings, siding, stucco, window frame and/or trim, any exterior fencing that is located on a property line, and the exterior painting (or other appropriate external care of all buildings and other improvements) of all Townhomes including all the exterior painting of all doors (including without limitation all entry, siding, sliding, and garage doors), all in a manner and with such frequency as is consistent with good property management.

3.3.2 Owner Responsibilities. Except for the performance of maintenance work to be performed by the Association as specifically set forth in the above paragraph, each Owner is responsible for all maintenance, repair and replacement of all improvements on the Owner's Lot, and shall keep all Lots owned by him/her, and all improvements therein or thereon in good order and repair and free of debris, including, but not limited to the following: plumbing,



electrical lines on each Sublot up to the meter, gas and electric meters, windows (even if broken from an outside source), weep holes, all doors (including without limitation entry, siding, sliding, storm and garage doors), door hardware such as knobs and locks, keys, garage mechanical system, window and door screens, doorbells, door siding and door pans, toilet wax seals, telephone and television lines or other lines servicing solely a Sublot, weather stripping, chimney cleaning, dryer vents and cleaning, and each Townhome's fire system from the ball valve in the riser rooms to the Townhomes, including the fire sprinkler heads. In addition to the foregoing, to the extent an Owner has a backyard such Owner maintenance shall include without limitation, the backyard irrigation system, the seeding, and mowing of all lawns, the pruning and cutting of all trees and shrubbery in such backyard; notwithstanding anything contained herein to the contrary, due to the existence of one water meter for the landscaping of the Project, and therefore no separate controls and/or water meters for the individual backyards on Sublots 1-8, the watering of such backyards shall be the responsibility of the Association.

3.4 Zoning Regulations. Zoning regulations, building regulations, environmental regulations and other similar governmental regulations applicable to the Property shall be observed. In the event of any conflict between any provision of such governmental regulations and the restrictions of this Declaration, the more restrictive provisions shall apply.

3.5 Enforcement. If the Board reasonably finds a Lot or any improvement thereon requires maintenance, repair or replacement of any component or condition for which the Owner is responsible, the Board may direct the Owner to perform the work and if the Owner fails or refuses to do so within a reasonable period of time, the Association, through its agents, employees and /or contractors, shall have the right, after reasonable notice, to go onto the Lot and maintain, repair or restore the offending condition. All costs related thereto shall be the subject of a Reimbursement Assessment (as hereinafter defined).

#### ARTICLE IV ASSOCIATION

4.1 Formation. The Association is a nonprofit corporation formed under the laws of Idaho. On the close and recording of the first Townhome sale to an Owner, the Association shall be charged with the duties and invested with the powers set forth in the Articles, the Bylaws and this Declaration, including, but not limited to, control and maintenance of the Common Area and ownership of any facilities on the Common Area, as completed and turned over by Declarant.

4.2 Association Action; Board, Officers & Member's Approval. Except as to matters requiring the approval of members as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint. The Association shall be governed by a Board composed of five (5) directors, each of whom shall be elected at the first annual meeting. Not later than the termination of any Special Declarant Rights and Additional Reserved Rights, including without limitation the period of Declarant Control, the Board shall consist of at least two (2) Owners of Deed Restricted Townhomes and at least two (2) Owners of Townhomes that are not Deed Restricted. Election



or appointment of the Board and officers shall be in accordance with this Declaration or the Bylaws, and their amendments.

#### 4.3 Powers and Duties of Association.

4.3.1 Powers. The Association shall have all the powers of a nonprofit corporation organized under the General Nonprofit Corporation Law of Idaho subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the following:

A. Assessments. The Association shall have the power to establish, fix and levy assessments against the Owners and to enforce payment of such assessments, in accordance with the provisions of this Declaration.

B. Right of Enforcement. The Association in its own name and on its own behalf, or on behalf of any owner who consents, can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of this Declaration or of the Articles or Bylaws, or of the Association rules or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of these provisions. In addition, the Association can suspend the voting rights, can suspend use privileges of the Common Area or can assess monetary penalties against any Owner or other person entitled to exercise such rights or privileges for any violation of this Declaration or the Articles, Bylaws, Association rules, or Board resolutions. However, any such suspension of use privileges cannot exceed a period of thirty (30) days for any one violation and any monetary penalty cannot exceed One Thousand Dollars (\$1,000.00) for any one violation. Each suspended or fined Owner or other person can appeal such action by filing written notice of his intention to appeal with the Board. The action imposing the fine or suspension shall then become ineffective until the fine or suspension is unanimously approved by all Board members at a regular or special meeting of the Board at which all Board members are present. The Owner or other person to be fined or suspended can appear, be represented by counsel and be heard at the meeting. Except as provided in this section, the Association does not have the power or authority to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of such owner's Townhome if the Owner does not comply with provisions of this Declaration or of the Articles or Bylaws or the Association rules, except when the loss or forfeiture is the result of a court judgment or arbitration decision or a foreclosure or sale under a power of sale based on failure of the owner to pay assessments levied by the Association.

C. Delegation of Powers; Professional Management. The Association acting by and through the Board can delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("**Manager**"). Any agreement for professional management of the development shall be terminable by either party with or without cause and without payment of a termination fee on thirty (30) days' written notice. The term of any such agreement shall not exceed one (1) year, although such agreement may be renewed from year to year by the Board.



D. Association Rules and Regulations. The Board shall have the power to adopt, amend and repeal the Association rules as it deems reasonable. The Association rules shall govern the use of the Common Area by all Owners or their families, guests, invitees or by any contract purchaser, or tenant, or their respective family members, guests or invitees. However, the Association rules shall not be inconsistent with or materially alter any provisions of this Declaration, the Articles or the Bylaws. A copy of the Association rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and a copy shall be posted in a conspicuous place within the development. In case of any conflict between any of the Association rules and any other provisions of this Declaration, the Articles, or Bylaws, the conflicting Association rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or Bylaws.

4.3.2 Duties of the Association. In addition to the powers delegated to it by its Articles or the Bylaws, and without limiting their generality, the Association, acting by and through the Board, or persons or entities described in Section 4.3.1.C above, has the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

A. Operation and Maintenance of Common Area and Roofs, Exterior Paint, and Front Landscaping and Other Items. To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area, and all its facilities, improvements, and landscaping including any private driveways and private streets, and any other property acquired by the Association, including personal property, in a first-class condition and in a good state of repair; in addition to the foregoing, as more specifically set forth in Section 3.3.1, the Association is to maintain the front landscaping on all Lots in the Project, the roofs and the exterior paint as well as other items set forth in Section 3.3.1. In this connection, the Association may enter into contracts for services or materials for the benefit of the Association or the Common Area, including contracts with Declarant. The term of any such service contract shall not exceed one (1) year and shall be terminable by either party with or without cause and without payment of a termination fee upon thirty (30) days' written notice.

B. Taxes and Assessments. To pay all real and personal property taxes and assessments and all other taxes levied against the Common Area, personal property owned by the Association or against the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

C. Water and Other Utilities. To acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other necessary utility services for the Common Area and for Townhomes when the Townhomes are not separately billed. The term of any contract to supply any of the listed services shall not exceed one (1) year or, if the supplier is a regulated public utility, the shortest term not to exceed one (1) year for which the supplier will contract at the applicable regulated rate.

D. Insurance. To obtain, from reputable insurance companies, and maintain the insurance described in Article VIII.



E. Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Declaration, that may be reasonably necessary to enforce any of the provisions of this Declaration, the Articles and Bylaws, and the Association's rules and Board resolutions.

4.3.3 Limitations on Authority of Board. Except with the vote or written assent of members of the Association holding sixty-seven percent (67%) of the voting rights of the members, and as otherwise set forth in these Declarations, the Board shall not take any of the following actions:

A. Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

B. Pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business. However, the Board may cause a member of the Board or an officer to be reimbursed for expenses incurred in carrying on the business of the Association.

4.4 Personal Liability. No member of the Board, or of any committee of the Association, or any officer of the Association, or Declarant, or any agent of Declarant, shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted in good faith without willful or intentional misconduct; and in such circumstance such person shall be indemnified by the Association to the fullest extent permissible under the laws of the State of Idaho.

## ARTICLE V MEMBERSHIP AND VOTING RIGHTS

### 5.1 Membership.

5.1.1 Qualifications. Each Owner of a Townhome, including Declarant, shall be a member of the Association to the extent of their percentage ownership interest as set forth in Exhibit "A". If title to a Sublot is held by more than one person or entity, the membership related to that Sublot shall be shared by all such persons or entities in the same proportionate interest and by the same type of tenancy in which title to the Sublot is held. Further, such persons and/or entity shall appoint and authorize one person or alternate persons to represent the Owners of the Townhome. Such representative shall be a natural person who is an Owner, or a designated board member or officer of a corporate Owner, or a general partner of a partnership Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Owners as a member of the Association in accordance with the voting provision set forth below, and serve on the Board if elected, subject to the provisions of and in accordance with the procedures more fully described in the Bylaws. Ownership of a Townhome or interest in it shall be the sole qualification for membership in the Association.



Each Owner shall remain a member of the Association until his ownership or ownership interest in all Townhomes in the development ceases at which time his membership in the Association shall automatically cease. Persons or entities that hold an interest in a Townhome merely as security for performance of an obligation are not to be regarded as members.

5.1.2. Members' Rights and Duties. Each member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws and the Association's rules, as the same may from time to time be amended.

5.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Townhomes shall be appurtenant to each such Townhome, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Townhome or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Townhome or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new owner.

## 5.2 Voting.

5.2.1 Number of Votes. The vote allocated to each Townhome is as set forth in Exhibit "A" and is based upon the value of all Townhomes, including the Deed Restricted Townhomes, by dividing the amount of square footage for each Townhome, including interior garage space, by the total square footage of all Townhomes then within the Project for which a final Plat Map has been recorded.

5.2.2 Joint Owner Votes. The voting rights for each Townhome, as set forth in Exhibit "A", may not be cast on a fractional basis. If the joint owners of a Townhome are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any owner exercises the voting rights of a particular Townhome, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other owners of the same Townhome. If more than one (1) person or entity exercises the voting rights for a particular Townhome, their votes shall not be counted and shall be deemed void.

## ARTICLE VI ASSESSMENTS

6.1 Agreement to Pay. The Declarant, for each Townhome owned by it in the development that is expressly made subject to assessment as set forth in this Declaration, covenant and agree, and each purchaser of a Townhome owned, to pay to the Association regular assessments and special assessments, reimbursement assessments, and such assessments to be established, made and collected as provided in this Declaration.

6.2 Personal Obligations. Each assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the person or entity who was an Owner at the time such assessment, or installment became due and payable. If more than one person or entity was the Owner of a Townhome, the personal



obligation to pay such assessment, or installment respecting such Townhome shall be both joint and several. The personal obligation for delinquent assessments, or delinquent installments and other such sums, shall not pass to an Owner's successors in interest unless expressly assumed by them. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use or enjoyment of, or by abandonment of, his Townhome.

6.3 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the members of the Association, the improvement, replacement, repair, operation and maintenance of the Common Area and the performance of the duties of the Association as set forth in this Declaration.

6.4 Assessments.

6.4.1. Regular Assessments.

A. Not more than ninety (90) days nor less than thirty (30) days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the regular annual assessment for the forthcoming fiscal year. At such meeting the Board shall review written comments received and any other information available to it and, after making any adjustments that the Board deems appropriate, without a vote of the members of the Association, shall establish the regular assessment for the forthcoming fiscal year; provided, however, that the Board may not establish a regular assessment for any fiscal year of the Association which is more than one hundred twelve percent (112%) of the regular assessment of the prior fiscal year of the Association (except the first such fiscal year of the Association if it should be less than twelve (12) months) without the approval by vote or written consent of members holding fifty-one percent (51%) of the allocated percentage voting interest set forth in Exhibit "A".

B. Unless the Association or its assessment income shall be exempt from federal or state income taxes, to the extent possible, all reserves shall be accounted for and handled as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in such other manner authorized by law or regulations of the Internal Revenue Service as will prevent such funds from being taxed as income of the Association.

6.4.2. Special Assessments. If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the Common Area, the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board, it shall become a special assessment. The Board may, in its discretion, pro rate such special assessment over the remaining months of the fiscal year or levy the assessment immediately against each Townhome. Unless exempt from federal or state income taxation, all proceeds from any special assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be



otherwise handled and used in a manner authorized by law or regulations of the Internal Revenue Service to avoid, if possible, its taxation as income of the Association.

#### 6.4.3 Limitation Respecting Special Assessments

A. Subject to the limitations set forth below in subparagraph B. regarding improvements above and beyond a repair and/or replacement, any special assessment in excess of five percent (5%) of the budgeted gross expense of the Association for the fiscal year in which a special assessment for repair and replacement is levied shall require approval by vote or written consent of fifty-one percent (51%) of the Owners, according to their allocated percentage voting interest set forth in Exhibit "A", except in case of a special assessment and/or reimbursement assessment (as more fully described below) against an Owner as a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member or his Townhome into compliance with the provisions of this Declaration.

B. Notwithstanding the foregoing, except with the vote or written assent of members of the Association holding sixty-seven percent (67%) of the voting rights of the members according to the allocated percentage voting interest set forth in Exhibit "A", the Board shall not incur aggregate expenditures for capital improvements for an improvement that is above and beyond a repair and/or replacement in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; further provided, to the extent that a capital improvement is for an improvement that is above and beyond a repair or replacement, and is voted by the Association to be incurred, the Owner's of the Deed Restricted Townhomes shall not be obligated to pay more than each Deed Restricted Townhome Owner's percentage share as set forth in Exhibit "A" of a five percent (5%) increase of the budgeted gross expenses of the Association for that fiscal year, and all other Owner's shall share the responsibility for the payment of the balance of such approved expenditure.

6.4.4. Reimbursement Assessments. The Association may by written notice levy a reimbursement assessment whereby there is a charge against any Owner and the Owner's Lot. It may be levied by the Board where there is a violation of this Declaration, the Articles, or Bylaws, or other misconduct by any Owner, or the lessees, guests, agents, employees, or invitees of an Owner, or condition created or caused by an Owner or Owner's predecessor in interest, which has required or will require the Association to spend money (including attorneys fees or other costs), resulted in the imposition of a fine or penalty against the Association. A reimbursement assessment shall be due and payable to the Association when levied or such later time as may be set. A reimbursement assessment may be collected in the same manner as regular assessments.

6.5 Rate of Assessment. Regular and special assessments shall be apportioned among the Owners and fixed on a pro rata basis for each Sublot. Such assessments shall be determined based upon the value of all Townhomes, including the Deed Restricted Townhomes, by dividing the amount by the square footage for each Townhome by the total square footage of all Townhomes, including garage space, then within the development, as set forth in Exhibit "A".

6.6 Assessment Period. The annual regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and regular assessments



shall be payable in equal monthly installments unless the Board adopts some other basis for collection. However, the initial regular assessment period shall commence on the first day of the calendar month following the date on which the sale of the first Townhome to a purchaser is closed and recorded and shall terminate on December 31 of the year in which the initial sale is closed and recorded. All special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other basis for collection.

6.7 Notice and Assessment Installment Due Dates. A single thirty (30) day prior written notice of each annual regular assessment, each special assessment and any reimbursement assessment shall be given to any owner of every Townhome subject to assessment in which the due dates for the payments of installments shall be specified. The due dates for the payment of installments normally shall be the first of the month following the date of such notice, unless otherwise established by the Board. Each installment of regular assessments and special assessments, and reimbursement assessments to the extent applicable, shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge equal to the greater of Twenty Dollars (\$20.00) or ten percent (10%) of the unpaid amount together with interest at the maximum rate per annum allowed by law calculated from the due date to and including the date full payment is received by the Association.

6.8 Estoppel Certificate. The Board or Manager, on not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular owner is in default as to his Townhome under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special or reimbursement, have been paid as to such Townhome. Any such certificate may be relied on by any prospective purchaser or mortgagee of the Townhome, but reliance on such certificate may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

## ARTICLE VII COLLECTION OF ASSESSMENTS: LIENS

7.1 Right to Enforce. The right to collect and enforce assessments is vested in the Board acting for and on behalf of the Association. The Board or its authorized representative, including any manager, can enforce the obligations of the owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.3 to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other amounts described in Article VI shall be maintainable without foreclosing or waiving the lien rights.

7.2 Creation of Lien. If there is a delinquency in the payment of any assessment, or installment on a Townhome, as described in Article VI, any amounts that are delinquent, together with the late charge described in that section, interest at the maximum rate per annum allowed by law, and all costs that are incurred by the Board or its authorized representative in the collection of the amounts, including reasonable attorney's fees, shall be a lien against such



Townhome upon the recordation in the office of the County Recorder in which the development is located of a notice of assessment as provided in Idaho Code § 55-1508. The notice of assessment shall not be recorded unless and until the Board or its authorized representative has delivered to the delinquent owner or owners, not less than fifteen (15) days before the recordation of the notice of assessment, a written notice of default and a demand for payment, and unless such delinquency has not been cured within said fifteen (15) day period. The lien shall expire and be void unless, within one (1) year after recordation of the notice of assessment, the Board or its authorized representative records a notice of default as provided hereinafter or institutes judicial foreclosure proceedings with respect to such lien.

7.3 Notice of Default; Foreclosure. Not more than one (1) year nor less than fifteen (15) days after the recording of the notice of assessment, the Board or its authorized representative can record a notice of default and can cause the Townhome with respect to which a notice of default has been recorded to be sold in the same manner as a sale is conducted under a power of sale in a deed of trust, or in any other manner permitted by law, or through judicial foreclosure. However, as a condition precedent to the holding of any such sale appropriate publication shall be made. In connection with any sale, the Board is authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in Idaho as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the office of the county recorder of the county in which the development is located a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorney's fees by any delinquent owner. During the pendency of any foreclosure proceeding, whether judicial or by power of sale, the owner shall be required to pay to the Association reasonable rent for the Townhome and the Association shall be entitled to the appointment of a receiver to collect the rent. On becoming delinquent in the payment of any assessments, or installments each delinquent owner shall be deemed to have absolutely assigned all rent, issues and profits of his Townhome to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the owners, shall have the power to bid upon the Townhome at foreclosure sale and to acquire, hold, lease, mortgage and convey the Townhome.

7.4 Waiver of Exemptions. Each owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Section 7.4, the benefit of any homestead or exemption laws of Idaho in effect at the time any assessment, or installment, becomes delinquent or any lien is imposed.

## **ARTICLE VIII INSURANCE**

8.1 Coverage. The Association, for and on behalf of all Owners, shall obtain and maintain insurance coverage as set forth in this Article.

8.1.1 Fire and Casualty Insurance. The Association shall obtain and maintain a master or blanket policy of fire and casualty insurance on the Project, including the Townhomes



and the Common Area, for the full insurable value. The insurance shall be kept in full force and effect at all times and the full replacement value of the insured property shall be redetermined on an annual basis. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, war risk insurance if available and deemed appropriate by the Association, and such other risks and hazards against which the Association shall deem it necessary or appropriate to provide insurance protection.

8.1.2 Liability Insurance. The Association shall maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Project, insuring the Board, the Association, the Manager, and their respective employees, agents and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Board. Owners, and to the extent required, Owners' mortgagees, shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Area, or membership in the Association. Fidelity Insurance. The Association shall maintain fidelity insurance on all persons who control or disburse funds of the Association. Coverage shall be in an amount as reasonably determined by the Board and based upon the then current budget of the Association. Any person employed as an independent contractor by the Association to control or disburse funds, including the Manager, must obtain and maintain fidelity insurance in like amount for the benefit of the Association unless the Association names such person as an insured employee in the policy of fidelity insurance specified herein.

8.1.3 Other Insurance. The Board may also procure insurance against such additional risks of a type normally carried with respect to the properties of comparable character and use that the Board deems reasonable and necessary in order to protect the Project, the Association and the Owners, including without limitation director's and officer's liability insurance.

8.1.4 Coverage Not Available. In the event any insurance policy, or endorsement thereof, required by this Article is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement, as may be available which provides, as nearly as possible, the coverage described above. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.

8.1.5 Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

8.2 Insurance by Owners. An Owner may carry whatever personal liability and property damage liability insurance with respect to his/her Townhome and Sublot that he/she desires; provided, however, no Owner can separately insure the Townhome and Sublot, or any part of it against loss by fire or other casualty covered by the Association's insurance carried under Article 8.1.1. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Article 8.1.1 that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner will be liable to the Association to the extent of the diminution. An Owner can insure



his/her personal property against loss. Further, any improvements made by an Owner within his/her Townhome may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All insurance that is individually carried by an Owner shall contain a waiver of subrogation rights by the insured as to other Owners, the Association, and any institutional first mortgagee of a Townhome.

### 8.3 Casualty damage and Reconstruction.

8.3.1 Affects Title. Title to each Townhouse and Sublot is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquires his/her Townhouse and Sublot.

8.3.2 Association as Agent. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead, for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any Owner of a deed from the Declarant or from any other Owner shall constitute such appointment. Each Owner acknowledges and agrees this appointment of the Association, set forth herein, is coupled with an interest in the Project on the part of the Association.

8.3.3 General Authority of the Association. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in this Declaration mean restoring the Project to substantially the same condition in which it existed prior to damage, with each Townhome, Sublot and the Common Area having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless the Owners unanimously agree not to rebuild in accordance with the provisions set forth hereinafter.

8.3.4 Repair and Reconstruction. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed. As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion and repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project, or may be in accordance with any other plans and specifications the Association may approve; provided that in such latter event the number of cubic feet and the number of square feet of any Townhome may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Townhome as originally constructed pursuant to such original plans and specifications, and the location of the building shall be substantially the same as prior to damage or destruction.



8.3.5 Funds for Reconstruction. All insurance proceeds shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article VI hereof, may levy in advance a special assessment sufficient to provide the funds to pay such estimate or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

8.3.6 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amount received from the assessments provided for in Article VI constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair or reconstruction shall be made from insurance proceeds, if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions by each Owner pursuant to the assessments by the Association under Article VI of this Declaration.

8.3.7 Decision Not to Rebuild. If the Owners unanimously agree not to rebuild, as provided herein, the Project shall be sold and the proceeds distributed. In the event a sale occurs as set forth herein and the agreement of sale does not, by its terms, apportion the sales proceeds among the Owners and their respective mortgagees, the Board shall select an independent M.A.I. appraiser who shall determine the relative fair market values of each Townhouse and Sublot affected by the sale. The proceeds shall then be apportioned among the Owners and the respective mortgagees/beneficiaries according to such relative values.

## ARTICLE IX GENERAL PROVISIONS

9.1 Duration. The covenants and restrictions of this Declaration shall run with the land and bind the land for a term commencing on the date hereof and ending on December 31, 2050, unless amended as herein provided. After December 31, 2050, this Declaration shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by at least seventy-five percent (75%) of the Owners, according to their allocated percentage interest for voting rights set forth in Exhibit "A", and such written instrument is recorded with the Blaine County Recorder.

9.2 Amendment. Subject to the other provisions of this Declaration, this Declaration may be amended by the Declarant prior to the sale of the first Lot or Townhome. Thereafter, amendments to membership and voting rights set forth in Article V and assessments as set forth in Section 6.4.3(B.) of Article VI shall require the affirmative vote or written consent of not less than seventy-five percent (75%) of the Owners according to their percentage interest for voting rights as set forth in Exhibit "A" attached hereto; any other amendments shall require the affirmative vote or written consent of not less than sixty-seven percent (67%) of the Owners, according to Exhibit "A". Any amendment that requires the vote or consent of the Owners shall be effective when an instrument containing the notarized signatures of such Owners is recorded with the Blaine County Recorder.



9.3 Enforcement. Each Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party in any such proceeding shall be entitled to recover costs of suit, including reasonable attorney fees.

9.4 Severability. The invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

9.5 Notices for All Purposes. Any notice permitted or required to be delivered under the provisions of this Declaration may be delivered either personally or by mail. If delivery is made by mail, any such notice shall be deemed to have been delivered forty-eight (48) hours after a copy has been deposited in the United States mail, postage prepaid, for first-class mail, addressed to the person entitled to such notice at the most recent address given by such person in writing, for the purpose of service of such notice. All notices to Declarant shall be delivered to Declarant at the following address:

Thunder Spring III, LLC  
c/o Wareham Development Company, Inc.  
1120 Nye Street, Suite 400  
San Rafael, CA 94901

Mailing addresses may be changed from time to time by a notice in writing.

9.6 Arbitration. Any disagreement between or among any Owner or Owners and/or the Declarant with respect to the interpretation or application of this Declaration or the obligations arising thereunder shall be resolved through direct negotiation if possible. In the event that the disagreement can not be resolved through direct negotiation the parties shall resolve the disagreement by arbitration. Such arbitration shall be conducted, upon request of the Owner or Declarant desiring arbitration, before a single arbitrator (unless the parties to such arbitration agree to more than one arbitrator) designated by the American Arbitration Association and in accordance with the rules of such Association. The arbitrator designated and acting under this Declaration shall make his or her decision in strict conformity with such rules and shall have no power to depart from or change any of the provisions thereof. In accordance with such rules, the arbitrators shall determine the controversy in accordance with the laws of the State of Idaho as applied to the facts found by them. The expense or arbitration proceedings conducted hereunder shall be borne equally by the parties to such arbitration. All arbitration proceedings hereunder shall be conducted in the City of Ketchum, Idaho. Judgment upon the award rendered may be entered in any court having jurisdiction thereof.





EXHIBIT A

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 1 OF**  
**PINERIDGE TOWNHOMES**

Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	13.58%	13.58%
2-DR <sup>1</sup>	1,256.0	000.0	1,256.0	11.00	11.00
3-DR	1,256.0	000.0	1,256.0	11.00	11.00
4	1,429.0	218.0	1,647.0	14.42	14.42
5	1,429.0	218.0	1,647.0	14.42	14.42
6-DR	1,256.0	000.0	1,256.0	11.00	11.00
7-DR	1,256.0	000.0	1,256.0	11.00	11.00
8	1,320.0	231.0	1,551.0	13.58	13.58
Total:	10,522.0	898.0	11,420.0	100%	100%

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 2 OF**  
**PINERIDGE TOWNHOMES**

Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	3.94%	3.94%
2-DR	1,256.0	000.0	1,256.0	3.19	3.19
3-DR	1,256.0	000.0	1,256.0	3.19	3.19
4	1,429.0	218.0	1,647.0	4.18	4.18
5	1,429.0	218.0	1,647.0	4.18	4.18
6-DR	1,256.0	000.0	1,256.0	3.19	3.19
7-DR	1,256.0	000.0	1,256.0	3.19	3.19
8	1,320.0	231.0	1,551.0	3.94	3.94
9	1,752.0	472.0	2,224.0	5.65	5.65
10	1,592.0	584.0	2,176.0	5.53	5.53

<sup>1</sup> "DR" represents a Deed Restricted Townhome.



11	1,598.0	584.0	2,182.0	5.54	5.54
12	1,770.0	472.0	2,242.0	5.70	5.70
13-DR	733.0	000.0	733.0	1.86	1.86
14-DR	700.0	000.0	700.0	1.78	1.78
15	1,543.0	584.0	2,127.0	5.40	5.40
16-DR	1,440.5	566.0	2,006.5	5.10	5.10
17	1,521.0	584.0	2,105.0	5.35	5.35
18	1,784.0	472.0	2,256.0	5.73	5.73
19-DR	1,217.0	000.0	1,217.0	3.09	3.09
20	1,765.0	472.0	2,237.0	5.68	5.68
21-DR	1,798.0	472.0	2,270.0	5.77	5.77
22-DR	1,217.0	000.0	1,217.0	3.09	3.09
23	1,782.0	472.0	2,254.0	5.73	5.73
Total:	32,734.5	6,632	39,366.5	100%	100%

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 3 OF**  
**PINERIDGE TOWNHOMES**

Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	2.78%	2.78%
2-DR	1,256.0	000.0	1,256.0	2.25	2.25
3-DR	1,256.0	000.0	1,256.0	2.25	2.25
4	1,429.0	218.0	1,647.0	2.95	2.95
5	1,429.0	218.0	1,647.0	2.95	2.95
6-DR	1,256.0	000.0	1,256.0	2.25	2.25
7-DR	1,256.0	000.0	1,256.0	2.25	2.25
8	1,320.0	231.0	1,551.0	2.78	2.78
9	1,752.0	472.0	2,224.0	3.98	3.98
10	1,592.0	584.0	2,176.0	3.90	3.90
11	1,598.0	584.0	2,182.0	3.91	3.91
12	1,770.0	472.0	2,242.0	4.01	4.01
13-DR	733.0	000.0	733.0	1.31	1.31
14-DR	700.0	000.0	700.0	1.25	1.25
15	1,543.0	584.0	2,127.0	3.81	3.81
16-DR	1,440.5	566.0	2,006.5	3.59	3.59
17	1,521.0	584.0	2,105.0	3.77	3.77



18	1,784.0	472.0	2,256.0	4.04	4.04
19-DR	1,217.0	000.0	1,217.0	2.18	2.18
20	1,765.0	472.0	2,237.0	4.00	4.00
21-DR	1,798.0	472.0	2,270.0	4.05	4.05
22-DR	1,217.0	000.0	1,217.0	2.18	2.18
23	1,782.0	472.0	2,254.0	4.03	4.03
24	1,521.0	584.0	2,105.0	3.77	3.77
25-DR	1,440.5	566.0	2,006.5	3.59	3.59
26	1,543.0	584.0	2,127.0	3.81	3.81
27-DR	733.0	000.0	733.0	1.31	1.31
28-DR	700.0	000.0	700.0	1.25	1.25
29	1,770.0	472.0	2,242.0	4.01	4.01
30	1,598.0	584.0	2,182.0	3.91	3.91
31	1,592.0	584.0	2,176.0	3.90	3.90
32	1,752.0	472.0	2,224.0	3.98	3.98
Total:	45,384.0	10,478.0	55,862.0	100.0%	100.0%



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RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

LAWSON & LASKI, PLLC  
Attention: Edward A. Lawson  
Post Office Box 3310  
Ketchum, ID 83340

**Instrument # 530204**

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**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINERIDGE TOWNHOMES**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions For Pineridge Townhomes ("First Amendment"), supplementing and amending the Declaration of Covenants, Conditions and Restrictions For Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530201, records of Blaine County, Idaho ("Declaration"), is made, pursuant to Section 2.6.5 and Section 9.2 of the Declaration this 20 day of December, 2005, by the undersigned Declarant.

- I. Recital. The Project is to be developed in three phases with Sublots 1-8 in Phase 1, Sublots 9-23 in Phase 2, and Sublots 24-32 in Phase 3. Upon approval from the City Council of Ketchum, Idaho, as to each phase, a final plat for each phase shall be recorded in the official records of Blaine County, Idaho. Upon recordation of the final plat for each phase, the sublots created by such final plat are to be subject to the terms and conditions of the Declaration and subject to the jurisdiction of the Association pursuant to the terms of the following amendments.
- II. Amendments. The Declaration is hereby amended and supplemented as follows:
  - A. Article X is hereby added to the Declaration.

**ARTICLE X. ANNEXATION**

10.1 Right to Annex. Declarant shall have the right to annex and incorporate to the real property described as Section 12, Township 4 North, Range 17 East, B.M., block 1 Pineridge PUD, according to the Pineridge Large Block Plat recorded on March 15, 2005, as Instrument No. 517424, all future sublots created therein by virtue of the recordation of the Pineridge Townhome Phase 1 Final Plat, Phase 2 Final Plat and Phase 3 Final Plat in the official records of Blaine County, Idaho, and thereby encumber all future sublots created by the three final plats with this Declaration and bring such property within the scheme of this Declaration and subject to the jurisdiction of the



Association. The consent of the existing Owners, or holders of security interest shall not be required for any such annexation and Declarant may proceed with such annexation without limitation at its sole option.

10.2 Procedure for Annexation. Any annexation shall be made by recordation of a supplemental declaration covering the real property to be annexed. The supplemental declaration shall describe the real property to be annexed and state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the property being annexed. The supplemental declaration may contain such complimentary additions and modifications to the terms of this Declaration as may be necessary or desirable by Declarant. The supplemental declaration shall reallocate the Allocated Ownership Interests so that the Allocated Ownership Interests appurtenant to each Sublot will be apportioned according to the total number of Sublots submitted to this Declaration, as set forth in the Exhibit "A" to the Declaration. Annexation shall be effective upon recordation of the supplemental declaration and thereupon the real property described therein shall be subject to all of the provisions of this Declaration, to the extent made applicable by the supplemental declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration, the Articles and Bylaws.

10.3 Annexed Property. Each Owner of a Sublot in an annexed property automatically shall be a member of the Association and such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the project or any part thereof. The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and Bylaws with respect to the annexed real property. Except as may otherwise be expressly provided in this Declaration or any supplemental declaration, the project shall be managed and governed by the Association as an entirety.

B. Annexation of Phase 1. Sublots 1-8 of Pineridge Townhomes Phase 1, according to the official plat thereof, recorded as Instrument No. 530203, records of Blaine County, Idaho, are hereby annexed and incorporated into the Property, and are hereby encumbered by the Declaration and subject to the jurisdiction of the Association. The Allocated Ownership Interest shall be as set forth in Exhibit "A" to the Declaration as to the Phase 1 Pineridge Townhomes.

III. Construction. This Amendment and the Declaration are intended to be complimentary and one instrument. In the event of any ambiguity or inconsistency between this Amendment and the Declaration, the terms of this Amendment shall govern. Unless the context clearly requires a different meaning, all capitalized terms used in this Amendment shall have the meaning established in the Declaration.



IV. Ratification. Except as otherwise expressly provided herein, the Declaration, as amended, is ratified and affirmed.

**Declarant:**

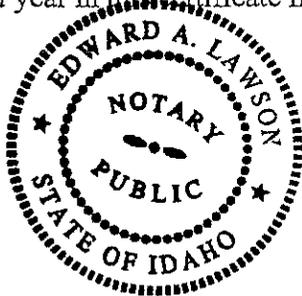
Thunder Spring III, LLC  
An Idaho limited liability company

By: [Signature]  
Richard K. Robbins, Managing Member

STATE OF Idaho )  
 ) ss.  
County of Blaine )

On this 30 day of November, 2005, before me, Edward A. Lawson, a Notary Public in and for said State, personally appeared Richard K. Robbins, known or identified to me to be the managing member of Thunder Spring III, LLC, an Idaho limited liability company, the company that executed the within instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



[Signature]  
Notary Public for Idaho  
Residing at Blaine Court  
My commission expires 5-26-06



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P.O. Box 550  
Hailey, ID 83333

**Instrument # 530205**

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## COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND

THIS AGREEMENT FOR COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND ("**Covenant**") is made and is effective as of the first day of recording of this Covenant ("**Effective Date**"), by and between THUNDER SPRING III, LLC, an Idaho limited liability company ("**Declarant**") and the BLAINE-KETCHUM HOUSING AUTHORITY, an Idaho independent public body corporate and politic ("**BKHA**").

### 1. BACKGROUND.

1.1 Declarant is the owner of certain real property located on Warm Springs Road in the City of Ketchum, County of Blaine, State of Idaho, which is more particularly described as Section 12, Township 4 North, Range 17 East, B.M., Block 1 of Pineridge PUD, according to the Pineridge Large Block Plat recorded on March 15, 2005, as Instrument No. 517424, in the official records of Blaine County, Idaho ("**Pineridge PUD**").

1.2 Declarant is constructing on the above-described property a development project consisting of thirty-two (32) residential townhomes contained in seven (7) different buildings. Thirteen of the thirty-two (32) townhomes shall be encumbered by a deed restriction limiting among other things, ownership and resale of the thirteen (13) deed restricted townhomes. The Pineridge PUD project is to be constructed in three (3) phases. Upon recordation of the final plats for each of the three phases, the thirteen (13) deed restricted townhomes are to be legally described as follows: Sublots 2, 3, 6 and 7 of Pineridge Townhomes Phase 1; Sublots 13, 14, 16, 19, 21 and 22 of Pineridge Townhomes Phase 2; and Sublots 25, 27 and 28 of Pineridge Townhomes Phase 3. It is the parties' intention that upon recordation of each of the three final plats creating the deed restricted townhomes, this Covenant will be recorded against each of the deed restricted townhomes created by such final plat. As such, the deed restricted townhomes legally described in Exhibit "A" attached hereto and made a part hereof (collectively, the "**Property**") are subject to the terms and conditions of this Covenant.

1.3 Declarant has received approval for the Pineridge PUD from the City Council of the City of Ketchum, Idaho, which contains certain townhomes that will be subject to this Covenant. To satisfy a condition of approval, and for other good and



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Sun Valley Title

valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant and BKHA are entering into this Covenant.

1.4 Pursuant to the terms and conditions of this Covenant, Declarant hereby grants to BKHA a vested interest in the Property. Declarant and BKHA hereby agree the Property shall be exclusively and permanently dedicated for use and occupancy by an Owner as outlined in the Guidelines and in this Covenant.

1.5 Capitalized terms not otherwise defined in this Covenant shall have the meaning ascribed to such terms in Section 2.

## 2. DEFINITIONS.

2.1 "BKHA" is the Blaine-Ketchum Housing Authority, an Idaho independent public body corporate and politic, and its successors and assigns.

2.2 The "Guidelines" are the Community Housing Guidelines adopted by BKHA and in effect as of the applicable date for reference to such Guidelines, as such Guidelines may be amended from time to time. The most current Guidelines recorded in the official records of Blaine County, Idaho are recorded as Instrument No. 525936.

2.3 An "Owner" is either Declarant during Declarant's initial ownership of the Property, a Qualified Buyer who acquires fee simple absolute title to the Property or a Qualified Occupant who rents all or any portion of the Property.

2.4 "Permitted Capital Improvements" are those certain capital improvements described in the Guidelines made to the Property for which written approval of BKHA had been obtained prior to installation of such improvements on the Property. Permitted Capital Improvements do not include the initial construction costs incurred by Declarant. Permitted Capital Improvements shall not include any changes or additions to the Property made after a casualty pursuant to Section 7.2. Permitted Capital Improvements do not include improvements made to the Property without BKHA approval prior to their installation on the Property.

2.5 The "Property" is that certain real property described in **Exhibit "A"** attached hereto and incorporated herein. For purposes of this Covenant, the Property shall include, without limitation, all estates, rights, title and interest in and to the Property, at law and in equity, and all buildings, structures, appurtenances, improvements and fixtures associated therewith or attached thereto from time to time.

2.6 A "Qualified Buyer" is a person or group of people meeting and in full compliance with the qualifications and conditions set forth in the Guidelines in effect at the date a contract between an Owner and a Qualified Buyer is entered into for the Sale of the Property, including, without limitation, the income requirements applicable to the Property, and who has a complete and current application on file with BKHA at the time a contract for the Sale of the Property is entered into between an Owner and the Qualified Buyer.



2.7 A "Qualified Occupant" is a person or group of people who at the time a lease or rental agreement is entered into between the Owner and Qualified Occupant meet and is in full compliance with the qualifications and conditions set forth in the Guidelines and who has a complete and current application on file with BKHA.

2.8 The terms "Sale," "Sale of" or "to Sell" the Property shall include, without limitation, any transfer, purchase, sale, conveyance, grant, gift, bequest or devise, by merger, consolidation, dissolution, operation of law or otherwise, of the Property or any interest therein, in whole or in part. The terms Sale, Sale of or to Sell the Property shall not include any grant of easement or partial conveyance for utility or public right-of-way purposes. The terms Sale, Sale of or to Sell the Property shall not include any grant of a security interest in the Property either by mortgage, deed of trust or otherwise, but shall include a Sale due to foreclosure or acceptance of a deed in-lieu of foreclosure.

### 3. TRANSFER.

3.1 Except as expressly set forth in this Covenant, Owner may only Sell the Property to a Qualified Buyer. Any Sale of the Property must comply with this Covenant. Any Sale of the Property not in compliance with this Covenant is void.

3.2 At such time as an Owner seeks to Sell the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Sell as set forth in the Guidelines. Upon receipt of the Notice of Intent to Sell and Owner's compliance with the terms of the Notice of Intent to Sell, BKHA shall notify Owner of the Maximum Sales Price, as determined in accordance with Sections 5, 9.1, 12.3 and 12.4, and provide Owner with Qualified Buyers in accordance with the Guidelines. Owner shall then, in accordance with the Guidelines, offer the Property for Sale for not more than the Maximum Sales Price to the Qualified Buyers provided by BKHA, until an agreement is reached with a Qualified Buyer for the Sale of the Property. Such agreement must comply with the Guidelines. The selling Owner shall not accept or otherwise receive any consideration in excess of the Maximum Sales Price except as otherwise permitted in this Covenant or in the Guidelines.

3.3 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, exhausts the pool of Qualified Buyers provided by BKHA without entering into an agreement for the Sale of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a supplemental pool of Qualified Buyers and Owner shall proceed with the supplemental pool of Qualified Buyers according to Section 3.2. In the event Owner exhausts the pool of Qualified Buyers, as supplemented, without entering into an agreement for the Sale of the Property, within sixty (60) days after receipt of written notice from Owner of such occurrence, BKHA may purchase the Property for the Previous Sales Price (as defined in Section 5.1) plus any increase for Permitted Capital Improvements, according to the terms and conditions set forth in the Guidelines, or continue to provide Owner with lists of Qualified Buyers until an agreement for the Sale of the Property is reached. Owner's inability to reach an agreement with a Qualified Buyer shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Buyer.



3.4 In the event BKHA determines the Property has reached its functional obsolescence or other just reasons exist, at such time as an Owner seeks to Sell the Property, BKHA may, to the exclusion of a Qualified Buyer, purchase the Property for the Maximum Sales Price plus any increase for Permitted Capital Improvements, in accordance with the Guidelines.

3.5 In the event BKHA becomes the fee owner of the Property, such conveyance of the fee interest to BKHA shall not work a merger of the interests of BKHA as to the Property and this Covenant shall continue to be in full force and effect unless an express written agreement signed and acknowledged by BKHA is recorded in the official records of Blaine County, Idaho, to the contrary.

3.6 At such time as an Owner seeks to rent all or any portion of the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Rent as set forth in the Guidelines. Upon receipt of the Notice of Intent to Rent and Owner's compliance with the terms of the Notice of Intent to Rent, BKHA shall notify Owner of the Maximum Rental Amount, as determined in accordance with Section 5.6. Owner shall then, in accordance with the Guidelines, offer the Property for rent for not more than the Maximum Rental Amount to any Qualified Occupant. Such agreement must comply with the Guidelines. Owner shall not accept or otherwise receive any consideration in excess of the Maximum Rental Amount, except as otherwise permitted in the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

3.7 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, is unable to find a Qualified Occupant with whom to enter into an agreement for the rental of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a list of Qualified Occupants from which Owner might seek to enter into a rental agreement with in accordance with Section 3.6. In the event Owner exhausts the list of Qualified Occupants, as supplemented, without entering into an agreement for the rental of the Property, BKHA may, at the request of the Owner, continue to provide Owner with lists of Qualified Occupants (if available) until an agreement for the rental of the Property is reached. If the pool of Qualified Occupants is exhausted, Owner's inability to reach an agreement with a Qualified Occupant shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Occupant. By providing a list of Qualified Occupants, BKHA does not warrant, represent or guarantee the Qualified Occupant's ability to perform its duties or obligations under the rental agreement. The selection of any Qualified Occupant is at the sole risk of the Owner.

3.8 Owner is advised to seek professional assistance from a lawyer, accountant, licensed real estate salesperson or broker and/or other professionals with regard to the Sale or rental of the Property. BKHA does not represent and is not acting on behalf of Owner, the Qualified Buyer or the Qualified Occupant in the Sale or rental of the Property. BKHA is acting on its own account as to its interest in the Property



pursuant to this Covenant and any assistance, forms or directions provided by BKHA or as set forth in the Guidelines are to further BKHA's interest in the Property.

#### 4. USE, OCCUPANCY, MAINTENANCE AND REPAIR REQUIREMENTS.

4.1 Owner shall use the Property as the Owner's primary place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner's primary place of residence if the Owner (a) occupies more than thirty percent (30%) of the interior floor space (85% if the Property is financed by the Idaho Housing and Finance Association), (b) is physically present on and residing in the Property for not less than nine (9) months in every twelve (12) month period, (c) has not accepted employment outside of Blaine County (distinct and isolated projects outside of Blaine County not exceeding ninety (90) days in duration shall not constitute a violation of this section), and (d) does not own other residential property in Blaine, Butte, Camas, Custer, Gooding, Jerome, Lincoln, Minidoka, or Twin Falls Counties (an Owner whose business is the construction and sale of residential properties or the purchase and resale of residential properties shall not be in violation of this section provided such Owner does not reside in the properties for any length of time). For purposes of the preceding sentence, an Owner is deemed to own other residential property if the Owner controls, directs or appoints or has the ability to control, direct or appoint the occupancy of the residential property or owns, either directly or indirectly, more than a Thirty percent (30%) interest in the residential property. In the event an Owner rents all of the Property to a Qualified Occupant, BKHA may, but shall not be obligated to, waive this section provided Owner requests such waiver when delivering the Notice of Intent to Rent.

4.2 Owner shall not use or allow the Property to be used for any business or commercial operation without first obtaining a home occupation permit or otherwise complying with all laws, rules, regulations and permits pertaining to such activities. Owner shall not change the zoning designation of the Property without the prior written consent of BKHA, which consent may be granted, conditioned or withheld in BKHA's sole and absolute discretion. Furthermore, no business or commercial operation shall be conducted on the Property which materially interferes with or precludes the Property's use and occupancy as a residence and in no event shall more than 15% of the interior floor space be used for any business or commercial operation. The property shall not be used as a "recreational" or "second home".

4.3 Owner shall at all times, and at its own cost and expense, maintain, repair and/or replace in good, clean and habitable condition the Property and every part thereof, including, without limitation, any home, building or improvement on the Property, the roof, foundation, walls, siding, trim, floors, doors and windows, all electrical, plumbing, sewer, septic and HVAC components, lines and fixtures, all appliances, equipment and systems on the Property, all paved surfaces, all landscaped areas, and any sprinkler systems and water lines, reasonable wear and tear excepted. Such work must be performed in a good and workmanlike manner. Owner shall maintain the landscaped areas of the Property in a neat, clean and healthy condition. Owner shall replace all dead, dying or diseased plants, shrubs and trees. Owner shall provide adequate watering for the landscaped areas, shall mow, trim and prune the



landscaped areas as needed for a neat and presentable appearance and shall otherwise keep the Property free of harmful pests, insects and noxious weeds and plants. If Owner refuses or neglects to maintain, repair or replace the Property, or any part thereof, in accordance with this Section, according to the provisions of Sections 11 and 12, BKHA shall have the right, but not the obligation, to perform such maintenance, repair or replacement obligations on behalf of and for the account of Owner. In such event, any costs incurred by BKHA shall be immediately due and payable upon receipt of an invoice therefore according to the terms of Section 12.5.

4.4 Owner shall make or cause to be made all repairs to the Property and perform or cause to be performed all work thereon so as not to permit any waste or deterioration of the Property. Upon the Sale of the Property, Owner shall remove all of Owner's belongings not sold to the Qualified Buyer and leave the Property in a good and clean condition, reasonable wear and tear excepted.

4.5 Owner shall comply with all laws, rules, regulations, and ordinances pertaining to the Property or the use or occupancy of the Property. Owner shall comply with any covenants, restrictions, rules or regulations encumbering the Property, including, without limitation, any covenants, conditions or restrictions imposed by any homeowner's association of which the Property is a part.

## 5. MAXIMUM SALES PRICE & MAXIMUM RENTAL AMOUNT.

5.1 Except in the case of the Declarant, the "**Previous Sales Price**" is the amount paid, including any debt assumed, by the Owner towards the purchase price for the Property at the time the Owner purchased the Property. The Previous Sales Price shall not include any fees, interest, points, origination costs, or premiums associated with or arising from any loan on the Property; title insurance premiums, recording fees, or escrow fees; taxes or assessments; utilities; courier, delivery or wire transfer fees; brokerage or real estate sales person commissions; appraisal fees; inspection fees; legal or accounting costs or fees; document preparation fees; or moving costs. For purposes of Declarant, the Previous Sales Price is the amount agreed to between BKHA and Declarant that Declarant may sell the Property for upon completion and issuance of a certificate of occupancy for the Property. The price agreed to by Declarant and BKHA shall not be subject to increase according to Sections 5.2 or 5.3.

5.2 Except as otherwise set forth in Sections 6.1, 8.4 and 8.5, in no event shall the Property be sold for an amount ("**Maximum Sales Price**") in excess of the lesser of:

(a) The Previous Sales Price plus four percent (4%) interest per annum from the date the selling Owner purchased the Property to the date the selling Owner delivers the Notice of Intent to Sell to BKHA (prorated at the rate of 0.33 percent for each whole calendar month in any partial year); and

(b) The Previous Sales Price plus an amount equal to any increase in the cost of living during Owner's ownership of the Property as determined by the Consumer Price Index, Wage Earners and Clerical Workers, United States City



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Average, All Items (1982-84 = 100) published by the Bureau of Labor Statistics, United States Department of Labor ("Index"). The Previous Sales Price shall be increased by the CPI Increase. The Maximum Sales Price shall be determined according to the following formula:

$I_1$  = Index for the month in which the Owner purchased the Property

$I_2$  = Index published in or prior to the month such Owner delivers the Notice of Intent to sell to BKHA

C = Number of whole calendar months between the date the Owner purchased the Property and the date the Owner delivers the Notice of Intent to sell to BKHA

Maximum Sales Price = Previous Sales Price + (Previous Sales Price  $\div$  ( $I_1 / I_2$ ) - Previous Sales Price)  $\times$  ( $\frac{C+1}{C}$ )

In no event shall the Maximum Sales Price ever decrease below the Previous Sales Price due to this calculation. In the event the Bureau of Labor Statistics shall cease to publish the Index, then there shall be substituted for the Index another index published by a nationally recognized financial authority which most accurately approximates the Index as determined in the sole discretion of BKHA. In the event the Index shall be converted to a different standard reference base or otherwise revised, the determination of the Percentage Increase shall be made with the use of such conversion factor, formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if the Bureau shall not publish the same, then with the use of a conversion factor, formula or table as may be published by any other governmental agency of the United States or nationally recognized publisher of comparable statistical information.

Any debt or other obligation of the Owner assumed by the Qualified Buyer shall be credited against the Maximum Sales Price.

5.3 Notwithstanding Section 5.2 to the contrary, the Maximum Sales Price may be increased by the selling Owner's out-of-pocket cost of Permitted Capital Improvements made during the selling Owner's ownership of the Property, provided that such increase shall not exceed ten percent (10%) of the Previous Sales Price. The selling Owner's out-of-pocket cost of Permitted Capital Improvements is a fixed amount and the selling Owner shall not receive a percentage increase on such amount pursuant to Section 5.2. Upon Sale of the Property, the out-of-pocket cost of Permitted Capital Improvements shall be incorporated into the Maximum Sales Price for purposes of determining the next Owner's Previous Sales Price.

5.4 In calculating the costs incurred for Permitted Capital Improvements, only the Owner's actual out-of-pocket costs and expenses for materials and labor applied to the Property shall be eligible for inclusion. Such amount shall not include costs attributable to the Owner's or occupant's personal labor, loan fees, interest, closing



costs, fines, penalties, alternative or temporary housing costs or rent, tools, depreciation, consumables, utilities, and other similar costs and expenses.

5.5 To substantiate the cost of qualifying Permitted Capital Improvements, the Owner must furnish to BKHA along with the Notice of Intent to Sell original or duplicate receipts, invoices or statements verifying the out-of-pocket costs and expenses, true and correct copies of any building permit or certificate of occupancy if required to be issued by the appropriate building department or governmental agency having jurisdiction over the Property with respect to the Permitted Capital Improvements and the written approval of BKHA obtained prior to the installation of the Permitted Capital Improvements.

5.6 In no event shall all or any portion of the Property be rented for a monthly rental amount ("**Maximum Rental Amount**") in excess of the sum of the Owner's monthly mortgage payment (including principal, interest and insurance), ad valorem taxes (prorated on a monthly basis), insurance premiums in accordance with section 7.1 (prorated on a monthly basis), homeowner or condominium association dues or fees (prorated on a monthly basis), and the administration rental fee set forth in the Guidelines. In the event only a portion of the Property will be rented, the Maximum Rental Amount will be multiplied by the percentage derived from the number of bedrooms rented by the Qualified Occupant divided by the number of bedrooms on the Property and the result shall be the Maximum Rental Amount payable by the Qualified Occupant. The terms and conditions of the rental, lease or occupancy agreement must comply with the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

## 6. CLOSING.

6.1 Except in the event of a foreclosure sale, at the closing of any Sale of the Property, the Owner and the Qualified Buyer shall share equally in all escrow fees. Ad valorem taxes and assessments, homeowner association assessments and fees, rents, and utilities shall be prorated as of the date of closing. Owner shall pay the cost to release any monetary liens or encumbrances granted or caused by Owner and all premiums for a standard owner's policy of title insurance in the amount of the purchase price. In the event the Owner agrees to pay the closing costs to be paid by the Qualified Buyer pursuant to this Section 6.1 or any other closing costs to be incurred by the Qualified Buyer as permitted by the Guidelines, the Maximum Sales Price may be increased to cover the actual expenses paid by the Owner on behalf of the Qualified Buyer provided that such amount shall not exceed three percent (3%) of the Maximum Sales Price.

6.2 The selling Owner shall, at closing, pay an administrative fee to BKHA in an amount equal to three percent (3%) of the actual sales price. Any debt assumed by the Qualified Buyer and the cash value of any services performed or goods delivered shall be included in determining the administration fee payable to BKHA. The administration fee constitutes a lien on the Property, is earned by BKHA during the term of Owner's ownership of the Property and helps to support BKHA's activities in



monitoring, development, and oversight of the Community Housing program in Blaine County. This fee is independent of any fees required to be paid to licensed real estate brokers or attorneys who may be engaged by Owner or the Qualified Buyer in the Sale of the Property. BKHA may instruct the escrow company to pay the administrative fee directly to BKHA from the selling Owner's proceeds. If FNMA or FHA financing is used, there may be an additional fee charged by BKHA based on the amount financed. The amount of the administrative fee to be paid by the subsequent Owner shall be as set forth in the then current Guidelines and will be distributed to BKHA for its operating account.

6.3 At Closing, the Qualified Buyer shall execute and deliver to BKHA an Acknowledgment of Covenant in accordance with the Guidelines indicating Owner is aware of the terms of this Covenant and the Guidelines and agrees to be bound thereby. A Qualified Buyer's failure to execute or deliver to BKHA an Acknowledgment of Covenant shall not compromise, minimize or in any way affect the terms, covenants or conditions of this Covenant or BKHA's right, title or interest herein and the Qualified Buyer shall nonetheless be bound by and subject to this Covenant .

## 7. INSURANCE & CASUALTY.

7.1 Owner shall at all times during Owner's ownership of the Property cause the Property to be insured with Causes of Loss – Special Form (formerly known as "All Risk") property insurance in an amount not less than the full replacement cost of all improvements on the Property at the time of loss with like kind and quality (such amount may exceed the Previous Sales Price or Maximum Sales Price of the Property). Such insurance shall be provided by a carrier admitted to engage in the business of insurance in the state of Idaho. No policy will contain a deductible or self-insured retention in excess of three percent (3%) of the Previous Sales Price unless otherwise approved by BKHA. If requested by BKHA, Owner shall cause BKHA to be named as an insured as its interests may appear by endorsement acceptable to BKHA and shall promptly deliver to BKHA a copy of Owner's insurance policy in conformance with this section. If the forms of policies required by this section are superseded or no longer available, BKHA will have the right to require other equivalent or better forms.

7.2 If the Property is damaged or destroyed, Owner shall promptly notify BKHA in writing. Owner shall thereafter promptly make a claim on any insurance policy covering such damage or destruction and repair or restore the Property to its condition prior to such damage or destruction, unless Owner obtains BKHA's prior written approval to repair or restore the Property to some other condition or state. Notwithstanding the foregoing sentence, Owner and BKHA may, but neither shall be obligated to, agree to Sell the Property to BKHA and assign Owner's insurance proceeds to BKHA and in such event Owner shall not be obligated to repair or restore the Property.

## 8. ENCUMBRANCES.

8.1 Owner shall promptly pay when due all monetary liens, taxes, assessments, and encumbrances on the Property and otherwise comply with the terms



and provisions of any deed of trust, mortgage or other loan documents pertaining to the Property. Owner shall instruct all lenders and their assigns to copy BKHA on all communications relating to any loan on the Property and within five (5) days after Owner's receipt, Owner shall provide BKHA with copies of any written communications from any lender not delivered to BKHA. In the event that BKHA initiates any enforcement or default action against the Owner, the BKHA shall, within five (5) days after commencement of such action, notify the mortgage holder of such action.

8.2 After any default, late payment, or missed payment on any loan or encumbrance on the Property, or if a nonconsensual lien is filed upon the Property, Owner shall, upon the request of BKHA, participate in loan counseling, budgeting, financing or distressed loan services, classes or programs.

8.3 Any breach of this Covenant shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but, except as otherwise provided in Section 8.5, this Covenant shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

8.4 In the event of any foreclosure of a purchase money mortgage or deed of trust in a first priority position on the Property (but subject to this Covenant), such foreclosing party ("**Foreclosing Party**") may sell the Property through a duly called and noticed foreclosure sale to any person or entity for more than the Maximum Sales Price provided that the foreclosing party strictly adheres to the provisions of this Section 8.4 and Section 8.5.

(a) The Foreclosing Party must notify BKHA in writing of the pending foreclosure on or before fifteen (15) days after the trustee or beneficiary files for record the notice of default as required by Idaho Code Section 45-1505 (2005) or the mortgagee serves upon the mortgagor an action for foreclosure and thereafter the Foreclosing Party shall send a copy of all notices sent to the Owner to BKHA; and

(b) At any time prior to the foreclosure sale and upon request of BKHA, the Foreclosing Party shall agree to grant, bargain, sell, transfer and convey to BKHA the entire debt obligation owed to the Foreclosing Party and take full assignment of the debt obligation, promissory note, and other loan documentation, including foreclosure rights, for an amount not to exceed the foreclosing party's actual principal and interest due together with foreclosure costs not exceeding those reasonable and customary in the lending industry. Notwithstanding the aforesaid, no obligation of mortgage principal exceeding 105% of the Maximum Sales Price of the property shall be recoverable by any foreclosing party. The foregoing sentence shall not obligate BKHA to purchase the debt obligation and BKHA may purchase the debt obligation for less than the amount calculated if it exceeds the amount due the Foreclosing Party or if BKHA and the Foreclosing Party otherwise agree.

8.5 In the event BKHA does not elect to purchase the debt obligation pursuant to Section 8.4(b) and the Foreclosing Party has strictly adhered to Section 8.4, or in the event BKHA has taken assignment of the debt obligation and is the Foreclosing Party, the Foreclosing Party may proceed with the foreclosure action and the Property may be



sold for more than the Maximum Sales Price to a person other than a Qualified Buyer. Proceeds, if any, from the foreclosure sale shall be distributed in accordance with this paragraph. Costs of foreclosure, including trustee services, sheriff's fees, and similar costs, and the amounts due the Foreclosing Party shall have first priority to the sale proceeds. Next, Owner shall be entitled to any amount in excess of the amounts paid in the preceding sentence up to the Maximum Sales Price less the administrative fee due BKHA pursuant to Section 6.2. Any excess amount received at a foreclosure sale shall be paid to BKHA. Provided that the Foreclosing Party has strictly adhered to the requirements of Sections 8.4 and 8.5 and all rights of redemption or challenges to the validity or enforceability of the foreclosure sale have expired, BKHA shall, within a reasonable time after receipt of a written request, quitclaim and release its interest in the Property pursuant to this Covenant to the party acquiring the Property at the foreclosure sale. Notwithstanding the aforesaid, no mortgage principal in excess of 105% of the Maximum Sale Price shall be recoverable by any foreclosing party.

8.6 If the Property is financed under the Mortgage Revenue Bond program administered by the Idaho Housing and Finance Association, the parties to this Covenant understand that various requirements of that program may be more stringent than those set forth in this Covenant and, in such case; the parties agree that those more stringent requirements shall prevail.

## 9. CONDEMNATION.

9.1 Within ten (10) days after Owner receives any notice that all or any portion of the Property is sought by condemnation, Owner shall notify BKHA. If all or any portion of the Property is taken by eminent domain or conveyed by Owner under threat of condemnation, the Maximum Sales Price, determined as of the date all or any portion of the Property is conveyed to the condemning authority or the valuation date for purposes of the condemnation proceeding, whichever is earlier ("**Valuation Date**"), shall be decreased by the assessment of damages paid to Owner for the value of or damages to the Property. Thereafter, the adjusted Maximum Sales Price, for purposes of Section 5.2, shall accrue appreciation from the Valuation Date.

9.2 Any assessment of damages paid by the condemning authority for the value of or damages to the Property shall be shared between Owner and BKHA. The amount of the assessment payable to Owner shall be that percentage of the assessment of damages determined by dividing the Maximum Sales Price as of the Valuation Date by the fair market value of the Property as of the Valuation Date less the product of that same percentage and three percent (3%) of the Maximum Sales Price as of the Valuation Date.<sup>1</sup> The remainder of the assessment shall be payable to BKHA. In the event BKHA and Owner are unable to agree on the fair market value of the Property, within thirty (30) days after receipt of a request by either BKHA or Owner, BKHA and Owner shall each appoint an appraiser who shall be a member of the

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<sup>1</sup> Amount payable to Owner = Assessment x  $\frac{MSP - (.03 \times MSP)}{FMV}$



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Appraisal Institute (or substitute organization which certifies and trains appraisers) with at least three (3) years experience in appraising residential real property in the county in which the Property is located. The appointed appraisers shall diligently proceed to appraise the fair market value of the Property, without regard to this Covenant, as of the Valuation Date. If the higher of the two appraisals is more than five percent (5%) of the lower appraisal and the parties cannot agree upon the fair market value of Property, the two appraisers shall together appoint a similarly qualified third appraiser within twenty (20) days after receipt of written demand made by either party. Such third appraiser shall select one of the prior two appraisals which most closely approximates the third appraiser's opinion of the Property's fair market value and the selected appraisal shall conclusively establish the fair market value of the Property as of the Valuation Date. In the event the difference between the first two appraisals is less than five percent (5%), the amount obtained by averaging the respective appraisals shall constitute the fair market value. Each party agrees to pay its respective appraiser's fee plus one-half of the third appraiser's fee. For purposes of this Section, fair market value shall mean the amount at which the Property would change hands between a willing buyer and a willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Furthermore, the existence of any encumbrances on Property (other than this Covenant) and the benefit of putting the Property to its highest and best use considering all factors, shall be taken into consideration when determining the fair market value of the Property.

#### 10. INDEMNITY, WAIVER AND RELEASE.

10.1 OWNER ACKNOWLEDGES AND AGREES THAT BKHA, ITS AGENTS, EMPLOYEES AND CONTRACTORS, ARE NOT MAKING, HAVE NOT MADE AND EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY QUALIFIED BUYER OR QUALIFIED OCCUPANT AND/OR WITH RESPECT TO ANY ASPECT, FEATURE OR CONDITION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, THE EXISTENCE OF HAZARDOUS WASTE, THE SUITABILITY OF THE PROPERTY FOR OWNER'S INTENDED USE, OWNER'S ABILITY TO SELL THE PROPERTY FOR THE MAXIMUM SALES PRICE OR IN A TIMELY FASHION OR TO RENT THE PROPERTY TO A QUALIFIED OCCUPANT AT THE MAXIMUM RENTAL AMOUNT, FOR ANY LENGTH OF TIME OR IN A TIMELY FASHION. OWNER, QUALIFIED BUYER AND QUALIFIED OCCUPANT SHALL INDEPENDENTLY VERIFY ALL INFORMATION AND REPORTS REGARDING ANY ASPECT OR FEATURE OF THE PROPERTY, AN OWNER, A QUALIFIED BUYER OR A QUALIFIED OCCUPANT PROVIDED BY BKHA. BKHA DOES NOT GUARANTY THE ACCURACY OF ANY INFORMATION OR REPORTS PROVIDED BY BKHA, IT AGENTS, EMPLOYEES OR CONTRACTORS. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER AND QUALIFIED BUYER RELEASE BKHA FROM ANY AND ALL LIABILITY RELATING TO ANY ASPECT OR CONDITION OF THE PROPERTY, KNOWN OR UNKNOWN, FORESEEABLE OR UNFORESEEABLE, ACTUAL OR CONTINGENT, ARISING BY STATUTE, COMMON LAW OR OTHERWISE. AS USED HEREIN "HAZARDOUS WASTE" SHALL MEAN ANY HAZARDOUS WASTE OR POLLUTANTS, CONTAMINANTS OR HAZARDOUS WASTE AS DEFINED BY THE FEDERAL WATER POLLUTION CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1990 AND ANY AMENDMENTS THERETO, THE RESOURCE CONSERVATION AND RECOVERY ACT AND ANY AMENDMENTS THERETO OR ANY SIMILAR STATE, LOCAL OR FEDERAL LAW, RULE OR



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REGULATION, INCLUDING, WITHOUT LIMITATION, ASBESTOS OR ASBESTOS CONTAINING MATERIALS, PCBs, PETROLEUM AND PETROLEUM PRODUCTS AND UREA-FORMALDEHYDE.

10.2 OWNER HEREBY RELEASES AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS BKHA FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITY, CAUSES OF ACTION, JUDGMENTS, EXPENSES (INCLUDING ATTORNEY FEES AND ATTORNEY FEES ON ANY APPEAL) (COLLECTIVELY "CLAIMS") ARISING FROM OWNER'S USE OR OCCUPANCY OF THE PROPERTY, AND SHALL FURTHER INDEMNIFY, DEFEND AND HOLD BKHA HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING FROM ANY BREACH OR DEFAULT IN THE PERFORMANCE OF ANY OBLIGATION ON OWNER'S PART TO BE PERFORMED UNDER THE TERMS OF THIS COVENANT , OR ARISING FROM ANY ACT, OMISSION OR NEGLIGENCE OF OWNER, OR ANY OF ITS AGENTS, CONTRACTORS, TENANTS, OCCUPANTS OR INVITEES, AND FROM AND AGAINST ALL CLAIMS OR ANY ACTION OR PROCEEDING BROUGHT THEREON; AND IN CASE ANY ACTION OR PROCEEDING BE BROUGHT AGAINST BKHA BY REASON OF ANY SUCH CLAIM, OWNER, UPON NOTICE FROM BKHA, SHALL DEFEND THE SAME AT OWNER'S EXPENSE BY COUNSEL REASONABLY SATISFACTORY TO BKHA. OWNER, AS A MATERIAL PART OF THE CONSIDERATION TO BKHA, HEREBY ASSUMES ALL RISK OF DAMAGE TO PROPERTY OR INJURY TO PERSONS IN, UPON OR ABOUT THE PROPERTY FROM ANY CAUSE AND OWNER HEREBY WAIVES ALL CLAIMS IN RESPECT THEREOF AGAINST BKHA, EXCEPT THOSE CLAIMS SOLELY CAUSED BY BKHA'S NEGLIGENCE OR WILFUL MISCONDUCT.

10.3 BKHA SHALL NOT BE LIABLE FOR INJURY OR DAMAGE WHICH MAY BE SUSTAINED BY THE PERSON, GOODS, WARES, MERCHANDISE OR PROPERTY OF OWNER, OR ANY OCCUPANTS OR INVITEES TO THE PROPERTY, OR ANY OTHER PERSON IN OR ABOUT THE PROPERTY CAUSED BY OR RESULTING FROM FIRE, STEAM, ELECTRICITY, GAS, WATER OR RAIN, FREEZING, OR LEAKAGE, OBSTRUCTION OR OTHER DEFECTS OF THE PIPES, SPRINKLERS, WIRES, APPLIANCES, PLUMBING, AIR CONDITION, LIGHTING FIXTURES OR OTHER ASPECT OR FEATURES OF THE PROPERTY.

## 11. DEFAULT.

11.1 Upon the expiration of thirty (30) days' (ten [10] days' for the failure to pay money) written notice from any party bound or benefited by this Covenant stating the other party has failed to perform its obligations hereunder, such party shall be deemed to be in default unless such failure to perform is cured within the thirty (30) days (ten [10] days' for the failure to pay money) period, in which case no default shall be deemed to have occurred. Notwithstanding the foregoing sentence, if such default (other than the failure to pay money) cannot be cured within the thirty (30) day period and the defaulting party is diligently working to remedy the default, the cure period shall be extended for such time as is reasonably necessary to cure the default.

11.2 In order to ensure compliance with the provisions of this Covenant , BKHA, by its authorized representative, may inspect the Property between the hours of 8:00 AM and 5:00 PM, Monday through Friday, or at such other time as may be agreed to by Owner and BKHA, after providing the Owner with not less than twenty-four (24) hours' prior written notice.



11.3 Upon receipt of a notice of default and prior to the expiration of the applicable cure period, an Owner may request in writing a hearing before the BKHA Board of Commissioners to determine the merits of the allegations. Upon BKHA's receipt of a hearing request, the remainder of the applicable cure period shall be tolled pending the outcome of the hearing, and a hearing shall be held at the next regularly scheduled meeting of the BKHA Board of Commissioners. If no hearing is requested in writing during such time period and the violation is not cured within the applicable period, the Owner shall be in default of this Covenant. If a hearing is held before the BKHA Board of Commissioners, the decision of the BKHA Board of Commissioners shall be final for purposes of determining if a violation has occurred.

11.4 It is expressly agreed that no breach of this Covenant shall entitle any Owner, Qualified Buyer, Qualified Occupant, BKHA or any other party affected by this Covenant to terminate this Covenant, but such limitation shall not affect in any manner any other rights or remedies which such persons or entities may have hereunder by reason of any breach of this Covenant.

## 12. REMEDIES.

12.1 In the event of a default or breach of any term, covenant, warranty or provision of this Covenant, the non-defaulting party may at any time thereafter without limiting the exercise of any right or remedy at law or in equity which the non-defaulting party may have by reason of such default or breach;

- (a) Seek specific performance of this Covenant;
- (b) Perform any work, pay any amounts due, or complete any duties or obligations of Owner and otherwise exercise any self-help remedies;
- (c) Enjoin any Sale of or proposed Sale of the Property; and
- (d) Require the immediate Sale of the Property to a Qualified Buyer in accordance with Section 3.2.

12.2 Without limiting any other remedy available to BKHA, in the event an Owner shall accept or otherwise receive consideration in excess of the Maximum Sales Price or Maximum Rental Amount in violation of this Covenant or the Guidelines, such Owner shall immediately pay such amount or the cash equivalent of such amount to BKHA. Such amount shall accrue interest from the date such consideration was received by the Owner to the date paid to BKHA at the rate of Eighteen percent (18%) per annum, compounded on an annual basis. Furthermore, Section 14.2 shall apply to any recovery or enforcement action commenced pursuant to this Section.

12.3 In the event of a default by Owner, the Maximum Sales Price shall, upon the date such default first occurred, automatically cease to increase as set out in Section 5.1, and shall remain fixed until the date Owner cures the default.



12.4 In the event that significant damage or reduction in the utility of the Property has occurred during the term of Owner's ownership (other than ordinary wear and tear and functional obsolescence due only to the passage of time), BKHA may reduce the Maximum Sale Price by an amount sufficient to repair the damage or restore the Property's utility as a residence as determined necessary by BKHA in its sole and absolute discretion.

12.5 In the event BKHA pays any amount payable by Owner or incurs any expense due to the default of Owner, such amount shall be immediately due and payable by Owner upon receipt of an invoice from BKHA. Interest shall accrue from the date the invoice is received by Owner to and including the date BKHA receives payment in full at a rate equal to the lesser of (i) the highest rate allowed by law, and (ii) twelve percent (12%). Furthermore, in the event the Owner does not pay the invoice in full within ten (10) days after receipt, BKHA may file a lien on the Property for the amount of said expenses plus accrued interest as set forth above and such lien shall be effective upon recording in the county in which the Property is located. Upon any Sale of the Property, if the Owner has not previously paid all amounts due BKHA, BKHA shall be paid the amounts it is due from the sale proceeds and any escrow company or closing agent handling the transaction shall be bound to pay such amounts due as though specifically instructed by Owner and Owner agrees to and acknowledges the same. Notwithstanding the foregoing sentence, BKHA's right to the sale proceeds shall not have priority over any lien on the Property recorded prior to any lien filed by BKHA. In the event BKHA does not file a lien for the amounts it is due, BKHA's claim shall be subordinate to any recorded lien on the Property.

### 13. NOTICES.

13.1 All notices given pursuant to this Covenant shall be in writing and shall be given by personal service, by United States certified mail, return receipt requested, or by United States express mail or other established express delivery service (such as Federal Express) with signature confirmation required, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below. If a notice is delivered to Owner by personal service or by United States express mail or other established express delivery service (such as Federal Express), such notice may be delivered to the Property. If a notice must be given to a person other than one designated below or otherwise sent to Owner, such notice shall be sent to the person and address shown on the then current real property tax rolls of the county in which the Property is located. All notices given to the appropriate party shall be sent to the address set forth below:

To Declarant: Thunder Spring III, LLC  
c/o Richard K. Robbins  
Wareham Development Company, Inc.  
1120 Nye Street, Suite 400  
San Rafael, Ca 94901

To BKHA: Director  
BLAINE-KETCHUM HOUSING AUTHORITY



P.O. Box 550  
Hailey, ID 83333

The person and address to which notices are to be given may be changed at any time by such party upon written notice to the other party. All notices given pursuant to this Covenant shall be deemed given upon receipt.

13.2 For the purpose of this Covenant, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to Section 13.1 as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to 13.1, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (a) the date of the attempted delivery or refusal to accept delivery, (b) the date of the postmark on the return receipt, or (c) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

#### 14. GENERAL PROVISIONS

14.1 This Covenant shall be a permanent burden on the Property, for the benefit of BKHA, and shall run with the land.

14.2 In the event any party bound or affected by this Covenant initiates or defends any legal action or proceeding in any way connected with this Covenant, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

14.3 Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Covenant or related document.

14.4 The laws of Idaho, without giving effect to its choice of law principles, govern all matters with respect to this Covenant, including all tort claims.

14.5 This Covenant shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person or entity acquiring the Property, or any portion thereof, or any interest therein, whether by merger, consolidation, dissolution, operation of law or otherwise; provided, however, that if any Owner Sells all or any portion of the Property in accordance with this Covenant, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Property arising under this Covenant



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after the Sale but shall remain liable for all obligations arising under this Covenant prior to the Sale. The new Owner of the Property or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Covenant with respect to the Property or portion thereof after the date of Sale.

14.6 This Covenant may only be amended by a written agreement signed by Owner and BKHA that identifies itself as an amendment to this Covenant.

14.7 Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

14.8 The parties to this Covenant, and Owners, agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

14.9 BKHA may amend the Guidelines at any time in its sole and exclusive discretion.

14.10 The failure of BKHA to insist upon strict performance of any terms, covenants or conditions of this Covenant shall not be deemed a waiver of any rights or remedies BKHA may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants or conditions of this Covenant by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

14.11 The terms of this Covenant are subject to the terms and conditions of the Declarations, Covenants, Conditions and Restrictions of Pineridge Townhomes recorded in the official records of Blaine County, Idaho, on December 20, 2005, as Instrument No. 530201. In the event of any conflict between this Covenant and the Declaration, including without limitation the terms with respect to use, occupancy, maintenance, repair and insurance requirements, the terms of the Declaration shall control.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

THE BLAINE-KETCHUM HOUSING  
AUTHORITY

By:   
Title: Executive Director

DECLARANT:

Thunder Spring III, LLC,  
An Idaho limited liability company

By:   
Richard K. Robbins,  
Managing Member



*See attached*

STATE OF IDAHO \_\_\_\_\_ )  
 ) ss.  
County of Blaine )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Richard K. Robbins, the managing member of Thunder Spring III, LLC, an Idaho limited liability company, known to me, or proven to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he executed the same on behalf of said company.

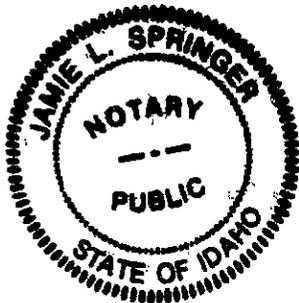
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Name: \_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF IDAHO \_\_\_\_\_ )  
 ) ss.  
County of Blaine )

On this 20<sup>th</sup> day of December, 2005, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Michael Samuel David, the Ex-Director of Blaine-Ketchum Housing, a(n) \_\_\_\_\_, known to me, or proved to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he/she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Name: Jamie L. Springer  
Notary Public for Idaho  
Residing at Blaine  
My commission expires 5-19-2010



### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

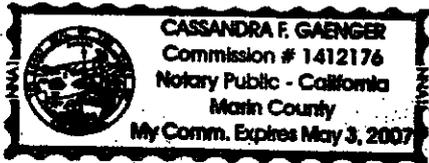
State of California }  
County of Marin } ss.

On December 15, 2005 before me Cassandra F. Gaenger, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Richard K. Robbins  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Cassandra F. Gaenger  
Signature of Notary Public

#### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

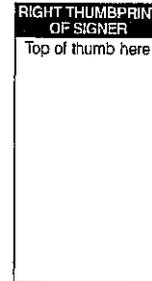
Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_





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**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**OF**  
**PROPERTY**

Sublots 2, 3, 6 and 7 of Pineridge Townhomes Phase 1, Blaine County, Idaho, according to the official plat thereof, recorded December 20, 2005, as Instrument No. 530203, records of Blaine County, Idaho.



This document  
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Sun Valley Title

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

J. Eshman Law P.C.  
Jill W. Eshman, Esq.  
Post Office Box 4991  
Ketchum, Idaho 83340

**Instrument # 532371**

HAILEY, BLAINE, IDAHO

2006-02-22 03:43:00 No. of Pages: 6

Recorded for : AMERITITLE

MARSHA RIEMANN

Fee: 18.00

Ex-Officio Recorder Deputy *MP*

Index to: AMENDED COVENANTS & RESTRICTIONS

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**SECOND AMENDMENT TO THE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PINERIDGE TOWNHOMES**

This Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes ("Second Amendment"), supplementing and amending the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530201, records of Blaine County, Idaho ("Original Declaration"), and as supplemented and amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530204 ("First Amendment," together with the Original Declaration and this Second Amendment, hereinafter referred to collectively as the "Declaration"), is made and effective this 22<sup>ND</sup> day of FEB, 2006, with reference to the following:

**I. Recitals.**

A. As of the date of this Second Amendment, Sublots 1-8 have been completed, and the final plat creating Sublots 1-8 titled Pineridge Townhomes Phase 1 has been recorded in the Official Records of Blaine County, Idaho on December 20, 2005, as Instrument No. 530203 ("Phase 1 Plat"). Since the recording of the Phase 1 Plat, Phase 2 and Phase 3 have been modified to reflect that Building #4 containing Sublots 18-23 is to be completed in Phase 3 rather than in Phase 2.

B. Upon recordation of the final plat for both Pineridge Townhomes Phase 2 and Phase 3, the Sublots created by such plat are to be subject to the terms and conditions of the Declaration and subject to the jurisdiction of the Association pursuant to the terms of the Declaration. The final plat for Pineridge Townhomes Phase 2 has been recorded in the Official Records of Blaine County, Idaho on FEB 22, 2006, as Instrument No. 532370 ("Phase 2 Plat"), and as such Sublots 9-17 created thereby are to be subject to the Declaration and the jurisdiction of the Association by this Second Amendment.



## II. Amendments.

A. Annexation of Phase 2. Sublots 9-17 of Pineridge Townhomes Phase 2 Plat are hereby annexed and incorporated into the Property, and are hereby encumbered by the Declaration and subject to the jurisdiction of the Association.

B. Revised Allocated Ownership Interest. Exhibit "A" setting forth the Allocated Ownership Interests and attached to the Original Declaration is hereby deleted in its entirety and replaced with the revised Exhibit "A" attached hereto and made a part hereof. The revisions to Exhibit "A" reflect that Building #4 is to be completed in Phase 3 rather than Phase 2 as previously contemplated; and the allocation of the Ownership Interest have been amended accordingly.

III. Construction. This First Amendment, Second Amendment and the Original Declaration are intended to be complimentary and one instrument. In the event of any ambiguity or inconsistency between this Second Amendment and the Declaration, the terms of this Second Amendment shall control. Unless the context clearly requires a different meaning, all capitalized terms used in this Second Amendment shall have the meaning established in the Original Declaration.

IV. Ratification. Except as otherwise expressly provided herein, the Declaration, as amended, is ratified and affirmed.

**Declarant:**

Thunder Spring III, LLC  
An Idaho limited liability company

By:

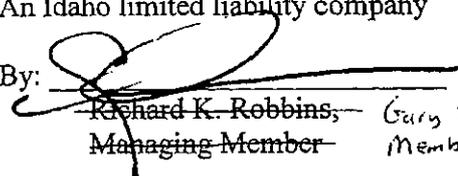
  
~~Richard K. Robbins,~~ Gary Van Acker  
~~Managing Member~~ Member



EXHIBIT "A"

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 1 OF**  
**PINERIDGE TOWNHOMES**

Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	13.58%	13.58%
2-DR <sup>1</sup>	1,256.0	000.0	1,256.0	11.00	11.00
3-DR	1,256.0	000.0	1,256.0	11.00	11.00
4	1,429.0	218.0	1,647.0	14.42	14.42
5	1,429.0	218.0	1,647.0	14.42	14.42
6-DR	1,256.0	000.0	1,256.0	11.00	11.00
7-DR	1,256.0	000.0	1,256.0	11.00	11.00
8	1,320.0	231.0	1,551.0	13.58	13.58
Total:	10,522.0	898.0	11,420.0	100%	100%

<sup>1</sup> "DR" represents a Deed Restricted Townhome.



Exhibit "A" (continued)

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 2 OF**  
**PINERIDGE TOWNHOMES**

Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	5.55%	5.55%
2-DR	1,256.0	000.0	1,256.0	4.50	4.50
3-DR	1,256.0	000.0	1,256.0	4.50	4.50
4	1,429.0	218.0	1,647.0	5.90	5.90
5	1,429.0	218.0	1,647.0	5.90	5.90
6-DR	1,256.0	000.0	1,256.0	4.50	4.50
7-DR	1,256.0	000.0	1,256.0	4.50	4.50
8	1,320.0	231.0	1,551.0	5.55	5.55
9	1,752.0	472.0	2,224.0	7.97	7.97
10	1,592.0	584.0	2,176.0	7.79	7.79
11	1,598.0	584.0	2,182.0	7.82	7.82
12	1,770.0	472.0	2,242.0	8.03	8.03
13-DR	733.0	000.0	733.0	2.63	2.63
14-DR	700.0	000.0	700.0	2.51	2.51
15	1,543.0	584.0	2,127.0	7.62	7.62
16-DR	1,440.5	566.0	2,006.5	7.19	7.19
17	1,521.0	584.0	2,105.0	7.54	7.54
Total:	23,171.5	4,744.0	27,915.5	100%	100%



Exhibit "A" (continued)

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 3 OF**  
**PINERIDGE TOWNHOMES**

Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	2.78%	2.78%
2-DR	1,256.0	000.0	1,256.0	2.25	2.25
3-DR	1,256.0	000.0	1,256.0	2.25	2.25
4	1,429.0	218.0	1,647.0	2.95	2.95
5	1,429.0	218.0	1,647.0	2.95	2.95
6-DR	1,256.0	000.0	1,256.0	2.25	2.25
7-DR	1,256.0	000.0	1,256.0	2.25	2.25
8	1,320.0	231.0	1,551.0	2.78	2.78
9	1,752.0	472.0	2,224.0	3.98	3.98
10	1,592.0	584.0	2,176.0	3.90	3.90
11	1,598.0	584.0	2,182.0	3.91	3.91
12	1,770.0	472.0	2,242.0	4.01	4.01
13-DR	733.0	000.0	733.0	1.31	1.31
14-DR	700.0	000.0	700.0	1.25	1.25
15	1,543.0	584.0	2,127.0	3.81	3.81
16-DR	1,440.5	566.0	2,006.5	3.59	3.59
17	1,521.0	584.0	2,105.0	3.77	3.77
18	1,784.0	472.0	2,256.0	4.04	4.04
19-DR	1,217.0	000.0	1,217.0	2.18	2.18
20	1,765.0	472.0	2,237.0	4.00	4.00
21-DR	1,798.0	472.0	2,270.0	4.05	4.05
22-DR	1,217.0	000.0	1,217.0	2.18	2.18
23	1,782.0	472.0	2,254.0	4.03	4.03
24	1,521.0	584.0	2,105.0	3.77	3.77
25-DR	1,440.5	566.0	2,006.5	3.59	3.59
26	1,543.0	584.0	2,127.0	3.81	3.81
27-DR	733.0	000.0	733.0	1.31	1.31
28-DR	700.0	000.0	700.0	1.25	1.25
29	1,770.0	472.0	2,242.0	4.01	4.01
30	1,598.0	584.0	2,182.0	3.91	3.91
31	1,592.0	584.0	2,176.0	3.90	3.90
32	1,752.0	472.0	2,224.0	3.98	3.98
Total:	45,384.0	10,478.0	55,862.0	100%	100%



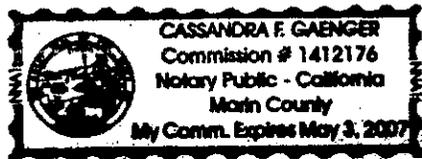
### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }  
County of Marin } ss.

On February 13, 2006 before me, Cassandra F. Gaenger, Notary Public  
(Date) Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Gary Van Acker  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Cassandra Gaenger  
Signature of Notary Public

#### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

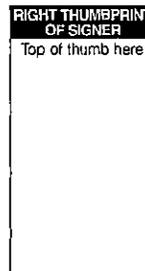
Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_





This document provided courtesy of Sun Valley Title

Recording Requested By and When Recorded Return to:

Blaine-Ketchum Housing Authority  
P.O. Box 550  
Hailey, ID 83333

**Instrument # 532848**  
HAILEY, BLAINE, IDAHO  
2006-03-09 12:10:00 No. of Pages: 21  
Recorded for : AMERITITLE  
MARSHA RIEMANN Fee: 63.00  
Ex-Officio Recorder Deputy  
Index to: COVENANTS & RESTRICTIONS

AMPT

56394

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND**

This Agreement for Community Housing Covenants Running with the Land is made and is effective as of the first day of recording of this Covenant ("**Effective Date**"), by and between Thunder Spring III, LLC, a(n) Idaho limited liability company ("**Declarant**") and the BLAINE-KETCHUM HOUSING AUTHORITY, an Idaho independent public body corporate and politic ("**BKHA**").

1. BACKGROUND.

1.1 Declarant has received or is seeking approval for a \_\_\_\_\_ from \_\_\_\_\_. To satisfy a condition of approval, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant and BKHA are entering into this Covenant.

1.2 Pursuant to the terms and conditions of this Covenant, Declarant hereby grants to BKHA an interest in the Property. This interest shall allow the BKHA to administer the terms and conditions of this Covenant and of the Guidelines, but shall not be construed to impair the ability of a mortgagee to remedy a default or foreclose under the terms of a mortgage and/or deed of trust. Notwithstanding BKHA's interest in the Property, the Declarant is the sole owner of a fee simple estate in the Property.

1.3 Declarant and BKHA hereby agree the Property shall be exclusively and permanently dedicated for use and occupancy by an Owner as outlined in the Guidelines and in this Covenant.

1.4 Capitalized terms not otherwise defined in this Covenant shall have the meaning ascribed to such terms in Section 2.

2. DEFINITIONS.

2.1 "BKHA" is the Blaine-Ketchum Housing Authority, an Idaho independent public body corporate and politic, and its successors and assigns.



2.2 The "Guidelines" are the Community Housing Guidelines adopted by BKHA and in effect as of the applicable date for reference to such Guidelines, as such Guidelines may be amended from time to time. The most current Guidelines recorded in the official records of Blaine County, Idaho are recorded as Instrument No. 525936. Amendments to these most current recorded Guidelines will not affect the rights of the holder of a mortgage or deed of trust on the Property recorded prior to the date of recordation of the amendments.

2.3 An "Owner" is either Declarant during Declarant's initial ownership of the Property, a Qualified Buyer who acquires fee simple absolute title to the Property or a Qualified Occupant who rents all or any portion of the Property.

2.4 "Permitted Capital Improvements" are those certain capital improvements described in the Guidelines made to the Property for which written approval of BKHA had been obtained prior to installation of such improvements on the Property. Permitted Capital Improvements do not include the initial construction costs incurred by Declarant. Permitted Capital Improvements shall not include any changes or additions to the Property made after a casualty pursuant to Section 7.2. Permitted Capital Improvements do not include improvements made to the Property without BKHA approval prior to their installation on the Property.

2.5 The "Property" is that certain real property described in **Exhibit "A"** attached hereto and incorporated herein. For purposes of this Covenant, the Property shall include, without limitation, all estates, rights, title and interest in and to the Property, at law and in equity, and all buildings, structures, appurtenances, improvements and fixtures associated therewith or attached thereto from time to time.

2.6 A "Qualified Buyer" is a person or group of people meeting and in full compliance with the qualifications and conditions set forth in the Guidelines in effect at the date a contract between an Owner and a Qualified Buyer is entered into for the Sale of the Property, including, without limitation, the income requirements applicable to the Property, and who has a complete and current application on file with BKHA at the time a contract for the Sale of the Property is entered into between an Owner and the Qualified Buyer.

2.7 A "Qualified Occupant" is a person or group of people who at the time a lease or rental agreement is entered into between the Owner and Qualified Occupant meet and is in full compliance with the qualifications and conditions set forth in the Guidelines and who has a complete and current application on file with BKHA.

2.8 The terms "Sale," "Sale of" or "to Sell" the Property shall include, without limitation, any transfer, purchase, sale, conveyance, grant, gift, bequest or devise, by merger, consolidation, dissolution, operation of law or otherwise, of the Property or any interest therein, in whole or in part. The terms Sale, Sale of or to Sell the Property shall not include any grant of easement or partial conveyance for utility or public right-of-way purposes. The terms Sale, Sale of or to Sell the Property shall not include any grant of a security interest in the Property either by mortgage, deed of trust or otherwise, but shall include a Sale due to foreclosure or acceptance of a deed in-lieu of foreclosure.



### 3. TRANSFER.

3.1 Except as expressly set forth in this Covenant, Owner may only Sell the Property to a Qualified Buyer. Any Sale of the Property must comply with this Covenant. Any Sale of the Property not in compliance with this Covenant is void.

3.2 At such time as an Owner seeks to Sell the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Sell as set forth in the Guidelines. Upon receipt of the Notice of Intent to Sell and Owner's compliance with the terms of the Notice of Intent to Sell, BKHA shall notify Owner of the Maximum Sales Price, as determined in accordance with Sections 5, 9.1, 12.3 and 12.4, and provide Owner with Qualified Buyers in accordance with the Guidelines. Owner shall then, in accordance with the Guidelines, offer the Property for Sale for not more than the Maximum Sales Price to the Qualified Buyers provided by BKHA, until an agreement is reached with a Qualified Buyer for the Sale of the Property. Such agreement must comply with the Guidelines. The selling Owner shall not accept or otherwise receive any consideration in excess of the Maximum Sales Price except as otherwise permitted in this Covenant or in the Guidelines.

3.3 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, exhausts the pool of Qualified Buyers provided by BKHA without entering into an agreement for the Sale of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a supplemental pool of Qualified Buyers and Owner shall proceed with the supplemental pool of Qualified Buyers according to Section 3.2. In the event Owner exhausts the pool of Qualified Buyers, as supplemented, without entering into an agreement for the Sale of the Property, within sixty (60) days after receipt of written notice from Owner of such occurrence, BKHA may purchase the Property for the Previous Sales Price (as defined in Section 5.1) plus any increase for Permitted Capital Improvements, according to the terms and conditions set forth in the Guidelines, or continue to provide Owner with lists of Qualified Buyers until an agreement for the Sale of the Property is reached. Owner's inability to reach an agreement with a Qualified Buyer shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Buyer.

3.4 In the event BKHA determines the Property has reached its functional obsolescence or other just reasons exist, at such time as an Owner seeks to Sell the Property, BKHA may, to the exclusion of a Qualified Buyer, purchase the Property for the Maximum Sales Price plus any increase for Permitted Capital Improvements, in accordance with the Guidelines.

3.5 In the event BKHA becomes the fee owner of the Property, such conveyance of the fee interest to BKHA shall not work a merger of the interests of BKHA as to the Property and this Covenant shall continue to be in full force and effect unless an express written agreement signed and acknowledged by BKHA is recorded in the official records of Blaine County, Idaho, to the contrary.



3.6 At such time as an Owner seeks to rent all or any portion of the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Rent as set forth in the Guidelines. Upon receipt of the Notice of Intent to Rent and Owner's compliance with the terms of the Notice of Intent to Rent, BKHA shall notify Owner of the Maximum Rental Amount, as determined in accordance with Section 5.6. Owner shall then, in accordance with the Guidelines, offer the Property for rent for not more than the Maximum Rental Amount to any Qualified Occupant. Such agreement must comply with the Guidelines. Owner shall not accept or otherwise receive any consideration in excess of the Maximum Rental Amount, except as otherwise permitted in the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

3.7 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, is unable to find a Qualified Occupant with whom to enter into an agreement for the rental of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a list of Qualified Occupants from which Owner might seek to enter into a rental agreement with in accordance with Section 3.6. In the event Owner exhausts the list of Qualified Occupants, as supplemented, without entering into an agreement for the rental of the Property, BKHA may, at the request of the Owner, continue to provide Owner with lists of Qualified Occupants (if available) until an agreement for the rental of the Property is reached. If the pool of Qualified Occupants is exhausted, Owner's inability to reach an agreement with a Qualified Occupant shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Occupant. By providing a list of Qualified Occupants, BKHA does not warrant, represent or guarantee the Qualified Occupant's ability to perform its duties or obligations under the rental agreement. The selection of any Qualified Occupant is at the sole risk of the Owner.

3.8 Owner is advised to seek professional assistance from a lawyer, accountant, licensed real estate salesperson or broker and/or other professionals with regard to the Sale or rental of the Property. BKHA does not represent and is not acting on behalf of Owner, the Qualified Buyer or the Qualified Occupant in the Sale or rental of the Property. BKHA is acting on its own account as to its interest in the Property pursuant to this Covenant and any assistance, forms or directions provided by BKHA or as set forth in the Guidelines are to further BKHA's interest in the Property.

#### 4. USE, OCCUPANCY, MAINTENANCE AND REPAIR REQUIREMENTS.

4.1 Owner shall use the Property as the Owner's primary place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner's primary place of residence if the Owner (a) occupies more than thirty percent (30%) of the interior floor space (85% if the Property is financed by the Idaho Housing and Finance Association), (b) is physically present on and residing in the Property for not less than nine (9) months in every twelve (12) month period, (c) has not accepted employment outside of Blaine County (distinct and isolated projects outside of Blaine County not exceeding ninety (90) days in duration shall not constitute a violation of this



section), and (d) does not own other residential property in Blaine, Butte, Camas, Custer, Gooding, Jerome, Lincoln, Minidoka, or Twin Falls Counties (an Owner whose business is the construction and sale of residential properties or the purchase and resale of residential properties shall not be in violation of this section provided such Owner does not reside in the properties for any length of time). For purposes of the preceding sentence, an Owner is deemed to own other residential property if the Owner controls, directs or appoints or has the ability to control, direct or appoint the occupancy of the residential property or owns, either directly or indirectly, more than a Thirty percent (30%) interest in the residential property. In the event an Owner rents all of the Property to a Qualified Occupant, BKHA may, but shall not be obligated to, waive this section provided Owner requests such waiver when delivering the Notice of Intent to Rent.

4.2 Owner shall not use or allow the Property to be used for any business or commercial operation without first obtaining a home occupation permit or otherwise complying with all laws, rules, regulations and permits pertaining to such activities. Owner shall not change the zoning designation of the Property without the prior written consent of BKHA, which consent may be granted, conditioned or withheld in BKHA's sole and absolute discretion. Furthermore, no business or commercial operation shall be conducted on the Property which materially interferes with or precludes the Property's use and occupancy as a residence and in no event shall more than 15% of the interior floor space be used for any business or commercial operation. The property shall not be used as a "recreational" or "second home".

4.3 Owner shall at all times, and at its own cost and expense, maintain, repair and/or replace in good, clean and habitable condition the Property and every part thereof, including, without limitation, any home, building or improvement on the Property, the roof, foundation, walls, siding, trim, floors, doors and windows, all electrical, plumbing, sewer, septic and HVAC components, lines and fixtures, all appliances, equipment and systems on the Property, all paved surfaces, all landscaped areas, and any sprinkler systems and water lines, reasonable wear and tear excepted. Such work must be performed in a good and workmanlike manner. Owner shall maintain the landscaped areas of the Property in a neat, clean and healthy condition. Owner shall replace all dead, dying or diseased plants, shrubs and trees. Owner shall provide adequate watering for the landscaped areas, shall mow, trim and prune the landscaped areas as needed for a neat and presentable appearance and shall otherwise keep the Property free of harmful pests, insects and noxious weeds and plants. If Owner refuses or neglects to maintain, repair or replace the Property, or any part thereof, in accordance with this Section, according to the provisions of Sections 11 and 12, BKHA shall have the right, but not the obligation, to perform such maintenance, repair or replacement obligations on behalf of and for the account of Owner. In such event, any costs incurred by BKHA shall be immediately due and payable upon receipt of an invoice therefore according to the terms of Section 12.5.

4.4 Owner shall make or cause to be made all repairs to the Property and perform or cause to be performed all work thereon so as not to permit any waste or deterioration of the Property. Upon the Sale of the Property, Owner shall remove all of



Owner's belongings not sold to the Qualified Buyer and leave the Property in a good and clean condition, reasonable wear and tear excepted.

4.5 Owner shall comply with all laws, rules, regulations, and ordinances pertaining to the Property or the use or occupancy of the Property. Owner shall comply with any covenants, restrictions, rules or regulations encumbering the Property, including, without limitation, any covenants, conditions or restrictions imposed by any homeowner's association of which the Property is a part.

## 5. MAXIMUM SALES PRICE & MAXIMUM RENTAL AMOUNT.

5.1 Except in the case of the Declarant, the "**Previous Sales Price**" is the amount paid, including any debt assumed, by the Owner towards the purchase price for the Property at the time the Owner purchased the Property. The Previous Sales Price shall not include any fees, interest, points, origination costs, or premiums associated with or arising from any loan on the Property; title insurance premiums, recording fees, or escrow fees; taxes or assessments; utilities; courier, delivery or wire transfer fees; brokerage or real estate sales person commissions; appraisal fees; inspection fees; legal or accounting costs or fees; document preparation fees; or moving costs. For purposes of Declarant, the Previous Sales Price is the amount agreed to between BKHA and Declarant that Declarant may sell the Property for upon completion and issuance of a certificate of occupancy for the Property. The price agreed to by Declarant and BKHA shall not be subject to increase according to Sections 5.2 or 5.3.

5.2 Except as otherwise set forth in Sections 6.1, 8.4 and 8.5, in no event shall the Property be sold for an amount ("**Maximum Sales Price**") in excess of the lesser of:

(a) The Previous Sales Price plus four percent (4%) interest per annum from the date the selling Owner purchased the Property to the date the selling Owner delivers the Notice of Intent to Sell to BKHA (prorated at the rate of 0.33 percent for each whole calendar month in any partial year); and

(b) The Previous Sales Price plus an amount equal to any increase in the cost of living during Owner's ownership of the Property as determined by the Consumer Price Index, Wage Earners and Clerical Workers, United States City Average, All Items (1982-84 = 100) published by the Bureau of Labor Statistics, United States Department of Labor ("**Index**"). The Previous Sales Price shall be increased by the CPI Increase. The Maximum Sales Price shall be determined according to the following formula:

$I_1$  = Index for the month in which the Owner purchased the Property

$I_2$  = Index published in or prior to the month such Owner delivers the Notice of Intent to sell to BKHA

C = Number of whole calendar months between the date the Owner purchased the Property and the date the Owner delivers the Notice of Intent to sell to BKHA



Maximum Sales Price = Previous Sales Price + (Previous Sales Price  $\div$  (1/ 12) - Previous Sales Price)  $\times$  (  $\frac{C+1}{C}$  )

In no event shall the Maximum Sales Price ever decrease below the Previous Sales Price due to this calculation. In the event the Bureau of Labor Statistics shall cease to publish the Index, then there shall be substituted for the Index another index published by a nationally recognized financial authority which most accurately approximates the Index as determined in the sole discretion of BKHA. In the event the Index shall be converted to a different standard reference base or otherwise revised, the determination of the Percentage Increase shall be made with the use of such conversion factor, formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if the Bureau shall not publish the same, then with the use of a conversion factor, formula or table as may be published by any other governmental agency of the United States or nationally recognized publisher of comparable statistical information.

Any debt or other obligation of the Owner assumed by the Qualified Buyer shall be credited against the Maximum Sales Price.

5.3 Notwithstanding Section 5.2 to the contrary, the Maximum Sales Price may be increased by the selling Owner's out-of-pocket cost of Permitted Capital Improvements made during the selling Owner's ownership of the Property, provided that such increase shall not exceed ten percent (10%) of the Previous Sales Price. The selling Owner's out-of-pocket cost of Permitted Capital Improvements is a fixed amount and the selling Owner shall not receive a percentage increase on such amount pursuant to Section 5.2. Upon Sale of the Property, the out-of-pocket cost of Permitted Capital Improvements shall be incorporated into the Maximum Sales Price for purposes of determining the next Owner's Previous Sales Price.

5.4 In calculating the costs incurred for Permitted Capital Improvements, only the Owner's actual out-of-pocket costs and expenses for materials and labor applied to the Property shall be eligible for inclusion. Such amount shall not include costs attributable to the Owner's or occupant's personal labor, loan fees, interest, closing costs, fines, penalties, alternative or temporary housing costs or rent, tools, depreciation, consumables, utilities, and other similar costs and expenses.

5.5 To substantiate the cost of qualifying Permitted Capital Improvements, the Owner must furnish to BKHA along with the Notice of Intent to Sell original or duplicate receipts, invoices or statements verifying the out-of-pocket costs and expenses, true and correct copies of any building permit or certificate of occupancy if required to be issued by the appropriate building department or governmental agency having jurisdiction over the Property with respect to the Permitted Capital Improvements and the written approval of BKHA obtained prior to the installation of the Permitted Capital Improvements.

5.6 In no event shall all or any portion of the Property be rented for a monthly rental amount ("**Maximum Rental Amount**") in excess of the sum of the Owner's



monthly mortgage payment (including principal, interest and insurance), ad valorem taxes (prorated on a monthly basis), insurance premiums in accordance with section 7.1 (prorated on a monthly basis), homeowner or condominium association dues or fees (prorated on a monthly basis), and the administration rental fee set forth in the Guidelines. In the event only a portion of the Property will be rented, the Maximum Rental Amount will be multiplied by the percentage derived from the number of bedrooms rented by the Qualified Occupant divided by the number of bedrooms on the Property and the result shall be the Maximum Rental Amount payable by the Qualified Occupant. The terms and conditions of the rental, lease or occupancy agreement must comply with the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

5.7 In order to conform to HUD requirements, the limitation on resale price shall not be construed to limit the Owner to accept a sale price at which reasonable costs of sale and improvements, together with the original purchase price, are not recovered.

## 6. CLOSING.

6.1 Except in the event of a foreclosure sale, at the closing of any Sale of the Property, the Owner and the Qualified Buyer shall share equally in all escrow fees. Ad valorem taxes and assessments, homeowner association assessments and fees, rents, and utilities shall be prorated as of the date of closing. Owner shall pay the cost to release any monetary liens or encumbrances granted or caused by Owner and all premiums for a standard owner's policy of title insurance in the amount of the purchase price. In the event the Owner agrees to pay the closing costs to be paid by the Qualified Buyer pursuant to this Section 6.1 or any other closing costs to be incurred by the Qualified Buyer as permitted by the Guidelines, the price at which the property sale occurs may be increased to cover the actual expenses paid by the Owner on behalf of the Qualified Buyer provided that such amount shall not exceed three percent (3%) of the Maximum Sales Price.

6.2 The selling Owner shall, at closing, pay an administrative fee to BKHA in an amount equal to three percent (3%) of the actual sales price. Any debt assumed by the Qualified Buyer and the cash value of any services performed or goods delivered shall be included in determining the administrative fee payable to BKHA. The administrative fee is earned by BKHA during the term of Owner's ownership of the Property and helps to support BKHA's activities in monitoring, development, and oversight of the Community Housing program in Blaine County. This fee is independent of any fees required to be paid to licensed real estate brokers or attorneys who may be engaged by Owner or the Qualified Buyer in the Sale of the Property. BKHA may instruct the escrow company to pay the administrative fee directly to BKHA from the selling Owner's proceeds. If FNMA or FHA financing is used, there may be an additional fee charged by BKHA based on the amount financed. The amount of the administrative fee to be paid by the subsequent Owner shall be as set forth in the then current Guidelines and will be distributed to BKHA for its operating account.



6.3 At Closing, the Qualified Buyer shall execute and deliver to BKHA an Acknowledgment of Covenant in accordance with the Guidelines indicating Owner is aware of the terms of this Covenant and the Guidelines and agrees to be bound thereby. A Qualified Buyer's failure to execute or deliver to BKHA an Acknowledgment of Covenant shall not compromise, minimize or in any way affect the terms, covenants or conditions of this Covenant or BKHA's interest herein and the Qualified Buyer shall nonetheless be bound by and subject to this Covenant .

## 7. INSURANCE & CASUALTY.

7.1 Owner shall at all times during Owner's ownership of the Property cause the Property to be insured with Causes of Loss – Special Form (formerly known as "All Risk") property insurance in an amount not less than the full replacement cost of all improvements on the Property at the time of loss with like kind and quality (such amount may exceed the Previous Sales Price or Maximum Sales Price of the Property). Such insurance shall be provided by a carrier admitted to engage in the business of insurance in the state of Idaho. No policy will contain a deductible or self-insured retention in excess of three percent (3%) of the Previous Sales Price unless otherwise approved by BKHA. If requested by BKHA, Owner shall cause BKHA to be named as an additional insured as its interests may appear by endorsement acceptable to BKHA and shall promptly deliver to BKHA a copy of Owner's insurance policy in conformance with this section. If the forms of policies required by this section are superseded or no longer available, BKHA will have the right to require other equivalent or better forms.

7.2 If the Property is damaged or destroyed, Owner shall promptly notify BKHA in writing. Owner shall thereafter promptly make a claim on any insurance policy covering such damage or destruction. Mortgagee shall have first claim on such proceeds to the extent necessary to pay mortgage principal and any accrued interest. Owner shall thereafter have the option to either a) utilize the remaining proceeds of any insurance settlement, together with a new mortgage not to exceed the balance (except with written approval of the BKHA) of any mortgages paid from said settlement to repair or restore the Property to its condition prior to such damage or destruction, unless Owner obtains BKHA's prior written approval to repair or restore the Property to some other condition or state, or b) to take such proceeds from the insurance settlement as would have been generated from a sale per the terms of Section 5 of this Covenant (net of mortgages or other obligations paid from the proceeds from the proceeds of the insurance settlement), and assign the balance of the insurance proceeds, together with title to the Property, to the BKHA.

## 8. ENCUMBRANCES.

8.1 Owner shall promptly pay when due all monetary liens, taxes, assessments, and encumbrances on the Property and otherwise comply with the terms and provisions of any deed of trust, mortgage or other loan documents pertaining to the Property. Owner shall instruct all lenders and their assigns to copy BKHA on all communications relating to any loan on the Property and within five (5) days after Owner's receipt, Owner shall provide BKHA with copies of any written communications from any lender not delivered to BKHA. In the event that BKHA initiates any



enforcement or default action against the Owner, the BKHA shall, within five (5) days after commencement of such action, notify the mortgage holder of such action.

8.2 After any default, late payment, or missed payment on any loan or encumbrance on the Property, or if a nonconsensual lien is filed upon the Property, Owner shall, upon the request of BKHA, participate in loan counseling, budgeting, financing or distressed loan services, classes or programs.

8.3 Any breach of this Covenant shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but, except as otherwise provided in Sections 8.4 and 8.5, this Covenant shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

8.4 In the event of any foreclosure of a purchase money mortgage or deed of trust in a first priority position on the Property (but subject to this Covenant), such foreclosing party ("**Foreclosing Party**") may sell the Property through a duly called and noticed foreclosure sale to any person or entity for more than the Maximum Sales Price provided that the foreclosing party strictly adheres to the provisions of this Section 8.4 and Section 8.5.

(a) The Foreclosing Party is requested to notify BKHA in writing of the pending foreclosure on or before fifteen (15) days after the trustee or beneficiary files for record the notice of default as required by Idaho Code Section 45-1505 (2005) or the mortgagee serves upon the mortgagor an action for foreclosure and thereafter the Foreclosing Party shall send a copy of all notices sent to the Owner to BKHA; and

(b) At any time prior to the foreclosure sale and upon request of BKHA, the Foreclosing Party shall agree to sell, transfer and convey to BKHA the entire debt obligation owed to the Foreclosing Party and take full assignment of the debt obligation, promissory note, and other loan documentation, including foreclosure rights, for the lesser of the Foreclosing Party's gross investment or the estimated net recovery value of the security property. Notwithstanding the aforesaid, and in order to safeguard the Community Housing program, the Owner, and the BKHA from predatory lending practices, no obligation of mortgage principal which exceeded 103% of the Maximum Sales Price of the property at the date said principal obligation was incurred shall be recoverable by any foreclosing party. The BKHA may, but shall not be obligated to, purchase the debt obligation for less than the amount calculated if BKHA and the Foreclosing Party so agree.

8.5 In the event BKHA does not elect to purchase the debt obligation pursuant to Section 8.4(b) and the Foreclosing Party has strictly adhered to Section 8.4, or in the event BKHA has taken assignment of the debt obligation and is the Foreclosing Party, the Foreclosing Party may proceed with the foreclosure action and the Property may be sold for more than the Maximum Sales Price to a person other than a Qualified Buyer. Proceeds, if any, from the foreclosure sale shall be distributed in accordance with this paragraph. Costs of foreclosure, including trustee services, sheriff's fees, and similar costs, and all amounts due the Foreclosing Party shall have first priority to the sale proceeds. Next, Owner shall be entitled to any amount in excess of the amounts paid in



the preceding sentence up to the Maximum Sales Price less the administrative fee due BKHA pursuant to Section 6.2. Any amount remaining from sale proceeds, after payment of the items identified in the previous two sentences, shall be paid to BKHA. Provided that the Foreclosing Party has strictly adhered to the requirements of Sections 8.4 and 8.5 and all rights of redemption or challenges to the validity or enforceability of the foreclosure sale have expired, this Covenant, and the rights of the BKHA hereunder, shall terminate.

8.6 Any deed in lieu of foreclosure shall be subject to the requirements of paragraphs 8.4 and 8.5 with respect to notice to the BKHA, option and rights of the BKHA to purchase or take assignment of the debt obligation, and limitation of the recoverable mortgage principal amount. Provided that party acquiring title through a deed in lieu of foreclosure has strictly adhered to the requirements of Sections 8.4 and 8.5 and all rights of redemption or challenges to the validity or enforceability of said action have expired, this Covenant, and the rights of the BKHA hereunder, shall terminate.

8.7 If the Property is financed under the Mortgage Revenue Bond program administered by the Idaho Housing and Finance Association, the parties to this Covenant understand that various requirements of that program may be more stringent than those set forth in this Covenant and, in such case; the parties agree that those more stringent requirements shall prevail.

## 9. CONDEMNATION.

9.1 Within ten (10) days after Owner receives any notice that all or any portion of the Property is sought by condemnation, Owner shall notify BKHA. If all or any portion of the Property is taken by eminent domain or conveyed by Owner under threat of condemnation, the Maximum Sales Price, determined as of the date all or any portion of the Property is conveyed to the condemning authority or the valuation date for purposes of the condemnation proceeding, whichever is earlier ("**Valuation Date**"), shall be decreased by the assessment of damages paid to Owner for the value of or damages to the Property. Thereafter, the adjusted Maximum Sales Price, for purposes of Section 5.2, shall accrue appreciation from the Valuation Date.

9.2 Any assessment of damages paid by the condemning authority for the value of or damages to the Property shall be first utilized to pay the full amount of any existing mortgages, together with any accrued interest thereon. The balance of damage payment proceeds shall be shared between Owner (and secured mortgagees) and BKHA. The amount of the assessment payable to Owner shall be that percentage of the assessment of damages determined by dividing the Maximum Sales Price as of the Valuation Date by the fair market value of the Property as of the Valuation Date less the product of that same percentage and three percent (3%) of the Maximum Sales Price as



of the Valuation Date.<sup>1</sup> The remainder of the assessment shall be payable to BKHA. In the event BKHA and Owner are unable to agree on the fair market value of the Property, within thirty (30) days after receipt of a request by either BKHA or Owner, BKHA and Owner shall each appoint an appraiser who shall be a member of the Appraisal Institute (or substitute organization which certifies and trains appraisers) with at least three (3) years experience in appraising residential real property in the county in which the Property is located. The appointed appraisers shall diligently proceed to appraise the fair market value of the Property, without regard to this Covenant, as of the Valuation Date. If the higher of the two appraisals is more than five percent (5%) of the lower appraisal and the parties cannot agree upon the fair market value of Property, the two appraisers shall together appoint a similarly qualified third appraiser within twenty (20) days after receipt of written demand made by either party. Such third appraiser shall select one of the prior two appraisals which most closely approximates the third appraiser's opinion of the Property's fair market value and the selected appraisal shall conclusively establish the fair market value of the Property as of the Valuation Date. In the event the difference between the first two appraisals is less than five percent (5%), the amount obtained by averaging the respective appraisals shall constitute the fair market value. Each party agrees to pay its respective appraiser's fee plus one-half of the third appraiser's fee. For purposes of this Section, fair market value shall mean the amount at which the Property would change hands between a willing buyer and a willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Furthermore, the existence of any encumbrances on Property (other than this Covenant ) and the benefit of putting the Property to its highest and best use considering all factors, shall be taken into consideration when determining the fair market value of the Property.

10. INDEMNITY, WAIVER AND RELEASE.

10.1 OWNER ACKNOWLEDGES AND AGREES THAT BKHA, ITS AGENTS, EMPLOYEES AND CONTRACTORS, ARE NOT MAKING, HAVE NOT MADE AND EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY QUALIFIED BUYER OR QUALIFIED OCCUPANT AND/OR WITH RESPECT TO ANY ASPECT, FEATURE OR CONDITION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, THE EXISTENCE OF HAZARDOUS WASTE, THE SUITABILITY OF THE PROPERTY FOR OWNER'S INTENDED USE, OWNER'S ABILITY TO SELL THE PROPERTY FOR THE MAXIMUM SALES PRICE OR IN A TIMELY FASHION OR TO RENT THE PROPERTY TO A QUALIFIED OCCUPANT AT THE MAXIMUM RENTAL AMOUNT, FOR ANY LENGTH OF TIME OR IN A TIMELY FASHION. OWNER, QUALIFIED BUYER AND QUALIFIED OCCUPANT SHALL INDEPENDENTLY VERIFY ALL INFORMATION AND REPORTS REGARDING ANY ASPECT OR FEATURE OF THE PROPERTY, AN OWNER, A QUALIFIED BUYER OR A QUALIFIED OCCUPANT PROVIDED BY BKHA. BKHA DOES NOT GUARANTY THE ACCURACY OF ANY INFORMATION OR REPORTS PROVIDED BY BKHA, IT AGENTS, EMPLOYEES OR

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<sup>1</sup> Amount payable to Owner = Assessment x  $\frac{MSP - (.03 \times MSP)}{FMV}$  minus balance(s) payable to mortgagee(s).



CONTRACTORS. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER AND QUALIFIED BUYER RELEASE BKHA FROM ANY AND ALL LIABILITY RELATING TO ANY ASPECT OR CONDITION OF THE PROPERTY, KNOWN OR UNKNOWN, FORESEEABLE OR UNFORESEEABLE, ACTUAL OR CONTINGENT, ARISING BY STATUTE, COMMON LAW OR OTHERWISE. AS USED HEREIN "HAZARDOUS WASTE" SHALL MEAN ANY HAZARDOUS WASTE OR POLLUTANTS, CONTAMINANTS OR HAZARDOUS WASTE AS DEFINED BY THE FEDERAL WATER POLLUTION CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1990 AND ANY AMENDMENTS THERETO, THE RESOURCE CONSERVATION AND RECOVERY ACT AND ANY AMENDMENTS THERETO OR ANY SIMILAR STATE, LOCAL OR FEDERAL LAW, RULE OR REGULATION, INCLUDING, WITHOUT LIMITATION, ASBESTOS OR ASBESTOS CONTAINING MATERIALS, PCBs, PETROLEUM AND PETROLEUM PRODUCTS AND UREA-FORMALDEHYDE.

10.2 OWNER HEREBY RELEASES AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS BKHA FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITY, CAUSES OF ACTION, JUDGMENTS, EXPENSES (INCLUDING ATTORNEY FEES AND ATTORNEY FEES ON ANY APPEAL) (COLLECTIVELY "CLAIMS") ARISING FROM OWNER'S USE OR OCCUPANCY OF THE PROPERTY, AND SHALL FURTHER INDEMNIFY, DEFEND AND HOLD BKHA HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING FROM ANY BREACH OR DEFAULT IN THE PERFORMANCE OF ANY OBLIGATION ON OWNER'S PART TO BE PERFORMED UNDER THE TERMS OF THIS COVENANT, OR ARISING FROM ANY ACT, OMISSION OR NEGLIGENCE OF OWNER, OR ANY OF ITS AGENTS, CONTRACTORS, TENANTS, OCCUPANTS OR INVITEES, AND FROM AND AGAINST ALL CLAIMS OR ANY ACTION OR PROCEEDING BROUGHT THEREON; AND IN CASE ANY ACTION OR PROCEEDING BE BROUGHT AGAINST BKHA BY REASON OF ANY SUCH CLAIM, OWNER, UPON NOTICE FROM BKHA, SHALL DEFEND THE SAME AT OWNER'S EXPENSE BY COUNSEL REASONABLY SATISFACTORY TO BKHA. OWNER, AS A MATERIAL PART OF THE CONSIDERATION TO BKHA, HEREBY ASSUMES ALL RISK OF DAMAGE TO PROPERTY OR INJURY TO PERSONS IN, UPON OR ABOUT THE PROPERTY FROM ANY CAUSE AND OWNER HEREBY WAIVES ALL CLAIMS IN RESPECT THEREOF AGAINST BKHA, EXCEPT THOSE CLAIMS SOLELY CAUSED BY BKHA'S NEGLIGENCE OR WILFUL MISCONDUCT.

10.3 BKHA SHALL NOT BE LIABLE FOR INJURY OR DAMAGE WHICH MAY BE SUSTAINED BY THE PERSON, GOODS, WARES, MERCHANDISE OR PROPERTY OF OWNER, OR ANY OCCUPANTS OR INVITEES TO THE PROPERTY, OR ANY OTHER PERSON IN OR ABOUT THE PROPERTY CAUSED BY OR RESULTING FROM FIRE, STEAM, ELECTRICITY, GAS, WATER OR RAIN, FREEZING, OR LEAKAGE, OBSTRUCTION OR OTHER DEFECTS OF THE PIPES, SPRINKLERS, WIRES, APPLIANCES, PLUMBING, AIR CONDITION, LIGHTING FIXTURES OR OTHER ASPECT OR FEATURES OF THE PROPERTY.

## 11. DEFAULT.

11.1 Upon the expiration of thirty (30) days' (ten [10] days' for the failure to pay money) written notice from any party bound or benefited by this Covenant stating the other party has failed to perform its obligations hereunder, such party shall be deemed to be in default unless such failure to perform is cured within the thirty (30) days (ten [10] days' for the failure to pay money) period, in which case no default shall be deemed to have occurred. Notwithstanding the foregoing sentence, if such default (other than the failure to pay money) cannot be cured within the thirty (30) day period and the



defaulting party is diligently working to remedy the default, the cure period shall be extended for such time as is reasonably necessary to cure the default.

11.2 In order to ensure compliance with the provisions of this Covenant, BKHA, by its authorized representative, may inspect the Property between the hours of 8:00 AM and 5:00 PM, Monday through Friday, or at such other time as may be agreed to by Owner and BKHA, after providing the Owner with not less than twenty-four (24) hours' prior written notice.

11.3 Upon receipt of a notice of default and prior to the expiration of the applicable cure period, an Owner may request in writing a hearing before the BKHA Board of Commissioners to determine the merits of the allegations. Upon BKHA's receipt of a hearing request, the remainder of the applicable cure period shall be tolled pending the outcome of the hearing, and a hearing shall be held at the next regularly scheduled meeting of the BKHA Board of Commissioners. If no hearing is requested in writing during such time period and the violation is not cured within the applicable period, the Owner shall be in default of this Covenant. If a hearing is held before the BKHA Board of Commissioners, the decision of the BKHA Board of Commissioners shall be final for purposes of determining if a violation has occurred.

11.4 It is expressly agreed that no breach of this Covenant shall entitle any Owner, Qualified Buyer, Qualified Occupant, BKHA or any other party affected by this Covenant to terminate this Covenant, but such limitation shall not affect in any manner any other rights or remedies which such persons or entities may have hereunder by reason of any breach of this Covenant.

## 12. REMEDIES.

12.1 In the event of a default or breach of any term, covenant, warranty or provision of this Covenant, the non-defaulting party may at any time thereafter without limiting the exercise of any right or remedy at law or in equity which the non-defaulting party may have by reason of such default or breach;

- (a) Seek specific performance of this Covenant;
- (b) Perform any work, pay any amounts due, or complete any duties or obligations of Owner and otherwise exercise any self-help remedies;
- (c) Enjoin any Sale of or proposed Sale of the Property; and
- (d) Require the immediate Sale of the Property to a Qualified Buyer in accordance with Section 3.2.

12.2 Without limiting any other remedy available to BKHA, in the event an Owner shall accept or otherwise receive consideration in excess of the Maximum Sales Price or Maximum Rental Amount in violation of this Covenant or the Guidelines, such Owner shall immediately pay such amount or the cash equivalent of such amount to BKHA. Such amount shall accrue interest from the date such consideration was



received by the Owner to the date paid to BKHA at the rate of Eighteen percent (18%) per annum, compounded on an annual basis. Furthermore, Section 14.2 shall apply to any recovery or enforcement action commenced pursuant to this Section.

12.3 In the event of a default by Owner, the Maximum Sales Price shall, upon the date such default first occurred, automatically cease to increase as set out in Section 5.1, and shall remain fixed until the date Owner cures the default.

12.4 In the event that significant damage or reduction in the utility of the Property has occurred during the term of Owner's ownership (other than ordinary wear and tear and functional obsolescence due only to the passage of time), BKHA may reduce the Maximum Sale Price by an amount sufficient to repair the damage or restore the Property's utility as a residence as determined necessary by BKHA in its sole and absolute discretion.

12.5 In the event BKHA pays any amount payable by Owner or incurs any expense due to the default of Owner, such amount shall be immediately due and payable by Owner upon receipt of an invoice from BKHA. Interest shall accrue from the date the invoice is received by Owner to and including the date BKHA receives payment in full at a rate equal to the lesser of (i) the highest rate allowed by law, and (ii) twelve percent (12%). Furthermore, in the event the Owner does not pay the invoice in full within ten (10) days after receipt, BKHA may file a lien on the Property for the amount of said expenses plus accrued interest as set forth above and such lien shall be effective upon recording in the county in which the Property is located. Upon any Sale of the Property, if the Owner has not previously paid all amounts due BKHA, BKHA shall be paid the amounts it is due from the sale proceeds and any escrow company or closing agent handling the transaction shall be bound to pay such amounts due as though specifically instructed by Owner and Owner agrees to and acknowledges the same. Notwithstanding the foregoing sentence, BKHA's right to the sale proceeds shall not have priority over any lien on the Property recorded prior to any lien filed by BKHA. In the event BKHA does not file a lien for the amounts it is due, BKHA's claim shall be subordinate to any recorded lien on the Property.

### 13. NOTICES.

13.1 All notices given pursuant to this Covenant shall be in writing and shall be given by personal service, by United States certified mail, return receipt requested, or by United States express mail or other established express delivery service (such as Federal Express) with signature confirmation required, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below. If a notice is delivered to Owner by personal service or by United States express mail or other established express delivery service (such as Federal Express), such notice may be delivered to the Property. If a notice must be given to a person other than one designated below or otherwise sent to Owner, such notice shall be sent to the person and address shown on the then current real property tax rolls of the county in which the Property is located. All notices given to the appropriate party shall be sent to the address set forth below:



To Declarant: Thunder Spring III, LLC  
c/o Wareham Development  
1120 Nye Street, Ste 400  
San Rafael, CA 94901

To BKHA: Director  
BLAINE-KETCHUM HOUSING AUTHORITY  
P.O. Box 550  
Hailey, ID 83333

The person and address to which notices are to be given may be changed at any time by such party upon written notice to the other party. All notices given pursuant to this Covenant shall be deemed given upon receipt.

13.2 For the purpose of this Covenant, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to Section 13.1 as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to 13.1, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (a) the date of the attempted delivery or refusal to accept delivery, (b) the date of the postmark on the return receipt, or (c) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

#### 14. GENERAL PROVISIONS

14.1 This Covenant shall be a permanent burden on the Property, for the benefit of BKHA, and shall run with the land.

14.2 In the event any party bound or affected by this Covenant initiates or defends any legal action or proceeding in any way connected with this Covenant, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

14.3 Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Covenant or related document.

14.4 The laws of Idaho, without giving effect to its choice of law principles, govern all matters with respect to this Covenant, including all tort claims.



14.5 This Covenant shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person or entity acquiring the Property, or any portion thereof, or any interest therein, whether by merger, consolidation, dissolution, operation of law or otherwise; provided, however, that if any Owner Sells all or any portion of the Property in accordance with this Covenant, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Property arising under this Covenant after the Sale but shall remain liable for all obligations arising under this Covenant prior to the Sale. The new Owner of the Property or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Covenant with respect to the Property or portion thereof after the date of Sale.

14.6 This Covenant may only be amended by a written agreement signed by Owner and BKHA that identifies itself as an amendment to this Covenant.

14.7 Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

14.8 The parties to this Covenant, and Owners, agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

14.9 BKHA may amend the Guidelines at any time in its sole and exclusive discretion.

14.10 The failure of BKHA to insist upon strict performance of any terms, covenants or conditions of this Covenant shall not be deemed a waiver of any rights or remedies BKHA may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants or conditions of this Covenant by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

THE BLAINE-KETCHUM HOUSING AUTHORITY

DECLARANT:  
Thunder Spring III, LLC, an Idaho limited liability company

By:   
Title: Executive Director

Title: Richard K. Robbins, managing member

Last revised August 22, 2005.



14.5 This Covenant shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person or entity acquiring the Property, or any portion thereof, or any interest therein, whether by merger, consolidation, dissolution, operation of law or otherwise; provided, however, that if any Owner Sells all or any portion of the Property in accordance with this Covenant, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Property arising under this Covenant after the Sale but shall remain liable for all obligations arising under this Covenant prior to the Sale. The new Owner of the Property or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Covenant with respect to the Property or portion thereof after the date of Sale.

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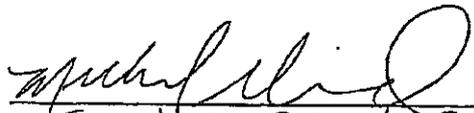
14.9 BKHA may amend the Guidelines at any time in its sole and exclusive discretion.

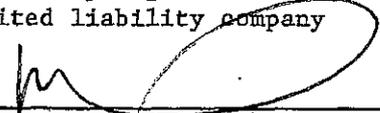
14.10 The failure of BKHA to insist upon strict performance of any terms, covenants or conditions of this Covenant shall not be deemed a waiver of any rights or remedies BKHA may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants or conditions of this Covenant by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

THE BLAINE-KETCHUM HOUSING AUTHORITY

DECLARANT:  
Thunder Spring III, LLC, an Idaho limited liability company

By:   
Title: Executive Director

  
Title: Richard K. Robbins, managing member

Last revised August 22, 2005.

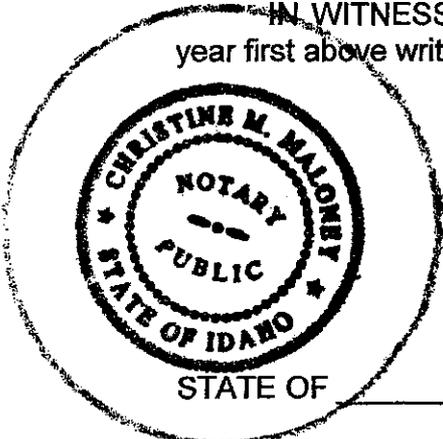


This document provided courtesy of Sun Valley Title

STATE OF Idaho )  
County of Baine ) ss.

On this 1 day of March, 2006, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Michael J. ... the Executive Director of The Baine ... a(n) Idaho Independent ..., known to me, or proven to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he/she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



[Signature]  
Name: Christine Maloney  
Notary Public for Idaho  
Residing at Care Idaho  
My commission expires 9-26-07

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_, a(n) \_\_\_\_\_, known to me, or proven to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he/she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Name: \_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

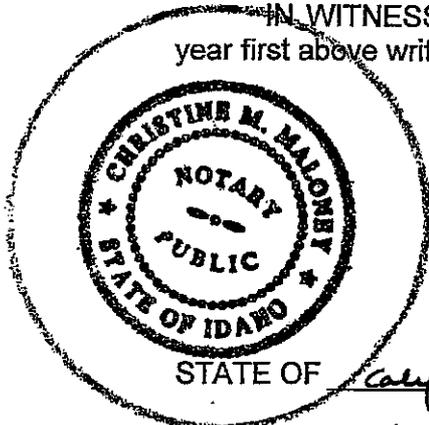


This document provided courtesy of Sun Valley Title

STATE OF Idaho )  
County of Baine ) ss.

On this 1 day of March, 2006, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Michael P. [unclear] the Executive Director of The Baine [unclear] Hwy. [unclear] Idaho [unclear] [unclear], known to me, or proven to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he/she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

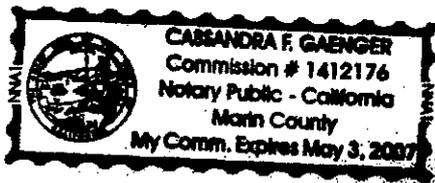


[Signature]  
Name: Christine Maloney  
Notary Public for Idaho  
Residing at Carz Idaho  
My commission expires 9/26/07

STATE OF California )  
County of Marin ) ss.

On this 3<sup>rd</sup> day of March, 2006 before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Richard K. Robbins, the California Managing Member of Thunder Spring III, LLC, a(n) Idaho Limited Liability Co. known to me, or proven to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he/she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Name: Cassandra F. Gaenger  
Notary Public for Idaho California  
Residing at 219 Forbes Ave. San Rafael CA  
My commission expires 5/3/07



This document  
provided courtesy of  
Sun Valley Title

Sublot 7 of PINERIDGE TOWNHOMES PHASE 1, according to the official plat thereof, recorded as Instrument No. 530203, records of Blaine County, Idaho.

3



This document provided courtesy of Sun Valley Title

Recording Requested By and When Recorded Return to:

Blaine-Ketchum Housing Authority  
P.O. Box 550  
Hailey, ID 83333

**Instrument # 536512**

HAILEY, BLAINE, IDAHO  
2006-06-19 09:52:00 No. of Pages: 20  
Recorded for : AMERITITLE  
MARSHA RIEMANN Fee: 60.00  
Ex-Officio Recorder Deputy  
Index to: COVENANTS & RESTRICTIONS

3

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND**

THIS AGREEMENT FOR COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND ("**Covenant** ") is made and is effective as of the first day of recording of this Covenant ("**Effective Date**"), by and between THUNDER SPRING III, LLC, an Idaho limited liability company ("**Declarant**") and the BLAINE-KETCHUM HOUSING AUTHORITY, an Idaho independent public body corporate and politic ("**BKHA**").

1. BACKGROUND.

1.1 Declarant is the owner of certain real property located on Warm Springs Road in the City of Ketchum, County of Blaine, State of Idaho, which is more particularly described as Section 12, Township 4 North, Range 17 East, B.M., Block 1 of Pineridge PUD, according to the Pineridge Large Block Plat recorded on March 15, 2005, as Instrument No. 517424, in the official records of Blaine County, Idaho ("**Pineridge PUD**").

1.2 Declarant is constructing on the above-described property a development project consisting of thirty-two (32) residential townhomes contained in seven (7) different buildings. Thirteen of the thirty-two (32) townhomes shall be encumbered by a deed restriction limiting among other things, ownership and resale of the thirteen (13) deed restricted townhomes. The Pineridge PUD project is to be constructed in three (3) phases. Upon recordation of the final plats for each of the three phases, the thirteen (13) deed restricted townhomes are to be legally described as follows: Sublots 2, 3, 6 and 7 of Pineridge Townhomes Phase 1; Sublots 13, 14, 16 of Pineridge Townhomes Phase 2; and Sublots 19, 21, 22, 25, 27 and 28 of Pineridge Townhomes Phase 3. It is the parties' intention that upon recordation of each of the three final plats creating the deed restricted townhomes, this Covenant will be recorded against each of the deed restricted townhomes created by such final plat. As such, the deed restricted townhomes legally described in Exhibit "A" attached hereto and made a part hereof (collectively, the "**Property**") are subject to the terms and conditions of this Covenant.

1.3 Declarant has received approval for the Pineridge PUD from the City Council of the City of Ketchum, Idaho, which contains certain townhomes that will be subject to this Covenant. To satisfy a condition of approval, and for other good and



valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant and BKHA are entering into this Covenant.

1.4 Pursuant to the terms and conditions of this Covenant, Declarant hereby grants to BKHA a vested interest in the Property. Declarant and BKHA hereby agree the Property shall be exclusively and permanently dedicated for use and occupancy by an Owner as outlined in the Guidelines and in this Covenant.

1.5 Capitalized terms not otherwise defined in this Covenant shall have the meaning ascribed to such terms in Section 2.

## 2. DEFINITIONS.

2.1 "BKHA" is the Blaine-Ketchum Housing Authority, an Idaho independent public body corporate and politic, and its successors and assigns.

2.2 The "Guidelines" are the Community Housing Guidelines adopted by BKHA and in effect as of the applicable date for reference to such Guidelines, as such Guidelines may be amended from time to time. The most current Guidelines recorded in the official records of Blaine County, Idaho are recorded as Instrument No. 525936.

2.3 An "Owner" is either Declarant during Declarant's initial ownership of the Property, a Qualified Buyer who acquires fee simple absolute title to the Property or a Qualified Occupant who rents all or any portion of the Property.

2.4 "Permitted Capital Improvements" are those certain capital improvements described in the Guidelines made to the Property for which written approval of BKHA had been obtained prior to installation of such improvements on the Property. Permitted Capital Improvements do not include the initial construction costs incurred by Declarant. Permitted Capital Improvements shall not include any changes or additions to the Property made after a casualty pursuant to Section 7.2. Permitted Capital Improvements do not include improvements made to the Property without BKHA approval prior to their installation on the Property.

2.5 The "Property" is that certain real property described in **Exhibit "A"** attached hereto and incorporated herein. For purposes of this Covenant, the Property shall include, without limitation, all estates, rights, title and interest in and to the Property, at law and in equity, and all buildings, structures, appurtenances, improvements and fixtures associated therewith or attached thereto from time to time.

2.6 A "Qualified Buyer" is a person or group of people meeting and in full compliance with the qualifications and conditions set forth in the Guidelines in effect at the date a contract between an Owner and a Qualified Buyer is entered into for the Sale of the Property, including, without limitation, the income requirements applicable to the Property, and who has a complete and current application on file with BKHA at the time a contract for the Sale of the Property is entered into between an Owner and the Qualified Buyer.



2.7 A "Qualified Occupant" is a person or group of people who at the time a lease or rental agreement is entered into between the Owner and Qualified Occupant meet and is in full compliance with the qualifications and conditions set forth in the Guidelines and who has a complete and current application on file with BKHA.

2.8 The terms "Sale," "Sale of" or "to Sell" the Property shall include, without limitation, any transfer, purchase, sale, conveyance, grant, gift, bequest or devise, by merger, consolidation, dissolution, operation of law or otherwise, of the Property or any interest therein, in whole or in part. The terms Sale, Sale of or to Sell the Property shall not include any grant of easement or partial conveyance for utility or public right-of-way purposes. The terms Sale, Sale of or to Sell the Property shall not include any grant of a security interest in the Property either by mortgage, deed of trust or otherwise, but shall include a Sale due to foreclosure or acceptance of a deed in-lieu of foreclosure.

### 3. TRANSFER.

3.1 Except as expressly set forth in this Covenant, Owner may only Sell the Property to a Qualified Buyer. Any Sale of the Property must comply with this Covenant. Any Sale of the Property not in compliance with this Covenant is void.

3.2 At such time as an Owner seeks to Sell the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Sell as set forth in the Guidelines. Upon receipt of the Notice of Intent to Sell and Owner's compliance with the terms of the Notice of Intent to Sell, BKHA shall notify Owner of the Maximum Sales Price, as determined in accordance with Sections 5, 9.1, 12.3 and 12.4, and provide Owner with Qualified Buyers in accordance with the Guidelines. Owner shall then, in accordance with the Guidelines, offer the Property for Sale for not more than the Maximum Sales Price to the Qualified Buyers provided by BKHA, until an agreement is reached with a Qualified Buyer for the Sale of the Property. Such agreement must comply with the Guidelines. The selling Owner shall not accept or otherwise receive any consideration in excess of the Maximum Sales Price except as otherwise permitted in this Covenant or in the Guidelines.

3.3 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, exhausts the pool of Qualified Buyers provided by BKHA without entering into an agreement for the Sale of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a supplemental pool of Qualified Buyers and Owner shall proceed with the supplemental pool of Qualified Buyers according to Section 3.2. In the event Owner exhausts the pool of Qualified Buyers, as supplemented, without entering into an agreement for the Sale of the Property, within sixty (60) days after receipt of written notice from Owner of such occurrence, BKHA may purchase the Property for the Previous Sales Price (as defined in Section 5.1) plus any increase for Permitted Capital Improvements, according to the terms and conditions set forth in the Guidelines, or continue to provide Owner with lists of Qualified Buyers until an agreement for the Sale of the Property is reached. Owner's inability to reach an agreement with a Qualified Buyer shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Buyer.



3.4 In the event BKHA determines the Property has reached its functional obsolescence or other just reasons exist, at such time as an Owner seeks to Sell the Property, BKHA may, to the exclusion of a Qualified Buyer, purchase the Property for the Maximum Sales Price plus any increase for Permitted Capital Improvements, in accordance with the Guidelines.

3.5 In the event BKHA becomes the fee owner of the Property, such conveyance of the fee interest to BKHA shall not work a merger of the interests of BKHA as to the Property and this Covenant shall continue to be in full force and effect unless an express written agreement signed and acknowledged by BKHA is recorded in the official records of Blaine County, Idaho, to the contrary.

3.6 At such time as an Owner seeks to rent all or any portion of the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Rent as set forth in the Guidelines. Upon receipt of the Notice of Intent to Rent and Owner's compliance with the terms of the Notice of Intent to Rent, BKHA shall notify Owner of the Maximum Rental Amount, as determined in accordance with Section 5.6. Owner shall then, in accordance with the Guidelines, offer the Property for rent for not more than the Maximum Rental Amount to any Qualified Occupant. Such agreement must comply with the Guidelines. Owner shall not accept or otherwise receive any consideration in excess of the Maximum Rental Amount, except as otherwise permitted in the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

3.7 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, is unable to find a Qualified Occupant with whom to enter into an agreement for the rental of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a list of Qualified Occupants from which Owner might seek to enter into a rental agreement with in accordance with Section 3.6. In the event Owner exhausts the list of Qualified Occupants, as supplemented, without entering into an agreement for the rental of the Property, BKHA may, at the request of the Owner, continue to provide Owner with lists of Qualified Occupants (if available) until an agreement for the rental of the Property is reached. If the pool of Qualified Occupants is exhausted, Owner's inability to reach an agreement with a Qualified Occupant shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Occupant. By providing a list of Qualified Occupants, BKHA does not warrant, represent or guarantee the Qualified Occupant's ability to perform its duties or obligations under the rental agreement. The selection of any Qualified Occupant is at the sole risk of the Owner.

3.8 Owner is advised to seek professional assistance from a lawyer, accountant, licensed real estate salesperson or broker and/or other professionals with regard to the Sale or rental of the Property. BKHA does not represent and is not acting on behalf of Owner, the Qualified Buyer or the Qualified Occupant in the Sale or rental of the Property. BKHA is acting on its own account as to its interest in the Property



pursuant to this Covenant and any assistance, forms or directions provided by BKHA or as set forth in the Guidelines are to further BKHA's interest in the Property.

#### 4. USE, OCCUPANCY, MAINTENANCE AND REPAIR REQUIREMENTS.

4.1 Owner shall use the Property as the Owner's primary place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner's primary place of residence if the Owner (a) occupies more than thirty percent (30%) of the interior floor space (85% if the Property is financed by the Idaho Housing and Finance Association), (b) is physically present on and residing in the Property for not less than nine (9) months in every twelve (12) month period, (c) has not accepted employment outside of Blaine County (distinct and isolated projects outside of Blaine County not exceeding ninety (90) days in duration shall not constitute a violation of this section), and (d) does not own other residential property in Blaine, Butte, Camas, Custer, Gooding, Jerome, Lincoln, Minidoka, or Twin Falls Counties (an Owner whose business is the construction and sale of residential properties or the purchase and resale of residential properties shall not be in violation of this section provided such Owner does not reside in the properties for any length of time). For purposes of the preceding sentence, an Owner is deemed to own other residential property if the Owner controls, directs or appoints or has the ability to control, direct or appoint the occupancy of the residential property or owns, either directly or indirectly, more than a Thirty percent (30%) interest in the residential property. In the event an Owner rents all of the Property to a Qualified Occupant, BKHA may, but shall not be obligated to, waive this section provided Owner requests such waiver when delivering the Notice of Intent to Rent.

4.2 Owner shall not use or allow the Property to be used for any business or commercial operation without first obtaining a home occupation permit or otherwise complying with all laws, rules, regulations and permits pertaining to such activities. Owner shall not change the zoning designation of the Property without the prior written consent of BKHA, which consent may be granted, conditioned or withheld in BKHA's sole and absolute discretion. Furthermore, no business or commercial operation shall be conducted on the Property which materially interferes with or precludes the Property's use and occupancy as a residence and in no event shall more than 15% of the interior floor space be used for any business or commercial operation. The property shall not be used as a "recreational" or "second home".

4.3 Owner shall at all times, and at its own cost and expense, maintain, repair and/or replace in good, clean and habitable condition the Property and every part thereof, including, without limitation, any home, building or improvement on the Property, the roof, foundation, walls, siding, trim, floors, doors and windows, all electrical, plumbing, sewer, septic and HVAC components, lines and fixtures, all appliances, equipment and systems on the Property, all paved surfaces, all landscaped areas, and any sprinkler systems and water lines, reasonable wear and tear excepted. Such work must be performed in a good and workmanlike manner. Owner shall maintain the landscaped areas of the Property in a neat, clean and healthy condition. Owner shall replace all dead, dying or diseased plants, shrubs and trees. Owner shall provide adequate watering for the landscaped areas, shall mow, trim and prune the



landscaped areas as needed for a neat and presentable appearance and shall otherwise keep the Property free of harmful pests, insects and noxious weeds and plants. If Owner refuses or neglects to maintain, repair or replace the Property, or any part thereof, in accordance with this Section, according to the provisions of Sections 11 and 12, BKHA shall have the right, but not the obligation, to perform such maintenance, repair or replacement obligations on behalf of and for the account of Owner. In such event, any costs incurred by BKHA shall be immediately due and payable upon receipt of an invoice therefore according to the terms of Section 12.5.

4.4 Owner shall make or cause to be made all repairs to the Property and perform or cause to be performed all work thereon so as not to permit any waste or deterioration of the Property. Upon the Sale of the Property, Owner shall remove all of Owner's belongings not sold to the Qualified Buyer and leave the Property in a good and clean condition, reasonable wear and tear excepted.

4.5 Owner shall comply with all laws, rules, regulations, and ordinances pertaining to the Property or the use or occupancy of the Property. Owner shall comply with any covenants, restrictions, rules or regulations encumbering the Property, including, without limitation, any covenants, conditions or restrictions imposed by any homeowner's association of which the Property is a part.

## 5. MAXIMUM SALES PRICE & MAXIMUM RENTAL AMOUNT.

5.1 Except in the case of the Declarant, the "**Previous Sales Price**" is the amount paid, including any debt assumed, by the Owner towards the purchase price for the Property at the time the Owner purchased the Property. The Previous Sales Price shall not include any fees, interest, points, origination costs, or premiums associated with or arising from any loan on the Property; title insurance premiums, recording fees, or escrow fees; taxes or assessments; utilities; courier, delivery or wire transfer fees; brokerage or real estate sales person commissions; appraisal fees; inspection fees; legal or accounting costs or fees; document preparation fees; or moving costs. For purposes of Declarant, the Previous Sales Price is the amount agreed to between BKHA and Declarant that Declarant may sell the Property for upon completion and issuance of a certificate of occupancy for the Property. The price agreed to by Declarant and BKHA shall not be subject to increase according to Sections 5.2 or 5.3.

5.2 Except as otherwise set forth in Sections 6.1, 8.4 and 8.5, in no event shall the Property be sold for an amount ("**Maximum Sales Price**") in excess of the lesser of:

(a) The Previous Sales Price plus four percent (4%) interest per annum from the date the selling Owner purchased the Property to the date the selling Owner delivers the Notice of Intent to Sell to BKHA (prorated at the rate of 0.33 percent for each whole calendar month in any partial year); and

(b) The Previous Sales Price plus an amount equal to any increase in the cost of living during Owner's ownership of the Property as determined by the Consumer Price Index, Wage Earners and Clerical Workers, United States City



Average, All Items (1982-84 = 100) published by the Bureau of Labor Statistics, United States Department of Labor ("Index"). The Previous Sales Price shall be increased by the CPI Increase. The Maximum Sales Price shall be determined according to the following formula:

$I_1$  = Index for the month in which the Owner purchased the Property

$I_2$  = Index published in or prior to the month such Owner delivers the Notice of Intent to sell to BKHA

C = Number of whole calendar months between the date the Owner purchased the Property and the date the Owner delivers the Notice of Intent to sell to BKHA

Maximum Sales Price = Previous Sales Price + (Previous Sales Price  $\div$  ( $I_1 / I_2$ ) - Previous Sales Price)  $\times$  ( $\frac{C+1}{C}$ )

In no event shall the Maximum Sales Price ever decrease below the Previous Sales Price due to this calculation. In the event the Bureau of Labor Statistics shall cease to publish the Index, then there shall be substituted for the Index another index published by a nationally recognized financial authority which most accurately approximates the Index as determined in the sole discretion of BKHA. In the event the Index shall be converted to a different standard reference base or otherwise revised, the determination of the Percentage Increase shall be made with the use of such conversion factor, formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if the Bureau shall not publish the same, then with the use of a conversion factor, formula or table as may be published by any other governmental agency of the United States or nationally recognized publisher of comparable statistical information.

Any debt or other obligation of the Owner assumed by the Qualified Buyer shall be credited against the Maximum Sales Price.

5.3 Notwithstanding Section 5.2 to the contrary, the Maximum Sales Price may be increased by the selling Owner's out-of-pocket cost of Permitted Capital Improvements made during the selling Owner's ownership of the Property, provided that such increase shall not exceed ten percent (10%) of the Previous Sales Price. The selling Owner's out-of-pocket cost of Permitted Capital Improvements is a fixed amount and the selling Owner shall not receive a percentage increase on such amount pursuant to Section 5.2. Upon Sale of the Property, the out-of-pocket cost of Permitted Capital Improvements shall be incorporated into the Maximum Sales Price for purposes of determining the next Owner's Previous Sales Price.

5.4 In calculating the costs incurred for Permitted Capital Improvements, only the Owner's actual out-of-pocket costs and expenses for materials and labor applied to the Property shall be eligible for inclusion. Such amount shall not include costs attributable to the Owner's or occupant's personal labor, loan fees, interest, closing



costs, fines, penalties, alternative or temporary housing costs or rent, tools, depreciation, consumables, utilities, and other similar costs and expenses.

5.5 To substantiate the cost of qualifying Permitted Capital Improvements, the Owner must furnish to BKHA along with the Notice of Intent to Sell original or duplicate receipts, invoices or statements verifying the out-of-pocket costs and expenses, true and correct copies of any building permit or certificate of occupancy if required to be issued by the appropriate building department or governmental agency having jurisdiction over the Property with respect to the Permitted Capital Improvements and the written approval of BKHA obtained prior to the installation of the Permitted Capital Improvements.

5.6 In no event shall all or any portion of the Property be rented for a monthly rental amount ("**Maximum Rental Amount**") in excess of the sum of the Owner's monthly mortgage payment (including principal, interest and insurance), ad valorem taxes (prorated on a monthly basis), insurance premiums in accordance with section 7.1 (prorated on a monthly basis), homeowner or condominium association dues or fees (prorated on a monthly basis), and the administration rental fee set forth in the Guidelines. In the event only a portion of the Property will be rented, the Maximum Rental Amount will be multiplied by the percentage derived from the number of bedrooms rented by the Qualified Occupant divided by the number of bedrooms on the Property and the result shall be the Maximum Rental Amount payable by the Qualified Occupant. The terms and conditions of the rental, lease or occupancy agreement must comply with the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

## 6. CLOSING.

6.1 Except in the event of a foreclosure sale, at the closing of any Sale of the Property, the Owner and the Qualified Buyer shall share equally in all escrow fees. Ad valorem taxes and assessments, homeowner association assessments and fees, rents, and utilities shall be prorated as of the date of closing. Owner shall pay the cost to release any monetary liens or encumbrances granted or caused by Owner and all premiums for a standard owner's policy of title insurance in the amount of the purchase price. In the event the Owner agrees to pay the closing costs to be paid by the Qualified Buyer pursuant to this Section 6.1 or any other closing costs to be incurred by the Qualified Buyer as permitted by the Guidelines, the Maximum Sales Price may be increased to cover the actual expenses paid by the Owner on behalf of the Qualified Buyer provided that such amount shall not exceed three percent (3%) of the Maximum Sales Price.

6.2 The selling Owner shall, at closing, pay an administrative fee to BKHA in an amount equal to three percent (3%) of the actual sales price. Any debt assumed by the Qualified Buyer and the cash value of any services performed or goods delivered shall be included in determining the administration fee payable to BKHA. The administration fee constitutes a lien on the Property, is earned by BKHA during the term of Owner's ownership of the Property and helps to support BKHA's activities in



monitoring, development, and oversight of the Community Housing program in Blaine County. This fee is independent of any fees required to be paid to licensed real estate brokers or attorneys who may be engaged by Owner or the Qualified Buyer in the Sale of the Property. BKHA may instruct the escrow company to pay the administrative fee directly to BKHA from the selling Owner's proceeds. If FNMA or FHA financing is used, there may be an additional fee charged by BKHA based on the amount financed. The amount of the administrative fee to be paid by the subsequent Owner shall be as set forth in the then current Guidelines and will be distributed to BKHA for its operating account.

6.3 At Closing, the Qualified Buyer shall execute and deliver to BKHA an Acknowledgment of Covenant in accordance with the Guidelines indicating Owner is aware of the terms of this Covenant and the Guidelines and agrees to be bound thereby. A Qualified Buyer's failure to execute or deliver to BKHA an Acknowledgment of Covenant shall not compromise, minimize or in any way affect the terms, covenants or conditions of this Covenant or BKHA's right, title or interest herein and the Qualified Buyer shall nonetheless be bound by and subject to this Covenant .

## 7. INSURANCE & CASUALTY.

7.1 Owner shall at all times during Owner's ownership of the Property cause the Property to be insured with Causes of Loss – Special Form (formerly known as "All Risk") property insurance in an amount not less than the full replacement cost of all improvements on the Property at the time of loss with like kind and quality (such amount may exceed the Previous Sales Price or Maximum Sales Price of the Property). Such insurance shall be provided by a carrier admitted to engage in the business of insurance in the state of Idaho. No policy will contain a deductible or self-insured retention in excess of three percent (3%) of the Previous Sales Price unless otherwise approved by BKHA. If requested by BKHA, Owner shall cause BKHA to be named as an insured as its interests may appear by endorsement acceptable to BKHA and shall promptly deliver to BKHA a copy of Owner's insurance policy in conformance with this section. If the forms of policies required by this section are superseded or no longer available, BKHA will have the right to require other equivalent or better forms.

7.2 If the Property is damaged or destroyed, Owner shall promptly notify BKHA in writing. Owner shall thereafter promptly make a claim on any insurance policy covering such damage or destruction and repair or restore the Property to its condition prior to such damage or destruction, unless Owner obtains BKHA's prior written approval to repair or restore the Property to some other condition or state. Notwithstanding the foregoing sentence, Owner and BKHA may, but neither shall be obligated to, agree to Sell the Property to BKHA and assign Owner's insurance proceeds to BKHA and in such event Owner shall not be obligated to repair or restore the Property.

## 8. ENCUMBRANCES.

8.1 Owner shall promptly pay when due all monetary liens, taxes, assessments, and encumbrances on the Property and otherwise comply with the terms



and provisions of any deed of trust, mortgage or other loan documents pertaining to the Property. Owner shall instruct all lenders and their assigns to copy BKHA on all communications relating to any loan on the Property and within five (5) days after Owner's receipt, Owner shall provide BKHA with copies of any written communications from any lender not delivered to BKHA. In the event that BKHA initiates any enforcement or default action against the Owner, the BKHA shall, within five (5) days after commencement of such action, notify the mortgage holder of such action.

8.2 After any default, late payment, or missed payment on any loan or encumbrance on the Property, or if a nonconsensual lien is filed upon the Property, Owner shall, upon the request of BKHA, participate in loan counseling, budgeting, financing or distressed loan services, classes or programs.

8.3 Any breach of this Covenant shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but, except as otherwise provided in Section 8.5, this Covenant shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

8.4 In the event of any foreclosure of a purchase money mortgage or deed of trust in a first priority position on the Property (but subject to this Covenant), such foreclosing party ("**Foreclosing Party**") may sell the Property through a duly called and noticed foreclosure sale to any person or entity for more than the Maximum Sales Price provided that the foreclosing party strictly adheres to the provisions of this Section 8.4 and Section 8.5.

(a) The Foreclosing Party must notify BKHA in writing of the pending foreclosure on or before fifteen (15) days after the trustee or beneficiary files for record the notice of default as required by Idaho Code Section 45-1505 (2005) or the mortgagee serves upon the mortgagor an action for foreclosure and thereafter the Foreclosing Party shall send a copy of all notices sent to the Owner to BKHA; and

(b) At any time prior to the foreclosure sale and upon request of BKHA, the Foreclosing Party shall agree to grant, bargain, sell, transfer and convey to BKHA the entire debt obligation owed to the Foreclosing Party and take full assignment of the debt obligation, promissory note, and other loan documentation, including foreclosure rights, for an amount not to exceed the foreclosing party's actual principal and interest due together with foreclosure costs not exceeding those reasonable and customary in the lending industry. Notwithstanding the aforesaid, no obligation of mortgage principal exceeding 105% of the Maximum Sales Price of the property shall be recoverable by any foreclosing party. The foregoing sentence shall not obligate BKHA to purchase the debt obligation and BKHA may purchase the debt obligation for less than the amount calculated if it exceeds the amount due the Foreclosing Party or if BKHA and the Foreclosing Party otherwise agree.

8.5 In the event BKHA does not elect to purchase the debt obligation pursuant to Section 8.4(b) and the Foreclosing Party has strictly adhered to Section 8.4, or in the event BKHA has taken assignment of the debt obligation and is the Foreclosing Party, the Foreclosing Party may proceed with the foreclosure action and the Property may be



sold for more than the Maximum Sales Price to a person other than a Qualified Buyer. Proceeds, if any, from the foreclosure sale shall be distributed in accordance with this paragraph. Costs of foreclosure, including trustee services, sheriff's fees, and similar costs, and the amounts due the Foreclosing Party shall have first priority to the sale proceeds. Next, Owner shall be entitled to any amount in excess of the amounts paid in the preceding sentence up to the Maximum Sales Price less the administrative fee due BKHA pursuant to Section 6.2. Any excess amount received at a foreclosure sale shall be paid to BKHA. Provided that the Foreclosing Party has strictly adhered to the requirements of Sections 8.4 and 8.5 and all rights of redemption or challenges to the validity or enforceability of the foreclosure sale have expired, BKHA shall, within a reasonable time after receipt of a written request, quitclaim and release its interest in the Property pursuant to this Covenant to the party acquiring the Property at the foreclosure sale. Notwithstanding the aforesaid, no mortgage principal in excess of 105% of the Maximum Sale Price shall be recoverable by any foreclosing party.

8.6 If the Property is financed under the Mortgage Revenue Bond program administered by the Idaho Housing and Finance Association, the parties to this Covenant understand that various requirements of that program may be more stringent than those set forth in this Covenant and, in such case; the parties agree that those more stringent requirements shall prevail.

9. CONDEMNATION.

9.1 Within ten (10) days after Owner receives any notice that all or any portion of the Property is sought by condemnation, Owner shall notify BKHA. If all or any portion of the Property is taken by eminent domain or conveyed by Owner under threat of condemnation, the Maximum Sales Price, determined as of the date all or any portion of the Property is conveyed to the condemning authority or the valuation date for purposes of the condemnation proceeding, whichever is earlier ("**Valuation Date**"), shall be decreased by the assessment of damages paid to Owner for the value of or damages to the Property. Thereafter, the adjusted Maximum Sales Price, for purposes of Section 5.2, shall accrue appreciation from the Valuation Date.

9.2 Any assessment of damages paid by the condemning authority for the value of or damages to the Property shall be shared between Owner and BKHA. The amount of the assessment payable to Owner shall be that percentage of the assessment of damages determined by dividing the Maximum Sales Price as of the Valuation Date by the fair market value of the Property as of the Valuation Date less the product of that same percentage and three percent (3%) of the Maximum Sales Price as of the Valuation Date.<sup>1</sup> The remainder of the assessment shall be payable to BKHA. In the event BKHA and Owner are unable to agree on the fair market value of the Property, within thirty (30) days after receipt of a request by either BKHA or Owner, BKHA and Owner shall each appoint an appraiser who shall be a member of the

<sup>1</sup> Amount payable to Owner = Assessment x  $\frac{MSP - (.03 \times MSP)}{FMV}$



Appraisal Institute (or substitute organization which certifies and trains appraisers) with at least three (3) years experience in appraising residential real property in the county in which the Property is located. The appointed appraisers shall diligently proceed to appraise the fair market value of the Property, without regard to this Covenant, as of the Valuation Date. If the higher of the two appraisals is more than five percent (5%) of the lower appraisal and the parties cannot agree upon the fair market value of Property, the two appraisers shall together appoint a similarly qualified third appraiser within twenty (20) days after receipt of written demand made by either party. Such third appraiser shall select one of the prior two appraisals which most closely approximates the third appraiser's opinion of the Property's fair market value and the selected appraisal shall conclusively establish the fair market value of the Property as of the Valuation Date. In the event the difference between the first two appraisals is less than five percent (5%), the amount obtained by averaging the respective appraisals shall constitute the fair market value. Each party agrees to pay its respective appraiser's fee plus one-half of the third appraiser's fee. For purposes of this Section, fair market value shall mean the amount at which the Property would change hands between a willing buyer and a willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Furthermore, the existence of any encumbrances on Property (other than this Covenant ) and the benefit of putting the Property to its highest and best use considering all factors, shall be taken into consideration when determining the fair market value of the Property.

#### 10. INDEMNITY, WAIVER AND RELEASE.

10.1 OWNER ACKNOWLEDGES AND AGREES THAT BKHA, ITS AGENTS, EMPLOYEES AND CONTRACTORS, ARE NOT MAKING, HAVE NOT MADE AND EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY QUALIFIED BUYER OR QUALIFIED OCCUPANT AND/OR WITH RESPECT TO ANY ASPECT, FEATURE OR CONDITION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, THE EXISTENCE OF HAZARDOUS WASTE, THE SUITABILITY OF THE PROPERTY FOR OWNER'S INTENDED USE, OWNER'S ABILITY TO SELL THE PROPERTY FOR THE MAXIMUM SALES PRICE OR IN A TIMELY FASHION OR TO RENT THE PROPERTY TO A QUALIFIED OCCUPANT AT THE MAXIMUM RENTAL AMOUNT, FOR ANY LENGTH OF TIME OR IN A TIMELY FASHION. OWNER, QUALIFIED BUYER AND QUALIFIED OCCUPANT SHALL INDEPENDENTLY VERIFY ALL INFORMATION AND REPORTS REGARDING ANY ASPECT OR FEATURE OF THE PROPERTY, AN OWNER, A QUALIFIED BUYER OR A QUALIFIED OCCUPANT PROVIDED BY BKHA. BKHA DOES NOT GUARANTY THE ACCURACY OF ANY INFORMATION OR REPORTS PROVIDED BY BKHA, IT AGENTS, EMPLOYEES OR CONTRACTORS. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER AND QUALIFIED BUYER RELEASE BKHA FROM ANY AND ALL LIABILITY RELATING TO ANY ASPECT OR CONDITION OF THE PROPERTY, KNOWN OR UNKNOWN, FORESEEABLE OR UNFORESEEABLE, ACTUAL OR CONTINGENT, ARISING BY STATUTE, COMMON LAW OR OTHERWISE. AS USED HEREIN "HAZARDOUS WASTE" SHALL MEAN ANY HAZARDOUS WASTE OR POLLUTANTS, CONTAMINANTS OR HAZARDOUS WASTE AS DEFINED BY THE FEDERAL WATER POLLUTION CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1990 AND ANY AMENDMENTS THERETO, THE RESOURCE CONSERVATION AND RECOVERY ACT AND ANY AMENDMENTS THERETO OR ANY SIMILAR STATE, LOCAL OR FEDERAL LAW, RULE OR



REGULATION, INCLUDING, WITHOUT LIMITATION, ASBESTOS OR ASBESTOS CONTAINING MATERIALS, PCBs, PETROLEUM AND PETROLEUM PRODUCTS AND UREA-FORMALDEHYDE.

10.2 OWNER HEREBY RELEASES AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS BKHA FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITY, CAUSES OF ACTION, JUDGMENTS, EXPENSES (INCLUDING ATTORNEY FEES AND ATTORNEY FEES ON ANY APPEAL) (COLLECTIVELY "CLAIMS") ARISING FROM OWNER'S USE OR OCCUPANCY OF THE PROPERTY, AND SHALL FURTHER INDEMNIFY, DEFEND AND HOLD BKHA HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING FROM ANY BREACH OR DEFAULT IN THE PERFORMANCE OF ANY OBLIGATION ON OWNER'S PART TO BE PERFORMED UNDER THE TERMS OF THIS COVENANT, OR ARISING FROM ANY ACT, OMISSION OR NEGLIGENCE OF OWNER, OR ANY OF ITS AGENTS, CONTRACTORS, TENANTS, OCCUPANTS OR INVITEES, AND FROM AND AGAINST ALL CLAIMS OR ANY ACTION OR PROCEEDING BROUGHT THEREON; AND IN CASE ANY ACTION OR PROCEEDING BE BROUGHT AGAINST BKHA BY REASON OF ANY SUCH CLAIM, OWNER, UPON NOTICE FROM BKHA, SHALL DEFEND THE SAME AT OWNER'S EXPENSE BY COUNSEL REASONABLY SATISFACTORY TO BKHA. OWNER, AS A MATERIAL PART OF THE CONSIDERATION TO BKHA, HEREBY ASSUMES ALL RISK OF DAMAGE TO PROPERTY OR INJURY TO PERSONS IN, UPON OR ABOUT THE PROPERTY FROM ANY CAUSE AND OWNER HEREBY WAIVES ALL CLAIMS IN RESPECT THEREOF AGAINST BKHA, EXCEPT THOSE CLAIMS SOLELY CAUSED BY BKHA'S NEGLIGENCE OR WILFUL MISCONDUCT.

10.3 BKHA SHALL NOT BE LIABLE FOR INJURY OR DAMAGE WHICH MAY BE SUSTAINED BY THE PERSON, GOODS, WARES, MERCHANDISE OR PROPERTY OF OWNER, OR ANY OCCUPANTS OR INVITEES TO THE PROPERTY, OR ANY OTHER PERSON IN OR ABOUT THE PROPERTY CAUSED BY OR RESULTING FROM FIRE, STEAM, ELECTRICITY, GAS, WATER OR RAIN, FREEZING, OR LEAKAGE, OBSTRUCTION OR OTHER DEFECTS OF THE PIPES, SPRINKLERS, WIRES, APPLIANCES, PLUMBING, AIR CONDITION, LIGHTING FIXTURES OR OTHER ASPECT OR FEATURES OF THE PROPERTY.

## 11. DEFAULT.

11.1 Upon the expiration of thirty (30) days' (ten [10] days' for the failure to pay money) written notice from any party bound or benefited by this Covenant stating the other party has failed to perform its obligations hereunder, such party shall be deemed to be in default unless such failure to perform is cured within the thirty (30) days (ten [10] days' for the failure to pay money) period, in which case no default shall be deemed to have occurred. Notwithstanding the foregoing sentence, if such default (other than the failure to pay money) cannot be cured within the thirty (30) day period and the defaulting party is diligently working to remedy the default, the cure period shall be extended for such time as is reasonably necessary to cure the default.

11.2 In order to ensure compliance with the provisions of this Covenant, BKHA, by its authorized representative, may inspect the Property between the hours of 8:00 AM and 5:00 PM, Monday through Friday, or at such other time as may be agreed to by Owner and BKHA, after providing the Owner with not less than twenty-four (24) hours' prior written notice.



11.3 Upon receipt of a notice of default and prior to the expiration of the applicable cure period, an Owner may request in writing a hearing before the BKHA Board of Commissioners to determine the merits of the allegations. Upon BKHA's receipt of a hearing request, the remainder of the applicable cure period shall be tolled pending the outcome of the hearing, and a hearing shall be held at the next regularly scheduled meeting of the BKHA Board of Commissioners. If no hearing is requested in writing during such time period and the violation is not cured within the applicable period, the Owner shall be in default of this Covenant. If a hearing is held before the BKHA Board of Commissioners, the decision of the BKHA Board of Commissioners shall be final for purposes of determining if a violation has occurred.

11.4 It is expressly agreed that no breach of this Covenant shall entitle any Owner, Qualified Buyer, Qualified Occupant, BKHA or any other party affected by this Covenant to terminate this Covenant, but such limitation shall not affect in any manner any other rights or remedies which such persons or entities may have hereunder by reason of any breach of this Covenant.

## 12. REMEDIES.

12.1 In the event of a default or breach of any term, covenant, warranty or provision of this Covenant, the non-defaulting party may at any time thereafter without limiting the exercise of any right or remedy at law or in equity which the non-defaulting party may have by reason of such default or breach;

- (a) Seek specific performance of this Covenant;
- (b) Perform any work, pay any amounts due, or complete any duties or obligations of Owner and otherwise exercise any self-help remedies;
- (c) Enjoin any Sale of or proposed Sale of the Property; and
- (d) Require the immediate Sale of the Property to a Qualified Buyer in accordance with Section 3.2.

12.2 Without limiting any other remedy available to BKHA, in the event an Owner shall accept or otherwise receive consideration in excess of the Maximum Sales Price or Maximum Rental Amount in violation of this Covenant or the Guidelines, such Owner shall immediately pay such amount or the cash equivalent of such amount to BKHA. Such amount shall accrue interest from the date such consideration was received by the Owner to the date paid to BKHA at the rate of Eighteen percent (18%) per annum, compounded on an annual basis. Furthermore, Section 14.2 shall apply to any recovery or enforcement action commenced pursuant to this Section.

12.3 In the event of a default by Owner, the Maximum Sales Price shall, upon the date such default first occurred, automatically cease to increase as set out in Section 5.1, and shall remain fixed until the date Owner cures the default.



12.4 In the event that significant damage or reduction in the utility of the Property has occurred during the term of Owner's ownership (other than ordinary wear and tear and functional obsolescence due only to the passage of time), BKHA may reduce the Maximum Sale Price by an amount sufficient to repair the damage or restore the Property's utility as a residence as determined necessary by BKHA in its sole and absolute discretion.

12.5 In the event BKHA pays any amount payable by Owner or incurs any expense due to the default of Owner, such amount shall be immediately due and payable by Owner upon receipt of an invoice from BKHA. Interest shall accrue from the date the invoice is received by Owner to and including the date BKHA receives payment in full at a rate equal to the lesser of (i) the highest rate allowed by law, and (ii) twelve percent (12%). Furthermore, in the event the Owner does not pay the invoice in full within ten (10) days after receipt, BKHA may file a lien on the Property for the amount of said expenses plus accrued interest as set forth above and such lien shall be effective upon recording in the county in which the Property is located. Upon any Sale of the Property, if the Owner has not previously paid all amounts due BKHA, BKHA shall be paid the amounts it is due from the sale proceeds and any escrow company or closing agent handling the transaction shall be bound to pay such amounts due as though specifically instructed by Owner and Owner agrees to and acknowledges the same. Notwithstanding the foregoing sentence, BKHA's right to the sale proceeds shall not have priority over any lien on the Property recorded prior to any lien filed by BKHA. In the event BKHA does not file a lien for the amounts it is due, BKHA's claim shall be subordinate to any recorded lien on the Property.

### 13. NOTICES.

13.1 All notices given pursuant to this Covenant shall be in writing and shall be given by personal service, by United States certified mail, return receipt requested, or by United States express mail or other established express delivery service (such as Federal Express) with signature confirmation required, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below. If a notice is delivered to Owner by personal service or by United States express mail or other established express delivery service (such as Federal Express), such notice may be delivered to the Property. If a notice must be given to a person other than one designated below or otherwise sent to Owner, such notice shall be sent to the person and address shown on the then current real property tax rolls of the county in which the Property is located. All notices given to the appropriate party shall be sent to the address set forth below:

To Declarant:           Thunder Spring III, LLC  
                                  c/o Richard K. Robbins  
                                  Wareham Development Company, Inc.  
                                  1120 Nye Street, Suite 400  
                                  San Rafael, Ca 94901



To BKHA: Director  
BLAINE-KETCHUM HOUSING AUTHORITY  
P.O. Box 550  
Hailey, ID 83333

The person and address to which notices are to be given may be changed at any time by such party upon written notice to the other party. All notices given pursuant to this Covenant shall be deemed given upon receipt.

13.2 For the purpose of this Covenant, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to Section 13.1 as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to 13.1, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (a) the date of the attempted delivery or refusal to accept delivery, (b) the date of the postmark on the return receipt, or (c) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

#### 14. GENERAL PROVISIONS

14.1 This Covenant shall be a permanent burden on the Property, for the benefit of BKHA, and shall run with the land.

14.2 In the event any party bound or affected by this Covenant initiates or defends any legal action or proceeding in any way connected with this Covenant, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

14.3 Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Covenant or related document.

14.4 The laws of Idaho, without giving effect to its choice of law principles, govern all matters with respect to this Covenant, including all tort claims.

14.5 This Covenant shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person or entity acquiring the Property, or any portion thereof, or any interest therein, whether by merger, consolidation, dissolution, operation of law or otherwise; provided,



however, that if any Owner Sells all or any portion of the Property in accordance with this Covenant , such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Property arising under this Covenant after the Sale but shall remain liable for all obligations arising under this Covenant prior to the Sale. The new Owner of the Property or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Covenant with respect to the Property or portion thereof after the date of Sale.

14.6 This Covenant may only be amended by a written agreement signed by Owner and BKHA that identifies itself as an amendment to this Covenant.

14.7 Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

14.8 The parties to this Covenant, and Owners, agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

14.9 BKHA may amend the Guidelines at any time in its sole and exclusive discretion.

14.10 The failure of BKHA to insist upon strict performance of any terms, covenants or conditions of this Covenant shall not be deemed a waiver of any rights or remedies BKHA may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants or conditions of this Covenant by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.



14.11 The terms of this Covenant are subject to the terms and conditions of the Declarations, Covenants, Conditions and Restrictions of Pineridge Townhomes recorded in the official records of Blaine County, Idaho, on December 20, 2005, as Instrument No. 530201, records of Blaine County, Idaho ("Original Declaration"), and as supplemented and amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530204 ("First Amendment"), and as further supplemented and amended by that certain Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded February 22, 2006, as Instrument No. 532371, records of Blaine County, Idaho ("Second Amendment"), and as further supplemented and amended by that certain Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded JUNE 19<sup>th</sup>, 2006, as Instrument No. 536511, records of Blaine County, Idaho ("Third Amendment") (the Original Declaration, the First Amendment, the Second Amendment, and the Third Amendment are hereinafter referred to collectively referred to as the "Declaration"). In the event of any conflict between this Covenant and the Declaration, including without limitation the terms with respect to use, occupancy, maintenance, repair and insurance requirements, the terms of the Declaration shall control.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

THE BLAINE-KETCHUM HOUSING AUTHORITY

DECLARANT:

Thunder Spring III, LLC,  
An Idaho limited liability company

By: [Signature]  
Title: Executive Director

By: [Signature]  
Richard K. Robbins,  
Managing Member

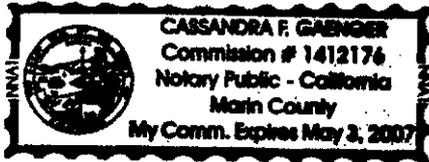


This document provided courtesy of Sun Valley Title

STATE OF California )  
 ) ss.  
County of Main )

On this 7<sup>th</sup> day of June, 2006, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Richard K. Robbins, the managing member of Thunder Spring III, LLC, an Idaho limited liability company, known to me, or proven to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Cassandra F. Gaenger  
Name: Cassandra F. Gaenger  
Notary Public for Idaho California  
Residing at 219 Forest St. San Rafael, CA  
My commission expires 5/3/07

STATE OF IDAHO )  
 ) ss.  
County of Blaine )

On this 13<sup>th</sup> day of June, 2006, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Michael David Blum - Ketchum Housing Authority (n), the Executive Director of Blum - Ketchum Housing Authority (n), known to me, or ~~proven~~ to me by oath and identification, to be the person whose name is subscribed to this instrument, and acknowledged to me under oath that he/she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Name: Jamie Springer  
Notary Public for Idaho  
Residing at Gene  
My commission expires 5-19-2010



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Sun Valley Title

**EXHIBIT "A"**

**LEGAL DESCRIPTION  
OF  
PROPERTY**

Sublots 19, 21, 22, 25, 27 and 28 of Pineridge Townhomes Phase 3, Blaine County, Idaho, according to the official plat thereof, recorded JUNE 19<sup>th</sup>, 2006, as Instrument No. 536510, records of Blaine County, Idaho.





**Please Record and return to:**

Amanda Breen  
Amanda Breen Law, PLLC  
371 Walnut Avenue  
P.O. Box 3898  
Ketchum, Idaho 83340-3898  
(208) 721-1760  
amanda@amandabreenlaw.com

**Instrument # 672261**

HAILEY, BLAINE, IDAHO  
8-24-2020 03:01:56 PM No. of Pages: 3  
Recorded for : AMANDA BREEN LAW, PLLC  
JOLYNN DRAGE Fee: 16.00  
Ex-Officio Recorder Deputy  
Index to: AMENDED COVENANTS & RESTRICTIONS

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**SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINERIDGE TOWNHOMES**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINERIDGE TOWNHOMES (“Amendment”), supplementing and amending the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes, recorded on December 20, 2005 as Instrument No. 530201, records of Blaine County, Idaho, and the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes, recorded on December 20, 2005 as Instrument No. 530204, records of Blaine County, Idaho (collectively, “Declaration”) is made pursuant to Article IX, Section 9.2 of the Declaration on the date first signed below.

**I. The following provision shall replace Article VI, Section 6.2 in its entirety:**

6.2 Personal Obligations. Each assessment or installment, together with any late charge, interest, collection costs, and reasonable attorney's fees, shall be the personal obligation of the person or entity who was the Owner at the time such assessment, or installment became due and payable. If more than one person or entity was the Owner of a Townhome, the personal obligation to pay such assessment, or installment respecting such Townhome shall be both joint and several. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use or enjoyment of, or by abandonment of his Townhome.

**II. The following provision shall be added to the Declaration as Article VI, Section 6.2.1:**

6.2.1 Personal Liability of Successor in Interest for Assessments. A successor in interest, whether by purchase, gift, quitclaim, devise, foreclosure, or by any other means of transfer, of a Townhome shall be jointly and severally liable with the seller for all unpaid assessments against the Townhome up to the time of grant or conveyance, without prejudice to the successor in interest’s right to recover from the seller the amount paid by the successor in interest for such assessments.



**III. No other modifications:**

Except as modified herein, all other provisions of the Declaration remain in full force and effect. In the event of any conflict between this Amendment and any prior provision in the Declaration or any amendment thereto, this Amendment shall control.

**IV. Authority**

This amendment was authorized by a vote by written ballot of at least sixty-seven percent (67%) of the Owners according to their percentage interest pursuant to Article IX, section 9.2 of the Declaration.

**SECRETARY'S CERTIFICATE**

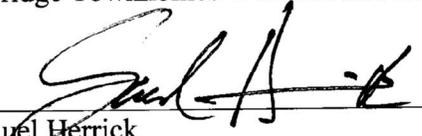
I, Jennifer Smith, Secretary of the Pineridge Townhomes Owners Association, Inc., received and tallied the votes of Owners via a written ballot on the date of tally, August 3, 2020. A total of 24 Owners, representing at least sixty-seven percent (67%) of the Owners according to their percentage interest voted to amend the Declaration as set forth above. The amendment was duly adopted.

Pineridge Townhomes Owners Association, Inc.

By:   
Jennifer Smith  
Its Secretary

IN WITNESS WHEREOF, the undersigned has executed the foregoing document effective as of the date first above written, and certifies that the amendment was duly adopted.

Pineridge Townhomes Owners Association, Inc.

By:   
Samuel Herrick  
Its President





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# AMANDA BREEN LAW PLLC

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August 20, 2020

Blaine County Recorder  
206 1st Ave. S., Ste. 200  
Hailey, ID 83333

Re: Recording of Amendment of Declaration of CC&Rs

Dear Sir/Madam,

Please find enclosed the original Second Amendment to Declaration of CC&Rs for Pineridge Townhomes. Please record this document and return the recorded document to my office. I have enclosed a check in the amount of \$16.00 for the three-page recording fee, and a self-addressed, stamped envelope. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amanda Breen'.

Amanda Breen  
Attorney at Law



This document  
provided courtesy of  
Sun Valley Title

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**BYLAWS**  
**OF**  
**PINERIDGE TOWNHOMES OWNERS ASSOCIATION, INC.**  
**an Idaho Non-Profit Corporation**

---

LAWSON & LASKI, PLLC  
675 Sun Valley Road, Suite A  
Post Office Box 3310  
Ketchum, Idaho 83340

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## BYLAWS

OF

### PINERIDGE TOWNHOMES OWNERS ASSOCIATION, INC.

an Idaho Non-Profit Corporation

#### Article 1 NAME AND LOCATION

The name of the association is PINERIDGE TOWNHOMES OWNERS ASSOCIATION, INC. (hereinafter referred to as the "**Association**"). The Association is organized under the Idaho Nonprofit Corporation Act.

#### Article 2 DEFINITIONS

**2.1 Declaration.** The "**Declaration**" shall mean, collectively, the Declaration of Covenants, Conditions and Restrictions for the Pineridge Townhomes, and any amendments or supplements recorded or to be recorded pursuant thereto, and applicable to the townhome development commonly known and referred to as Pineridge located in the Ketchum, Idaho.

**2.2 Other Definitions.** Each and every definition set forth in Article I of the Declaration shall have the same meaning herein as therein, and each and every such definition is incorporated by reference herein and made a part hereof as if once again fully written and set forth at length hereat.

#### Article 3 MEMBERSHIP; VOTING RIGHTS

The qualification for membership and the voting rights of members shall be as set forth in Article V of the Declaration, all of which are hereby incorporated by reference herein as if set forth in full. The membership and voting rights as set forth in Article V of the Declaration may only be changed, altered or amended by an affirmative vote of seventy-five percent (75%) of the members of the Association at a meeting noticed and held in accordance with these Bylaws.

#### Article 4 MEETINGS OF MEMBERS

**4.1 Organization Meeting of the Members.** An organizational meeting shall be held as soon as practicable after incorporation of the Association, and the directors elected then shall hold office until the first annual meeting. All offices of the Board of Directors (the "**Board**") shall be filled at the organizational meeting.

**4.2 Regular Meetings of Members.** The first annual meeting of members of the Association shall be held within forty-five (45) days after the closing of the sale of the Townhome that represents the fifty-first (51st) percentile interest of Townhomes approved for sale in the preliminary plat map for the Project, but in no case later than nine (9) months after the closing and recording of the sale of the first Townhome within the development. Thereafter,



regular meetings of members of the Association shall be held at least once in each year at a time and place within the development, or at an alternate location, all as selected by the Board.

**4.3 Special Meetings.** Special meetings of the members may be called at any time by the president or by a majority of the Board, or upon written request of the members representing at least twenty-five percent (25%) of the votes in the Association, in accordance with the allocated percentage interest for voting rights set forth in Exhibit "A" to the Declaration.

**4.4 Notice of Meetings.** Notice of all members meetings, annual or special, shall be hand delivered or sent prepaid United States Mail and shall be given not less than fifteen (15) days nor more than sixty (60) days prior to the time of said meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each member entitled to vote there at and to each mortgagee addressed to such member's or mortgagee's address last appearing on the books of the Association for the purpose of notice. Mailed notices shall be deemed received 48 hours after same are mailed by U.S. mail with a certificate or proof of mailing; notice by hand delivery shall be deemed received upon delivery. It shall be the responsibility of each Owner to provide any and all mortgagee information to the Association in a timely manner and to keep such information updated with the Association.

**4.5 Quorum.** The presence at any meeting in person or by proxy of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association, in accordance with the allocated percentage interest for voting rights set forth in Exhibit "A" to the Declaration, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours nor more than 30 days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be at least 25% of said total votes. Any meeting of members whereat a quorum is present may be adjourned for any reason to a time not less than 48 hours nor more than 30 days from the time of such meeting by members representing a majority of the votes present thereat, either in person or by proxy. Any mortgagee, through its designated representative, shall be entitled to attend any such meeting but shall not be entitled to vote at the meeting or be counted for purposes of establishing a quorum.

**4.6 Proxies.** At all meetings of members each member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease when the ownership interest or interests of such member entitling him to membership in the Association ceases.

**4.7 Order of Business.** The order of business of all meetings of the members shall be as follows:

- (a) roll call;
- (b) proof of notice of meeting or waiver of notice;
- (c) reading of minutes of preceding meeting;
- (d) reports of Board and officers;
- (e) election of directors, if any are to be elected;



- (f) unfinished business; and
- (g) new business.

**4.8 Parliamentary Procedure.** All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

**4.9 Majority of Owners.** Except as otherwise provided herein or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

**4.10 Action Without Meeting.** Any action which may be taken at a meeting of the members may be taken without a meeting if authorized by a writing signed by all of the members who would be entitled to vote at a meeting for such purpose and filed with the secretary.

## **Article 5 DIRECTORS**

**5.1 Number.** Prior to the termination of any Special Declarant Rights and Additional Reserved Rights of Declarant as set forth in Article II of the Declaration and subject to Declarant Control, the Board shall consist of the number of five (5) directors. Not later than the termination of any Special Declarant Rights and Additional Reserved Rights, the majority of the Board shall consist of Townhome Owners other than the Declarant of which two (2) members of the Board shall be Owners of Deed Restricted Townhomes.

**5.2 Term of Office.** Each director's term shall be for a period of two (2) years. The director's terms shall be staggered; at the meeting held for election of the first Board, three (3) directors shall be elected for a term of two years and two (2) directors shall be elected for a term of one (1) year; thereafter, at each annual election, the members shall elect sufficient directors for a term of two (2) years to fill all vacancies. All directors shall hold office until their successors are elected and qualified or until he/she resigns or has been removed in the manner provided for herein.

**5.3 Nomination.** Any member may propose a member for consideration for inclusion in the slate of members presented to the annual meeting for election to the Board, provided that such proposed name be given in writing to the Board fifteen (15) days or more prior to the annual meeting, unless such notice is otherwise waived by the Board.

**5.4 Election.** Subject to Declarant Control set forth in Article II of the Declaration, election to the Board shall be by secret ballot, if necessary due to more candidates than positions to fill. At such election, the members, or their proxies, may cast, in respect to each vacancy, as many votes as they are entitled to cast under the Exhibit "A" of the Declaration. The candidates receiving the highest number of votes shall be deemed elected.

**5.5 Compensation.** No director shall receive any compensation for any service rendered to the Association; provided, however, any director may be reimbursed for actual out-of-pocket expenses incurred in the performance of such duties.

**5.6 Removal; Vacancies.** Subject to Article II of the Declaration regarding Declarant Control, following notice and an opportunity to be heard as required by this Declaration and the Act, the Townhome Owners, by sixty-seven percent (67%) vote of all persons present and entitled to vote at a meeting of the Townhome Owners, in accordance with the allocated percentage interest for voting rights set forth in Exhibit "A" to the Declaration, at



quorum is present, may remove a member of the Board of Directors with or without cause, other than a member appointed by the Declarant. In the event of the death, resignation or removal of a director, his/her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

## Article 6 MEETINGS OF DIRECTORS

**6.1 Regular Meetings.** Regular meetings of the Board shall be held at such intervals as determined by the Board without notice at such place and hour as may be fixed from time to time by resolution of the Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day, which is not a legal holiday. Notice of the time and place of any such meeting shall be posted at a prominent place or places within the common area.

**6.2 Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days prior notice to each director, which notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be posted in the manner prescribed for notice of regular meetings not less than 72 hours prior to the scheduled time of the meeting.

**6.3 Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business at a meeting of the Board. 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.

**6.4 Conduct of Meetings.** Regular and special meetings of the Board shall be open to all members of the Association; provided, however, that Association members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of the members of the Board, adjourn a meeting and reconvene in executive session to discuss and/or vote upon any situation in which the Board determines such is reasonably appropriate, and any personnel matters, litigation in which the Association is or may become involved and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

**6.5 Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

## Article 7 POWER AND DUTIES OF THE BOARD

**7.1 Powers.** The Board shall have all powers conferred upon the Association as set forth herein and in the Declaration, subject to the limitations sets forth in Article IV of the Declaration and excepting only those powers expressly reserved to the members.

**7.2 Duties.** It shall be the duty of the Board:

- (a) to cause to be kept a complete record of all of its acts;



(b) to supervise all officers, agents and employees of the Association, and to see that their duties are properly performed; and

(c) to delegate its powers as provided in the Declaration.

## Article 8 OFFICERS AND THEIR DUTIES

**8.1 Enumeration of Offices.** The officers of the Association, who shall at all times be members of the Board, shall be a president and vice president, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

**8.2 Election of Officers.** The election of officers shall take place at the organizational meeting of the Board and thereafter at each meeting of the Board following each annual meeting of the members.

**8.3 Term.** The officers of this Association shall be elected annually by the Board and each officer shall hold office for one year unless he shall sooner resign, or shall be removed, or shall otherwise be or become disqualified to serve.

**8.4 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.

**8.5 Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**8.6 Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer who is being replaced.

**8.7 Multiple Offices.** The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 8.4 hereof.

**8.8 Duties.** The duties of the officers shall be as follows:

(a) **President.** The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and other written instruments, and shall sign all promissory notes relating to the Association.

(b) **Vice President.** The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) **Secretary.** The secretary, or a designated representative approved by the Board, shall record, the votes and keep the minutes of all meetings and proceedings of the Board and of the members, shall serve notices of meetings of the Board and of the members, shall keep appropriate current records showing the members of the Association together with



and mortgagees when requested and provided with their addresses, and shall perform such other duties as required by the Board.

(d) **Treasurer.** The treasurer, or a designated representative approved by the Board, shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board, shall sign all checks (unless otherwise signed by the President or another member of the Board) and co-sign promissory notes of the Association, shall keep proper books of account, shall cause an annual operating statement reflecting income and expenditures of the Association for its fiscal year to be prepared and shall cause copies of said statement to be distributed to each member within ninety (90) days after the end of such fiscal year, and shall cause an annual budget to be prepared and presented to each member.

To the extent that the President and/or Treasurer are not available to execute the agreements, contracts, deeds, checks and other instruments of the association, the Board may designate in writing such other person or persons to do so. All checks for unbudgeted items that are greater than Three Thousand Dollars (\$3,000) shall be signed by at least one officer.

**8.9 Compensation.** No officer shall receive any compensation for any services rendered to the Association; provided, however, any officer may be reimbursed for actual out-of-pocket expenses incurred in the performance of such duties.

#### **Article 9 COMMITTEES**

Subject to any contrary provisions of the Declaration and these bylaws, if any, the Board may appoint committees, as it deems appropriate in order to carry out its purpose.

#### **Article 10 ASSESSMENTS**

As more fully provided in Article VI of the Declaration, each member is obliged to pay to the Association annual and special assessments to be collected as therein set forth, all of which are hereby incorporated by reference herein as if set forth in full. The assessments set forth in Section 6.4.3 B of Article VI of the Declaration may only be changed, altered or amended by an affirmative vote of seventy-five percent (75%) of the members of the Association, according to their allocated percentage interest for voting rights set forth in Exhibit "A" of the Declaration, at a meeting noticed and held in accordance with these Bylaws.

#### **Article 11 AMENDMENTS**

These bylaws may be altered, amended or repealed by members of the Association holding sixty-seven percent (67%) of the votes, in accordance with the members allocated percentage interest for voting rights as set forth in Exhibit "A" to the Declaration. Notwithstanding the foregoing, the percentage of the voting power of the members of the Association, other than the Declarant, necessary to amend a specific clause or provision in these bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision as set forth in these bylaws or in the Declaration.



## Article 12 GENERAL PROVISIONS

**12.1 Conflicting Provisions.** In the case of any conflict between any provisions of the Declaration and these bylaws, the conflicting provisions of the Declaration shall control.

**12.2 Fiscal Year.** The fiscal year of the Association shall be a calendar year unless and until a different fiscal year is adopted by the members at a duly constituted meeting thereof.

**12.3 Proof of Membership.** No person shall exercise the rights of membership in the Association until satisfactory proof thereof has been furnished to the secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the owner of an interest in a Townhome entitling him to membership. Such deed of policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

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

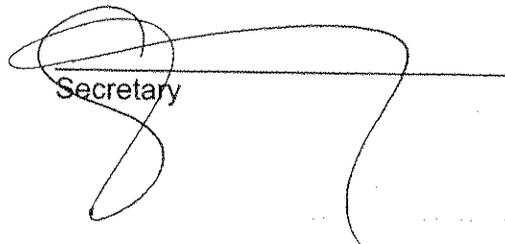
**12.5 Consent to Waiver of Notice.** The transactions at any meeting of the Board, however noticed, shall be held as valid as though they had occurred at a meeting duly held after regular notice if a quorum be present and either before or after the meeting each director not present thereat signs a written waiver of notice or a consent to the holding of such meeting or an approval of the true and correct minutes thereof. All such waivers, consents or approvals shall be filed with the records of the Board and made a part of its minutes.

**12.6 Reserves.** Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner set forth in the Declaration and shall be deposited into insured interest-bearing accounts.

### CERTIFICATE OF SECRETARY

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Secretary of Pineridge Townhomes Owners Association, Inc, an Idaho nonprofit corporation, does hereby certify that the above and foregoing bylaws were duly adopted by the Board of Directors of said Association on the 29<sup>th</sup> day of November, 2005, and that they now constitute said bylaws.

  
Secretary



This document  
provided courtesy of  
Sun Valley Title

**PINERIDGE TOWNHOMES OWNERS ASSOCIATION, INC.  
RULES AND REGULATIONS**

Adopted on \_\_\_\_\_, 2005.

**WHEREAS**, the Bylaws ("**Bylaws**") of the Pineridge Townhomes Owners Association, Inc. (the "**Association**"), the Articles of Incorporation of the Association (the "**Articles**") and the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes, recorded \_\_\_\_\_, 2005, recorded as Instrument No. \_\_\_\_\_ in the Official Records of Blaine County, Idaho ("**Declaration**"), grant to the Board the powers and duties necessary to conduct the affairs of the Association and to make such rules and regulations as they deem in the best interest of the Association (all terms not defined herein shall have the same meaning as set forth in the Declaration);

**WHEREAS**, for the health, safety, welfare, and comfort and convenience of all Owners, guests and tenants, the Board wishes to establish policies so that it may fairly and consistently enforce the governing documents;

**NOW, THEREFORE, BE IT RESOLVED** that in addition to the guidelines set forth in the Declaration, the following rules and regulations shall apply to all Owners, guests and tenants of the Association and are hereby adopted by the Board and effective as of the date set forth above:

**A. Parking.**

1. Owner Vehicle Parking. Parking of Owners' and tenants' vehicles shall be limited to interior garage space for those Townhomes that have garages, and for those Townhomes that do not have garages, parking of vehicles shall be limited to the areas demarcated on the Plat Map as Limited Common Area for a particular Sublot. No Owner may use any parking space assigned to another Owner. Motorcycles are hereby considered to be one vehicle.

2. Guest Parking. Guest parking areas shall be limited to those areas marked as guest parking. All designated guest parking shall be limited to use by guests only, and shall not be used by Owners and/or tenants.

3. Snow Removal. Upon request of the Association, owners shall move their vehicles for snow removal. Any vehicle not moved upon request, may be subject to towing.

4. Fire Lanes. All fire lanes shall remain free of all vehicles at all times. No parking shall be permitted at any location on the Property unless specifically designated for parking by the Association.

5. Repairs. The costs for repairs or replacement of any Common Area damage caused by a vehicle, including without limitation, dripping oil, leaking gas, damage to landscaping, shall be the sole financial responsibility of the vehicle owner.

6. Prohibitions. All parking spaces shall be used for parking operable vehicles only; further, there shall be no working on vehicles in any outdoor space for periods of time in excess of four hours. No boat or any other type of water craft, trailer, recreational vehicle, camper, snow machines or commercial truck (excluding a pick up truck) or vehicle shall be parked or left within the Project. No Owner may use any parking space for storage or use any

**Deleted:** truck,  
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in a manner that obstructs or interferes with any other Owner's or guest's parking rights or that constitutes a safety hazard.

7. Enforcement. Without limiting the generality of the powers of the Association with respect to parking, the Association is specifically authorized, but not obligated, to remove any vehicle parked in any area not designated for parking, or any vehicle parked in any space that is assigned to another person or reserved for a specific use, or any vehicle parked in an obstructing or hazardous manner, in all cases at the expense of the Owner or occupant that owns such vehicle. Notwithstanding the foregoing, expenses incurred by the Association in connection with such removal (and storage, if necessary) shall be a personal obligation of such Owner even though the expense was incurred due to the Owner's guest, tenant, or invitee; further, if the Owner fails to pay such amount within seven (7) days after notice to Owner of the amount owed, then the failure to pay shall be a default by the Owner and such expenses shall automatically become a reimbursement assessment determined and levied against such Owner enforceable by the Association as provided in the Declaration.

8. Parking Passes. The Board may, in its sole discretion, issue parking passes to the Owners of the Townhomes and monitor parking with the use of such passes.

#### **B. Animals/Pets.**

1. Dogs and Cats. Up to two (2) adult dogs, and up to two (2) adult cats may be kept on each Sublot, provided the following: (i) that they are not kept, bred or maintained for any commercial purpose, (ii) that such animals are not allowed to run at large and dogs shall not be allowed to bark excessively at any time of the day or night, (iii) that all dogs while outside of a Townhome shall be on a leash at all times except if contained in a fenced backyard of Sublots 1, 2, 3, 4, 5, 6, 7, or 8; (iv) that no such dog is unreasonably aggressive, and (v) Owners or caretakers of all dogs are to immediately clean up after their pets.

2. Other Ordinary Household Pets. Subject to the restriction on the number of dogs and cats set forth above as well as the general prohibitions set forth herein, birds, other small caged animals, and other ordinary household pets may be maintained on any Sublot.

3. General Prohibitions. The capturing, trapping or killing of any wildlife within the Property is prohibited, except in circumstances posing an imminent threat to the safety of persons. No horses, cattle, livestock, household animals or other animals of any kind shall be raised, bred or kept or maintained on any Sublot, except as specifically set forth herein.

4. Enforcement. Any animal determined in the sole discretion of the Board to be running at large, creating a nuisance, making objectionable noise, endangering any person's health, safety, or property, or otherwise constituting an inconvenience to any Owner, shall be removed upon written request of the Board. If the owner of the animal fails to honor such request for removal within thirty (30) days after such written request, the Board shall be entitled to remove the animal, without liability therefor.

#### **C. Decks, Patios, Balconies, Porches and Exterior Areas.**

1. No Unsightly Articles. No unsightly articles shall be permitted to remain so as to be visible from any roads or streets or adjoining Sublots.



This document provided courtesy of Sun Valley Title as a storage facility for anything other than a gas or propane barbeque, plants, and patio furniture.

**Permitted Items.** Decks, patios, balconies and porches shall not be used as a storage facility for anything other than a gas or propane barbeque, plants, and patio furniture.

Deleted: , and neatly stacked firewood.

3. **Prohibited Items.** Without limiting the foregoing, the storage of bikes, toys, camping equipment, sporting equipment and building supplies shall be considered unsightly articles which are prohibited on the decks, patios, balconies and porches if they are visible from any roads, streets or other Sublots. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view.

Deleted:

**D. Refuse.** Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Sublot except within an enclosed structure or as appropriately screened from view.

**E. Interior Window Coverings.** Standard blinds, curtains or window shades, in good condition, are the only permitted window coverings. The use of flags, sheets, blankets or towels as window coverings is prohibited. No plastic or aluminum may be installed on the exterior or interior of any windows or doors.

**F. Decorations.**

1. **Noncommercial Signs, Flags, Posters and Banners.** Noncommercial signs, posters, flags or banners may not be displayed by an Owner with the exception of the American flag.

Deleted: provided such sign, poster, flag or banner is not of an unreasonable size, as solely determined by the Board.

2. **Holiday Decorations.** Holiday decorations, including without limitation lights, may be installed on the exterior of a Townhome or on a Sublot no earlier than one (1) month prior to the holiday and shall be removed by the Owner no later than two (2) months after the holiday.

**G. No Exterior Modifications and/or Additions.** It is the intent of the Board that the Property will not be altered from its improved state as of the completion date of the construction of the original improvements by Declarant.

1. **No Exterior Modifications.** No improvements, alterations, repairs, change of paint colors, excavations, changes in grade, landscaping or other work which may in any way alter the exterior of any Sublot or the improvements located thereon or the Common Areas, may be made without the prior written consent of the Board and without the prior written approval of all adjoining Townhome Owners.

2. **No Additions.** Further, no building, fence, wall, gates or other structure shall be constructed or erected, altered, or built without the prior written approval of the Board and all adjoining Townhome Owners.

3. **Submittal by Owner and Consent of Board.** Owner shall deliver a written request to the Board of any such proposed changes and shall include appropriate drawings and any other reasonably requested materials. The Board may, in its sole discretion, submit such submitted drawings and materials to an architect designated by the Board, in order to assist the Board in determining the impact of the proposal on the entire Pineridge Property, including without limitation whether such proposal is in harmony with the design of the Property. The



the approval shall pay all fees of such architect incurred in connection with any and all parts of the approval process, including through final completion, in advance.

4. Preliminary Approval of Board. Upon review of the submitted drawings and materials, and review by an Architect, if deemed necessary by the Board, and receipt of written approval of all adjoining Townhome Owners, the Board may grant preliminary written approval which shall be subject to final approval upon receipt and approval of the following: (i) complete elevations and drawings, (ii) valid building permit, (iii) construction schedule, (iv) designation of contractor, and (v) evidence of insurance (in amounts and from a company deemed acceptable by the Board) coverage indemnifying the Association, all other Owners and third persons from any personal injury or property damage arising from acts or inaction on the part of the Owner or the Owner's contractor during the course of the requested work.

5. Final Approval of Board. On receipt of final approval from the Board, Owner may proceed with the proposed work; however, no changes may be made to the proposed work without the prior written consent of the Board. Any work not in conformance with the final approval shall be removed at the Owner's sole expense. Owner shall notify the Board when the work is complete and the Board, or a designated architect, may inspect such work.

H. Occupancy Limits. The maximum number of occupants in any Townhome shall be limited to two (2) persons per bedroom. Exceptions to this occupancy limit will be for short-term (meaning no more than 10 consecutive days) guests only, and shall be limited to two (2) additional persons per bedroom above the limit stated above.

I. Security and Fire Safety.

1. Evidence of Insurance. Each Townhome Owner, at their own expense, shall provide to the Association, on an annual basis, evidence of property and liability insurance for their Sublot.

2. Notification of Use to Association. Prior to, and in no event later than the first day of occupation, Owner shall notify the Association that their Townhome is to be or being occupied by Owner or anyone else.

3. Notification of Contact Information. Each Owner shall provide to the Association emergency contact information for the Owner and their domestic employees. Any change to the contact information shall be provided to the Association on a timely basis.

J. Notice to Tenants and Guests. It is the responsibility of each Townhome Owner to notify his/her guests, tenants, invitees, management agents, contractors and other service people of these Rules and Regulations. For purposes of enforcement of these Rules and Regulations, as well as the Association Bylaws, Articles, and Declaration, each Owner shall be made responsible for the actions of their guests, tenants, invitees, management agents, contractors and other service people while on Association Property.

K. Business/Commercial Operations and Signs.

1. No Business or Commercial Operations. Owners may conduct business activities within a residence located upon a Sublot so long as such business activities (i) are not observable or detectable from the exterior of the residence, (ii) comply with all governmental rules, regulations and ordinances, (iii) do not involve regular visitation by clients, customers,

**Deleted: ¶**  
~~Replacement of Fire Alarm Batteries.~~  
Each Owner hereby consents to the Association, on an annual basis, replacing all fire alarm batteries in the Townhomes, at the expense of each Owner.¶



for business invitees, (iv) do not involve any kind of door-to-door solicitations within the Property, (vi) do not constitute a nuisance, or a hazardous, illegal or offensive use, or threaten the security or safety of other persons, and (vii) otherwise are in compliance with the Declaration. Notwithstanding the foregoing, the renting of a Townhome to vacationers or guests using the Townhome only for a residence is permitted.

2. Commercial Signs. No commercial signs of any type, including without limitation, flags and banners, shall be placed upon any window, exterior of any building or structure, or in the Common Area, except for a "for sale" sign, and during an open house relative to the sale of a Townhome, a standard real estate open house sign may be placed upon the particular Sublot while the event is in progress, limited to the hours of 8:00 a.m. to 5:00 p.m.

L. Quiet Hours. It is incumbent for all residents to respect their neighbor's privacy. The peace and tranquility of the Pineridge Townhomes should be maintained at all times. A special effort must be made to keep noise to a minimum between the hours of 10:00 p.m. to 8:00 a.m. Hours for maintenance or repair work to the Townhomes shall be limited to 8:00 a.m. to 7:00 p.m. Monday through Friday, and 10:00 a.m. to 6:00 p.m. on Saturday. No work is allowed on Sundays.

M. Enforcement Policy. In addition to the enforcement provisions set forth herein regarding parking and animals, in Sections A. and B. of these Rules and Regulations, the following shall be the enforcement policy when Owners, tenants, guests or other invitees are in violation of the Association Bylaws, Articles, Declaration, and these Rules and Regulations, the Board sets forth the following:

1. Owners, Tenants & Guests. Each Owner shall be responsible for the actions of their guests, tenants and invitees while on Association Property.

2. First Violation Notice. A written violation notice shall be placed on the front door of the Townhome, or on the vehicle, as the case may be, notifying the resident or vehicle owner and giving 48 hours to correct the violation. Notwithstanding the foregoing, pursuant to Section A.7 hereof, the Association is authorized, and may do so at its sole discretion and without first providing a written violation notice or waiting the 48 hours, to remove any vehicle parked in an area not designated for parking, or parking in any space that is assigned to another person or reserved for a specific use, or parked in an obstructing or hazardous manner, at the owner's sole cost and expense.

3. Second Violation Notice. If the violation is not corrected within 48 hours, a second notice will be placed on the door of the Townhome, or on the vehicle, as the case may be, and the resident and/or vehicle owner will be given 24 hours to comply.

4. Third Violation Notice and Imposition of Fine. If 24 hours after the second notice the resident has not corrected the violation, a third notice notifying the resident of the imposition of a \$50.00 fine that will be assessed against the Owner's account will be placed on the door of the Townhome.

5. Imposition of Daily Fines. If the violation has not been corrected within one (1) week of the date of the third notice, a daily fine of \$50.00 per day shall be assessed to the Owner's account until the violation has been corrected. A fourth and final notice will be placed on the front door of at this time notifying the resident of the fines. Violations continuing for greater than 30 days from the date of first notice of violation shall increase to \$100 per day.



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6. Notice to Owner of Record. A copy of the third and fourth notice shall be mailed to the Townhome Owner of record.

7. Assessments and Creation of a Lien. The fines imposed shall be deemed a reimbursement assessment in accordance with Section 6.4.4 of the Declaration, and shall be collected in the same manner as regular assessments as set forth in the Declaration. Further, any and all legal fees and expenses associated with imposing such fines and the collection thereof shall be added to the account of the Owner and shall be deemed a reimbursement expense. Further, in accordance with Article VII of the Declaration, the Board may create a lien against such Townhome by recordation of a notice of assessment as provided in Idaho Code §55-1508.

8. Right to Pursue Other Legal Remedies. The payment of the fines may, at the discretion of the Board, be enforced by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Article VII of the Declaration to enforce lien rights created.

9. Board Discretion. Upon compliance by the Owner and/or resident with thirty (30) days of imposition of the fines, the Board may, in its sole discretion, waive the fines.

10. Right to Hearing. All Owners have the right to request a hearing with the Board regarding violations and fines addressed to their account. Notice of the hearing will be sent at least ten (10) days prior the hearing and will be given either personally or by prepaid first class mail to the most recent address shown in the Association's records. An Owner shall have the right to send a letter, a representative, or appear in person to present evidence as to why they should not be disciplined. The hearing will be held in executive session. Upon timely written request, the Owner may, at the discretion of the Board, be granted a continuance to a new hearing date. In the event a person fails to appear for a hearing, the Board will review the evidence presented and make a decision accordingly. In the event the violation is corrected prior to a hearing date, the Board may discontinue the proceedings. Within fifteen (15) days of the Board's decision, the Owner shall be given written notice of the decision.

Effective as of the date hereinabove written.

**PINERIDGE TOWNHOMES OWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_,  
\_\_\_\_\_, Association's Secretary

# PINERIDGE TOWNHOMES : PHASE 1

LOCATED WITHIN SECTION 12, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
 A TOWNHOUSE SUBDIVISION WHEREIN A PORTION OF BLOCK 1, PINERIDGE LARGE BLOCK PLAY IS DIVIDED CREATING SUBLOTS 1 THROUGH 8.

NOVEMBER 2005

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**LEGEND**

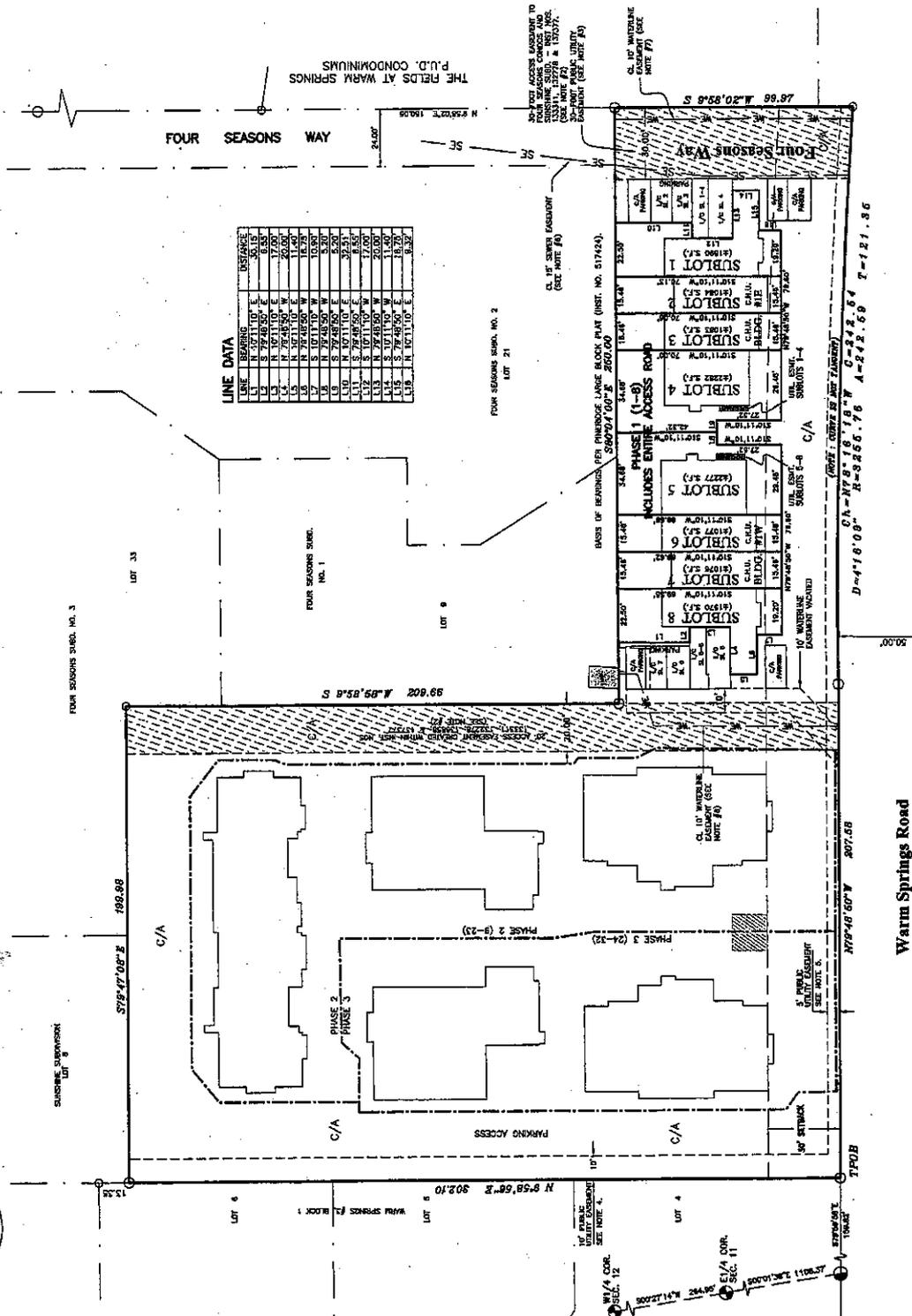
- PROPERTY LINE
- ADJOINING PROPERTY EASEMENT
- CL. 10" WATERLINE EASEMENT
- CL. 15" SEWER EASEMENT
- CL. 12" WATERLINE EASEMENT
- CL. 12" SEWER EASEMENT
- FOUND 1 1/2" REBAR
- FOUND 5/8" REBAR
- LIMITED COMMON AREA
- COMMON AREA
- SUBLOT
- C.H.L.L. COMMUNITY HOUSING UNIT

**NOTES:**

- PINERIDGE TOWNHOMES PHASE 1 IS SUBJECT TO THE REVENUE APPROVAL NO. 802-911 AND THE PINERIDGE P.U.D. REVENUE APPROVAL NO. 802-911 AND THE PINERIDGE P.U.D. REVENUE APPROVAL NO. 802-911. THE LENGTH OF THE 20' FRONT WIDE ACCESS EASEMENT SHOWN ON THIS MAP SHALL BE AS SHOWN ON THE INSTRUMENT NO. 137278. THE 13 COMMUNITY HOUSING UNITS SHALL BE IN COMPLIANCE WITH THE 13 COMMUNITY HOUSING UNITS AS LOCATED WITHIN THE FOLLOWING SUBLOTS: 2, 3, 6, 7, 13, 14, 16, 18, 21, 22, 23, 24, and 26.
- ACCESS EASEMENT 20' FRONT WIDE ACCESS EASEMENT ON THIS PROPERTY CREATED PER INSTRUMENT NO. 137278 AND THE 20' FRONT WIDE ACCESS EASEMENT SHOWN ON THIS MAP SHALL BE AS SHOWN ON THE INSTRUMENT NO. 137278. THE 13 COMMUNITY HOUSING UNITS SHALL BE IN COMPLIANCE WITH THE 13 COMMUNITY HOUSING UNITS AS LOCATED WITHIN THE FOLLOWING SUBLOTS: 2, 3, 6, 7, 13, 14, 16, 18, 21, 22, 23, 24, and 26.
- A 20'-FOOT WIDE NON-EXCLUSIVE OVERHEAD UTILITY EASEMENT IS GRANTED ON FOUR SEASONS WAY FOR UTILITIES AS DEFINED IN TITLE 18, §16-04-02 OF THE KETCHUM SUBDIVISION ORDINANCE.
- A 10'-FOOT WIDE NON-EXCLUSIVE OVERHEAD UTILITY EASEMENT IS GRANTED ON FOUR SEASONS WAY FOR UTILITIES AS DEFINED IN TITLE 18, §16-04-02 OF THE KETCHUM SUBDIVISION ORDINANCE.
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**LINE DATA**

LINE	BEARING	DISTANCE
L1	N 107°11'0" E	50.15
L2	S 79°48'0" E	16.5
L3	N 79°48'0" E	20.00
L4	N 79°48'0" E	20.00
L5	N 107°11'0" E	11.40
L6	N 79°48'0" E	11.40
L7	N 79°48'0" E	11.40
L8	N 79°48'0" E	11.40
L9	N 79°48'0" E	11.40
L10	N 79°48'0" E	11.40
L11	N 79°48'0" E	11.40
L12	S 107°11'0" W	17.00
L13	N 79°48'0" W	20.00
L14	S 79°48'0" W	20.00
L15	N 79°48'0" W	20.00
L16	N 107°11'0" E	50.15



**PINERIDGE TOWNHOMES PHASE 1**

LOCATED WITHIN SECTION 12, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: THUNDER SPRING III, LLC

PROJECT NO. 03391 DWG BY: JE/CPL FILE: 03391PHASE1

DATE: 11/03/05 SHEET: 1 OF 2



**HEALTH CERTIFICATE**

Sanitary conditions as required by Idaho Code Title 50, Chapter 13, have been verified. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1328, by the issuance of a health order.

Date: 11-23-2005

South Central District Health Dept., EDS

PREPARED BY: BENCHMARK ASSOCIATES P.A.  
 1000 W. 10th St., Suite 100, Boise, ID 83702  
 TEL: (208) 333-8112 FAX: (208) 228-8514  
 EMAIL: info@benchmark.com

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# PINERIDGE TOWNHOMES : PHASE I

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### OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, that THUNDER SPRING III, LLC, an Idaho limited liability company, hereby certifies that it is the owner of a certain parcel of land described as follows:

Block 1 of PINERIDGE LARGE BLOCK PLAT, according to the official plat thereof, recorded as Instrument No. 317424, records of Blaine County, Idaho.

Pursuant to Idaho Code 50-1334, the undersigned, as owner, does hereby state that the lots on this plat are eligible to receive water service from the Ketchum Water Department.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved forever. No structures, utility and other designated uses are to be created within the lines of said easements.

It is the intention of the undersigned to and they do hereby include said land in

IN WITNESS WHEREOF, we have hereunto set our hands.

THUNDER SPRING III, LLC

THUNDER SPRING III, LLC

Edward A. Lawson, attorney in fact  
for Thunder Spring III, LLC of Richard K. Robbins

By: RICHARD K. ROBBINS, Managing Manager

Signed this 22nd day of NOVEMBER, 2005

### SURVEYOR'S CERTIFICATE

I, James E. Robinson, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed and shown on the attached plat, that the location of lots and blocks hereon definitely been established and recorded in accordance with the State of Idaho Code relating to plats and surveys.

JAMES E. ROBINSON, P.L.S.  
REGISTERED LAND SURVEYOR  
4345  
STATE OF IDAHO  
WESLEY E. ROBINSON

11/04/05  
DATE

### CITY ENGINEER'S APPROVAL

I, Richard D. Fosbury, City Engineer for Ketchum, Idaho do hereby approve the foregoing plat.

RICHARD D. FOSSBURY  
16 Nov 05  
DATE

### COUNTY SURVEYOR'S APPROVAL

This is to certify that I, Jim W. Koonee, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

JIM W. KOONEE  
11/7/05  
DATE

### CITY OF KETCHUM APPROVAL

I, Sandra Gady, City Clerk in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision Ordinance.

SANDRA GADY  
10-2-05  
DATE

### BLAINE COUNTY TREASURER'S CERTIFICATE

On this 20 day of December, 2005, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

By: Lilith L. Dick

### COUNTY RECORDER'S CERTIFICATE

I hereby certify that this instrument was filed of the request of \_\_\_\_\_ at \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D., in my office and duly recorded in book \_\_\_\_\_ of plats of page \_\_\_\_\_ of \_\_\_\_\_ instrument No. \_\_\_\_\_ Fee: \$ \_\_\_\_\_

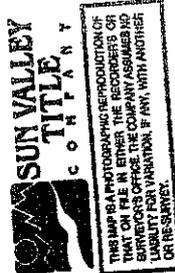
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

My commission expires Aug 3, 2011

Jan R. Bell  
Notary Public



Edward A. Lawson known to me to be the person whose name is subscribed to the within instrument as the attorney in fact for



### ACKNOWLEDGEMENT

STATE OF Idaho )  
COUNTY OF Blaine ) ss

On this 22nd day of November, 2005, before me, \_\_\_\_\_, a Notary Public in and for the State of Idaho, known or identified to me to be the Managing Member of THUNDER SPRING III, LLC, who executed the instrument on behalf of said limited liability company and acknowledged to me that said limited liability company executed the same.

Instrument # 830203

Blaine County, Idaho  
Notary Public  
Jan R. Bell  
Per 1100



**PINERIDGE TOWNHOMES**  
PHASE I  
LOCATED WITHIN:  
SECTION 15, TOWNSHIP 30 NORTH, RANGE 17 EAST, 94M.  
BLAINE COUNTY, CITY OF KETCHUM, IDAHO  
PREPARED FOR: THUNDER SPRING III, LLC  
PROJECT NO. 03391 DWG BY: OPL FILE: 03391CIRT.DWG  
FINAL PLAT DATE: 10/26/05 SHEET 2 OF 2





This document provided courtesy of Sun Valley Title

Recording Requested By and When Recorded Return to:

Blaine-Ketchum Housing Authority  
P.O. Box 550  
Hailey, ID 83333

**Instrument # 532372**

HAILEY, BLAINE, IDAHO  
2006-02-22 03:45:00 No. of Pages: 20  
Recorded for : AMERITITLE  
MARSHA RIEMANN Fee: 60.00  
Ex-Officio Recorder Deputy  
Index to: MISCELLANEOUS DOCUMENTS

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND**

THIS AGREEMENT FOR COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND ("**Covenant**") is made and is effective as of the first day of recording of this Covenant ("**Effective Date**"), by and between THUNDER SPRING III, LLC, an Idaho limited liability company ("**Declarant**") and the BLAINE-KETCHUM HOUSING AUTHORITY, an Idaho independent public body corporate and politic ("**BKHA**").

1. BACKGROUND.

1.1 Declarant is the owner of certain real property located on Warm Springs Road in the City of Ketchum, County of Blaine, State of Idaho, which is more particularly described as Section 12, Township 4 North, Range 17 East, B.M., Block 1 of Pineridge PUD, according to the Pineridge Large Block Plat recorded on March 15, 2005, as Instrument No. 517424, in the official records of Blaine County, Idaho ("**Pineridge PUD**").

1.2 Declarant is constructing on the above-described property a development project consisting of thirty-two (32) residential townhomes contained in seven (7) different buildings. Thirteen of the thirty-two (32) townhomes shall be encumbered by a deed restriction limiting among other things, ownership and resale of the thirteen (13) deed restricted townhomes. The Pineridge PUD project is to be constructed in three (3) phases. Upon recordation of the final plats for each of the three phases, the thirteen (13) deed restricted townhomes are to be legally described as follows: Sublots 2, 3, 6 and 7 of Pineridge Townhomes Phase 1; Sublots 13, 14, 16 of Pineridge Townhomes Phase 2; and Sublots 19, 21, 22, 25, 27 and 28 of Pineridge Townhomes Phase 3. It is the parties' intention that upon recordation of each of the three final plats creating the deed restricted townhomes, this Covenant will be recorded against each of the deed restricted townhomes created by such final plat. As such, the deed restricted townhomes legally described in Exhibit "A" attached hereto and made a part hereof (collectively, the "**Property**") are subject to the terms and conditions of this Covenant.

1.3 Declarant has received approval for the Pineridge PUD from the City Council of the City of Ketchum, Idaho, which contains certain townhomes that will be subject to this Covenant. To satisfy a condition of approval, and for other good and



valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant and BKHA are entering into this Covenant.

1.4 Pursuant to the terms and conditions of this Covenant, Declarant hereby grants to BKHA a vested interest in the Property. Declarant and BKHA hereby agree the Property shall be exclusively and permanently dedicated for use and occupancy by an Owner as outlined in the Guidelines and in this Covenant.

1.5 Capitalized terms not otherwise defined in this Covenant shall have the meaning ascribed to such terms in Section 2.

## 2. DEFINITIONS.

2.1 "BKHA" is the Blaine-Ketchum Housing Authority, an Idaho independent public body corporate and politic, and its successors and assigns.

2.2 The "Guidelines" are the Community Housing Guidelines adopted by BKHA and in effect as of the applicable date for reference to such Guidelines, as such Guidelines may be amended from time to time. The most current Guidelines recorded in the official records of Blaine County, Idaho are recorded as Instrument No. 525936.

2.3 An "Owner" is either Declarant during Declarant's initial ownership of the Property, a Qualified Buyer who acquires fee simple absolute title to the Property or a Qualified Occupant who rents all or any portion of the Property.

2.4 "Permitted Capital Improvements" are those certain capital improvements described in the Guidelines made to the Property for which written approval of BKHA had been obtained prior to installation of such improvements on the Property. Permitted Capital Improvements do not include the initial construction costs incurred by Declarant. Permitted Capital Improvements shall not include any changes or additions to the Property made after a casualty pursuant to Section 7.2. Permitted Capital Improvements do not include improvements made to the Property without BKHA approval prior to their installation on the Property.

2.5 The "Property" is that certain real property described in **Exhibit "A"** attached hereto and incorporated herein. For purposes of this Covenant, the Property shall include, without limitation, all estates, rights, title and interest in and to the Property, at law and in equity, and all buildings, structures, appurtenances, improvements and fixtures associated therewith or attached thereto from time to time.

2.6 A "Qualified Buyer" is a person or group of people meeting and in full compliance with the qualifications and conditions set forth in the Guidelines in effect at the date a contract between an Owner and a Qualified Buyer is entered into for the Sale of the Property, including; without limitation, the income requirements applicable to the Property, and who has a complete and current application on file with BKHA at the time a contract for the Sale of the Property is entered into between an Owner and the Qualified Buyer.



2.7 A "Qualified Occupant" is a person or group of people who at the time a lease or rental agreement is entered into between the Owner and Qualified Occupant meet and is in full compliance with the qualifications and conditions set forth in the Guidelines and who has a complete and current application on file with BKHA.

2.8 The terms "Sale," "Sale of" or "to Sell" the Property shall include, without limitation, any transfer, purchase, sale, conveyance, grant, gift, bequest or devise, by merger, consolidation, dissolution, operation of law or otherwise, of the Property or any interest therein, in whole or in part. The terms Sale, Sale of or to Sell the Property shall not include any grant of easement or partial conveyance for utility or public right-of-way purposes. The terms Sale, Sale of or to Sell the Property shall not include any grant of a security interest in the Property either by mortgage, deed of trust or otherwise, but shall include a Sale due to foreclosure or acceptance of a deed in-lieu of foreclosure.

### 3. TRANSFER.

3.1 Except as expressly set forth in this Covenant, Owner may only Sell the Property to a Qualified Buyer. Any Sale of the Property must comply with this Covenant. Any Sale of the Property not in compliance with this Covenant is void.

3.2 At such time as an Owner seeks to Sell the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Sell as set forth in the Guidelines. Upon receipt of the Notice of Intent to Sell and Owner's compliance with the terms of the Notice of Intent to Sell, BKHA shall notify Owner of the Maximum Sales Price, as determined in accordance with Sections 5, 9.1, 12.3 and 12.4, and provide Owner with Qualified Buyers in accordance with the Guidelines. Owner shall then, in accordance with the Guidelines, offer the Property for Sale for not more than the Maximum Sales Price to the Qualified Buyers provided by BKHA, until an agreement is reached with a Qualified Buyer for the Sale of the Property. Such agreement must comply with the Guidelines. The selling Owner shall not accept or otherwise receive any consideration in excess of the Maximum Sales Price except as otherwise permitted in this Covenant or in the Guidelines.

3.3 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, exhausts the pool of Qualified Buyers provided by BKHA without entering into an agreement for the Sale of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a supplemental pool of Qualified Buyers and Owner shall proceed with the supplemental pool of Qualified Buyers according to Section 3.2. In the event Owner exhausts the pool of Qualified Buyers, as supplemented, without entering into an agreement for the Sale of the Property, within sixty (60) days after receipt of written notice from Owner of such occurrence, BKHA may purchase the Property for the Previous Sales Price (as defined in Section 5.1) plus any increase for Permitted Capital Improvements, according to the terms and conditions set forth in the Guidelines, or continue to provide Owner with lists of Qualified Buyers until an agreement for the Sale of the Property is reached. Owner's inability to reach an agreement with a Qualified Buyer shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Buyer.



3.4 In the event BKHA determines the Property has reached its functional obsolescence or other just reasons exist, at such time as an Owner seeks to Sell the Property, BKHA may, to the exclusion of a Qualified Buyer, purchase the Property for the Maximum Sales Price plus any increase for Permitted Capital Improvements, in accordance with the Guidelines.

3.5 In the event BKHA becomes the fee owner of the Property, such conveyance of the fee interest to BKHA shall not work a merger of the interests of BKHA as to the Property and this Covenant shall continue to be in full force and effect unless an express written agreement signed and acknowledged by BKHA is recorded in the official records of Blaine County, Idaho, to the contrary.

3.6 At such time as an Owner seeks to rent all or any portion of the Property, Owner shall complete, execute and deliver to BKHA a Notice of Intent to Rent as set forth in the Guidelines. Upon receipt of the Notice of Intent to Rent and Owner's compliance with the terms of the Notice of Intent to Rent, BKHA shall notify Owner of the Maximum Rental Amount, as determined in accordance with Section 5.6. Owner shall then, in accordance with the Guidelines, offer the Property for rent for not more than the Maximum Rental Amount to any Qualified Occupant. Such agreement must comply with the Guidelines. Owner shall not accept or otherwise receive any consideration in excess of the Maximum Rental Amount, except as otherwise permitted in the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

3.7 In the event Owner, in good faith compliance with the procedures set forth in the Guidelines, is unable to find a Qualified Occupant with whom to enter into an agreement for the rental of the Property, Owner shall notify BKHA of such occurrence. BKHA may then provide Owner with a list of Qualified Occupants from which Owner might seek to enter into a rental agreement with in accordance with Section 3.6. In the event Owner exhausts the list of Qualified Occupants, as supplemented, without entering into an agreement for the rental of the Property, BKHA may, at the request of the Owner, continue to provide Owner with lists of Qualified Occupants (if available) until an agreement for the rental of the Property is reached. If the pool of Qualified Occupants is exhausted, Owner's inability to reach an agreement with a Qualified Occupant shall not be grounds to terminate or modify this Covenant. Rather, Owner will need to further compromise in order to reach an agreement with a Qualified Occupant. By providing a list of Qualified Occupants, BKHA does not warrant, represent or guarantee the Qualified Occupant's ability to perform its duties or obligations under the rental agreement. The selection of any Qualified Occupant is at the sole risk of the Owner.

3.8 Owner is advised to seek professional assistance from a lawyer, accountant, licensed real estate salesperson or broker and/or other professionals with regard to the Sale or rental of the Property. BKHA does not represent and is not acting on behalf of Owner, the Qualified Buyer or the Qualified Occupant in the Sale or rental of the Property. BKHA is acting on its own account as to its interest in the Property



pursuant to this Covenant and any assistance, forms or directions provided by BKHA or as set forth in the Guidelines are to further BKHA's interest in the Property.

#### 4. USE, OCCUPANCY, MAINTENANCE AND REPAIR REQUIREMENTS.

4.1 Owner shall use the Property as the Owner's primary place of residence. For purposes of the preceding sentence, the Property shall be deemed the Owner's primary place of residence if the Owner (a) occupies more than thirty percent (30%) of the interior floor space (85% if the Property is financed by the Idaho Housing and Finance Association), (b) is physically present on and residing in the Property for not less than nine (9) months in every twelve (12) month period, (c) has not accepted employment outside of Blaine County (distinct and isolated projects outside of Blaine County not exceeding ninety (90) days in duration shall not constitute a violation of this section), and (d) does not own other residential property in Blaine, Butte, Camas, Custer, Gooding, Jerome, Lincoln, Minidoka, or Twin Falls Counties (an Owner whose business is the construction and sale of residential properties or the purchase and resale of residential properties shall not be in violation of this section provided such Owner does not reside in the properties for any length of time). For purposes of the preceding sentence, an Owner is deemed to own other residential property if the Owner controls, directs or appoints or has the ability to control, direct or appoint the occupancy of the residential property or owns, either directly or indirectly, more than a Thirty percent (30%) interest in the residential property. In the event an Owner rents all of the Property to a Qualified Occupant, BKHA may, but shall not be obligated to, waive this section provided Owner requests such waiver when delivering the Notice of Intent to Rent.

4.2 Owner shall not use or allow the Property to be used for any business or commercial operation without first obtaining a home occupation permit or otherwise complying with all laws, rules, regulations and permits pertaining to such activities. Owner shall not change the zoning designation of the Property without the prior written consent of BKHA, which consent may be granted, conditioned or withheld in BKHA's sole and absolute discretion. Furthermore, no business or commercial operation shall be conducted on the Property which materially interferes with or precludes the Property's use and occupancy as a residence and in no event shall more than 15% of the interior floor space be used for any business or commercial operation. The property shall not be used as a "recreational" or "second home".

4.3 Owner shall at all times, and at its own cost and expense, maintain, repair and/or replace in good, clean and habitable condition the Property and every part thereof, including, without limitation, any home, building or improvement on the Property, the roof, foundation, walls, siding, trim, floors, doors and windows, all electrical, plumbing, sewer, septic and HVAC components, lines and fixtures, all appliances, equipment and systems on the Property, all paved surfaces, all landscaped areas, and any sprinkler systems and water lines, reasonable wear and tear excepted. Such work must be performed in a good and workmanlike manner. Owner shall maintain the landscaped areas of the Property in a neat, clean and healthy condition. Owner shall replace all dead, dying or diseased plants, shrubs and trees. Owner shall provide adequate watering for the landscaped areas, shall mow, trim and prune the



landscaped areas as needed for a neat and presentable appearance and shall otherwise keep the Property free of harmful pests, insects and noxious weeds and plants. If Owner refuses or neglects to maintain, repair or replace the Property, or any part thereof, in accordance with this Section, according to the provisions of Sections 11 and 12, BKHA shall have the right, but not the obligation, to perform such maintenance, repair or replacement obligations on behalf of and for the account of Owner. In such event, any costs incurred by BKHA shall be immediately due and payable upon receipt of an invoice therefore according to the terms of Section 12.5.

4.4 Owner shall make or cause to be made all repairs to the Property and perform or cause to be performed all work thereon so as not to permit any waste or deterioration of the Property. Upon the Sale of the Property, Owner shall remove all of Owner's belongings not sold to the Qualified Buyer and leave the Property in a good and clean condition, reasonable wear and tear excepted.

4.5 Owner shall comply with all laws, rules, regulations, and ordinances pertaining to the Property or the use or occupancy of the Property. Owner shall comply with any covenants, restrictions, rules or regulations encumbering the Property, including, without limitation, any covenants, conditions or restrictions imposed by any homeowner's association of which the Property is a part.

## 5. MAXIMUM SALES PRICE & MAXIMUM RENTAL AMOUNT.

5.1 Except in the case of the Declarant, the "**Previous Sales Price**" is the amount paid, including any debt assumed, by the Owner towards the purchase price for the Property at the time the Owner purchased the Property. The Previous Sales Price shall not include any fees, interest, points, origination costs, or premiums associated with or arising from any loan on the Property; title insurance premiums, recording fees, or escrow fees; taxes or assessments; utilities; courier, delivery or wire transfer fees; brokerage or real estate sales person commissions; appraisal fees; inspection fees; legal or accounting costs or fees; document preparation fees; or moving costs. For purposes of Declarant, the Previous Sales Price is the amount agreed to between BKHA and Declarant that Declarant may sell the Property for upon completion and issuance of a certificate of occupancy for the Property. The price agreed to by Declarant and BKHA shall not be subject to increase according to Sections 5.2 or 5.3.

5.2 Except as otherwise set forth in Sections 6.1, 8.4 and 8.5, in no event shall the Property be sold for an amount ("**Maximum Sales Price**") in excess of the lesser of:

(a) The Previous Sales Price plus four percent (4%) interest per annum from the date the selling Owner purchased the Property to the date the selling Owner delivers the Notice of Intent to Sell to BKHA (prorated at the rate of 0.33 percent for each whole calendar month in any partial year); and

(b) The Previous Sales Price plus an amount equal to any increase in the cost of living during Owner's ownership of the Property as determined by the Consumer Price Index, Wage Earners and Clerical Workers, United States City



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Average, All Items (1982-84 = 100) published by the Bureau of Labor Statistics, United States Department of Labor ("Index"). The Previous Sales Price shall be increased by the CPI Increase. The Maximum Sales Price shall be determined according to the following formula:

$I_1$  = Index for the month in which the Owner purchased the Property

$I_2$  = Index published in or prior to the month such Owner delivers the Notice of Intent to sell to BKHA

C = Number of whole calendar months between the date the Owner purchased the Property and the date the Owner delivers the Notice of Intent to sell to BKHA

Maximum Sales Price = Previous Sales Price + (Previous Sales Price  $\div$  ( $I_1 / I_2$ ) - Previous Sales Price)  $\times$  ( $\frac{C+1}{C}$ )

In no event shall the Maximum Sales Price ever decrease below the Previous Sales Price due to this calculation. In the event the Bureau of Labor Statistics shall cease to publish the Index, then there shall be substituted for the Index another index published by a nationally recognized financial authority which most accurately approximates the Index as determined in the sole discretion of BKHA. In the event the Index shall be converted to a different standard reference base or otherwise revised, the determination of the Percentage Increase shall be made with the use of such conversion factor, formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if the Bureau shall not publish the same, then with the use of a conversion factor, formula or table as may be published by any other governmental agency of the United States or nationally recognized publisher of comparable statistical information.

Any debt or other obligation of the Owner assumed by the Qualified Buyer shall be credited against the Maximum Sales Price.

5.3 Notwithstanding Section 5.2 to the contrary, the Maximum Sales Price may be increased by the selling Owner's out-of-pocket cost of Permitted Capital Improvements made during the selling Owner's ownership of the Property, provided that such increase shall not exceed ten percent (10%) of the Previous Sales Price. The selling Owner's out-of-pocket cost of Permitted Capital Improvements is a fixed amount and the selling Owner shall not receive a percentage increase on such amount pursuant to Section 5.2. Upon Sale of the Property, the out-of-pocket cost of Permitted Capital Improvements shall be incorporated into the Maximum Sales Price for purposes of determining the next Owner's Previous Sales Price.

5.4 In calculating the costs incurred for Permitted Capital Improvements, only the Owner's actual out-of-pocket costs and expenses for materials and labor applied to the Property shall be eligible for inclusion. Such amount shall not include costs attributable to the Owner's or occupant's personal labor, loan fees, interest, closing



costs, fines, penalties, alternative or temporary housing costs or rent, tools, depreciation, consumables, utilities, and other similar costs and expenses.

5.5 To substantiate the cost of qualifying Permitted Capital Improvements, the Owner must furnish to BKHA along with the Notice of Intent to Sell original or duplicate receipts, invoices or statements verifying the out-of-pocket costs and expenses, true and correct copies of any building permit or certificate of occupancy if required to be issued by the appropriate building department or governmental agency having jurisdiction over the Property with respect to the Permitted Capital Improvements and the written approval of BKHA obtained prior to the installation of the Permitted Capital Improvements.

5.6 In no event shall all or any portion of the Property be rented for a monthly rental amount ("**Maximum Rental Amount**") in excess of the sum of the Owner's monthly mortgage payment (including principal, interest and insurance), ad valorem taxes (prorated on a monthly basis), insurance premiums in accordance with section 7.1 (prorated on a monthly basis), homeowner or condominium association dues or fees (prorated on a monthly basis), and the administration rental fee set forth in the Guidelines. In the event only a portion of the Property will be rented, the Maximum Rental Amount will be multiplied by the percentage derived from the number of bedrooms rented by the Qualified Occupant divided by the number of bedrooms on the Property and the result shall be the Maximum Rental Amount payable by the Qualified Occupant. The terms and conditions of the rental, lease or occupancy agreement must comply with the Guidelines. If the Property is financed through the Idaho Housing and Finance Association, further and more restrictive requirements with respect to rental of the Property to non-owner Occupants may be required.

## 6. CLOSING.

6.1 Except in the event of a foreclosure sale, at the closing of any Sale of the Property, the Owner and the Qualified Buyer shall share equally in all escrow fees. Ad valorem taxes and assessments, homeowner association assessments and fees, rents, and utilities shall be prorated as of the date of closing. Owner shall pay the cost to release any monetary liens or encumbrances granted or caused by Owner and all premiums for a standard owner's policy of title insurance in the amount of the purchase price. In the event the Owner agrees to pay the closing costs to be paid by the Qualified Buyer pursuant to this Section 6.1 or any other closing costs to be incurred by the Qualified Buyer as permitted by the Guidelines, the Maximum Sales Price may be increased to cover the actual expenses paid by the Owner on behalf of the Qualified Buyer provided that such amount shall not exceed three percent (3%) of the Maximum Sales Price.

6.2 The selling Owner shall, at closing, pay an administrative fee to BKHA in an amount equal to three percent (3%) of the actual sales price. Any debt assumed by the Qualified Buyer and the cash value of any services performed or goods delivered shall be included in determining the administration fee payable to BKHA. The administration fee constitutes a lien on the Property, is earned by BKHA during the term of Owner's ownership of the Property and helps to support BKHA's activities in



monitoring, development, and oversight of the Community Housing program in Blaine County. This fee is independent of any fees required to be paid to licensed real estate brokers or attorneys who may be engaged by Owner or the Qualified Buyer in the Sale of the Property. BKHA may instruct the escrow company to pay the administrative fee directly to BKHA from the selling Owner's proceeds. If FNMA or FHA financing is used, there may be an additional fee charged by BKHA based on the amount financed. The amount of the administrative fee to be paid by the subsequent Owner shall be as set forth in the then current Guidelines and will be distributed to BKHA for its operating account.

6.3 At Closing, the Qualified Buyer shall execute and deliver to BKHA an Acknowledgment of Covenant in accordance with the Guidelines indicating Owner is aware of the terms of this Covenant and the Guidelines and agrees to be bound thereby. A Qualified Buyer's failure to execute or deliver to BKHA an Acknowledgment of Covenant shall not compromise, minimize or in any way affect the terms, covenants or conditions of this Covenant or BKHA's right, title or interest herein and the Qualified Buyer shall nonetheless be bound by and subject to this Covenant .

## 7. INSURANCE & CASUALTY.

7.1 Owner shall at all times during Owner's ownership of the Property cause the Property to be insured with Causes of Loss – Special Form (formerly known as "All Risk") property insurance in an amount not less than the full replacement cost of all improvements on the Property at the time of loss with like kind and quality (such amount may exceed the Previous Sales Price or Maximum Sales Price of the Property). Such insurance shall be provided by a carrier admitted to engage in the business of insurance in the state of Idaho. No policy will contain a deductible or self-insured retention in excess of three percent (3%) of the Previous Sales Price unless otherwise approved by BKHA. If requested by BKHA, Owner shall cause BKHA to be named as an insured as its interests may appear by endorsement acceptable to BKHA and shall promptly deliver to BKHA a copy of Owner's insurance policy in conformance with this section. If the forms of policies required by this section are superseded or no longer available, BKHA will have the right to require other equivalent or better forms.

7.2 If the Property is damaged or destroyed, Owner shall promptly notify BKHA in writing. Owner shall thereafter promptly make a claim on any insurance policy covering such damage or destruction and repair or restore the Property to its condition prior to such damage or destruction, unless Owner obtains BKHA's prior written approval to repair or restore the Property to some other condition or state. Notwithstanding the foregoing sentence, Owner and BKHA may, but neither shall be obligated to, agree to Sell the Property to BKHA and assign Owner's insurance proceeds to BKHA and in such event Owner shall not be obligated to repair or restore the Property.

## 8. ENCUMBRANCES.

8.1 Owner shall promptly pay when due all monetary liens, taxes, assessments, and encumbrances on the Property and otherwise comply with the terms



and provisions of any deed of trust, mortgage or other loan documents pertaining to the Property. Owner shall instruct all lenders and their assigns to copy BKHA on all communications relating to any loan on the Property and within five (5) days after Owner's receipt, Owner shall provide BKHA with copies of any written communications from any lender not delivered to BKHA. In the event that BKHA initiates any enforcement or default action against the Owner, the BKHA shall, within five (5) days after commencement of such action, notify the mortgage holder of such action.

8.2 After any default, late payment, or missed payment on any loan or encumbrance on the Property, or if a nonconsensual lien is filed upon the Property, Owner shall, upon the request of BKHA, participate in loan counseling, budgeting, financing or distressed loan services, classes or programs.

8.3 Any breach of this Covenant shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but, except as otherwise provided in Section 8.5, this Covenant shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

8.4 In the event of any foreclosure of a purchase money mortgage or deed of trust in a first priority position on the Property (but subject to this Covenant), such foreclosing party ("**Foreclosing Party**") may sell the Property through a duly called and noticed foreclosure sale to any person or entity for more than the Maximum Sales Price provided that the foreclosing party strictly adheres to the provisions of this Section 8.4 and Section 8.5.

(a) The Foreclosing Party must notify BKHA in writing of the pending foreclosure on or before fifteen (15) days after the trustee or beneficiary files for record the notice of default as required by Idaho Code Section 45-1505 (2005) or the mortgagee serves upon the mortgagor an action for foreclosure and thereafter the Foreclosing Party shall send a copy of all notices sent to the Owner to BKHA; and

(b) At any time prior to the foreclosure sale and upon request of BKHA, the Foreclosing Party shall agree to grant, bargain, sell, transfer and convey to BKHA the entire debt obligation owed to the Foreclosing Party and take full assignment of the debt obligation, promissory note, and other loan documentation, including foreclosure rights, for an amount not to exceed the foreclosing party's actual principal and interest due together with foreclosure costs not exceeding those reasonable and customary in the lending industry. Notwithstanding the aforesaid, no obligation of mortgage principal exceeding 105% of the Maximum Sales Price of the property shall be recoverable by any foreclosing party. The foregoing sentence shall not obligate BKHA to purchase the debt obligation and BKHA may purchase the debt obligation for less than the amount calculated if it exceeds the amount due the Foreclosing Party or if BKHA and the Foreclosing Party otherwise agree.

8.5 In the event BKHA does not elect to purchase the debt obligation pursuant to Section 8.4(b) and the Foreclosing Party has strictly adhered to Section 8.4, or in the event BKHA has taken assignment of the debt obligation and is the Foreclosing Party, the Foreclosing Party may proceed with the foreclosure action and the Property may be



sold for more than the Maximum Sales Price to a person other than a Qualified Buyer. Proceeds, if any, from the foreclosure sale shall be distributed in accordance with this paragraph. Costs of foreclosure, including trustee services, sheriff's fees, and similar costs, and the amounts due the Foreclosing Party shall have first priority to the sale proceeds. Next, Owner shall be entitled to any amount in excess of the amounts paid in the preceding sentence up to the Maximum Sales Price less the administrative fee due BKHA pursuant to Section 6.2. Any excess amount received at a foreclosure sale shall be paid to BKHA. Provided that the Foreclosing Party has strictly adhered to the requirements of Sections 8.4 and 8.5 and all rights of redemption or challenges to the validity or enforceability of the foreclosure sale have expired, BKHA shall, within a reasonable time after receipt of a written request, quitclaim and release its interest in the Property pursuant to this Covenant to the party acquiring the Property at the foreclosure sale. Notwithstanding the aforesaid, no mortgage principal in excess of 105% of the Maximum Sale Price shall be recoverable by any foreclosing party.

8.6 If the Property is financed under the Mortgage Revenue Bond program administered by the Idaho Housing and Finance Association, the parties to this Covenant understand that various requirements of that program may be more stringent than those set forth in this Covenant and, in such case; the parties agree that those more stringent requirements shall prevail.

## 9. CONDEMNATION.

9.1 Within ten (10) days after Owner receives any notice that all or any portion of the Property is sought by condemnation, Owner shall notify BKHA. If all or any portion of the Property is taken by eminent domain or conveyed by Owner under threat of condemnation, the Maximum Sales Price, determined as of the date all or any portion of the Property is conveyed to the condemning authority or the valuation date for purposes of the condemnation proceeding, whichever is earlier ("**Valuation Date**"), shall be decreased by the assessment of damages paid to Owner for the value of or damages to the Property. Thereafter, the adjusted Maximum Sales Price, for purposes of Section 5.2, shall accrue appreciation from the Valuation Date.

9.2 Any assessment of damages paid by the condemning authority for the value of or damages to the Property shall be shared between Owner and BKHA. The amount of the assessment payable to Owner shall be that percentage of the assessment of damages determined by dividing the Maximum Sales Price as of the Valuation Date by the fair market value of the Property as of the Valuation Date less the product of that same percentage and three percent (3%) of the Maximum Sales Price as of the Valuation Date.<sup>1</sup> The remainder of the assessment shall be payable to BKHA. In the event BKHA and Owner are unable to agree on the fair market value of the Property, within thirty (30) days after receipt of a request by either BKHA or Owner, BKHA and Owner shall each appoint an appraiser who shall be a member of the

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<sup>1</sup> Amount payable to Owner = Assessment x  $\frac{MSP - (.03 \times MSP)}{FMV}$



Appraisal Institute (or substitute organization which certifies and trains appraisers) with at least three (3) years experience in appraising residential real property in the county in which the Property is located. The appointed appraisers shall diligently proceed to appraise the fair market value of the Property, without regard to this Covenant, as of the Valuation Date. If the higher of the two appraisals is more than five percent (5%) of the lower appraisal and the parties cannot agree upon the fair market value of Property, the two appraisers shall together appoint a similarly qualified third appraiser within twenty (20) days after receipt of written demand made by either party. Such third appraiser shall select one of the prior two appraisals which most closely approximates the third appraiser's opinion of the Property's fair market value and the selected appraisal shall conclusively establish the fair market value of the Property as of the Valuation Date. In the event the difference between the first two appraisals is less than five percent (5%), the amount obtained by averaging the respective appraisals shall constitute the fair market value. Each party agrees to pay its respective appraiser's fee plus one-half of the third appraiser's fee. For purposes of this Section, fair market value shall mean the amount at which the Property would change hands between a willing buyer and a willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Furthermore, the existence of any encumbrances on Property (other than this Covenant ) and the benefit of putting the Property to its highest and best use considering all factors, shall be taken into consideration when determining the fair market value of the Property.

#### 10. INDEMNITY, WAIVER AND RELEASE.

10.1 OWNER ACKNOWLEDGES AND AGREES THAT BKHA, ITS AGENTS, EMPLOYEES AND CONTRACTORS, ARE NOT MAKING, HAVE NOT MADE AND EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY QUALIFIED BUYER OR QUALIFIED OCCUPANT AND/OR WITH RESPECT TO ANY ASPECT, FEATURE OR CONDITION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, THE EXISTENCE OF HAZARDOUS WASTE, THE SUITABILITY OF THE PROPERTY FOR OWNER'S INTENDED USE, OWNER'S ABILITY TO SELL THE PROPERTY FOR THE MAXIMUM SALES PRICE OR IN A TIMELY FASHION OR TO RENT THE PROPERTY TO A QUALIFIED OCCUPANT AT THE MAXIMUM RENTAL AMOUNT, FOR ANY LENGTH OF TIME OR IN A TIMELY FASHION. OWNER, QUALIFIED BUYER AND QUALIFIED OCCUPANT SHALL INDEPENDENTLY VERIFY ALL INFORMATION AND REPORTS REGARDING ANY ASPECT OR FEATURE OF THE PROPERTY, AN OWNER, A QUALIFIED BUYER OR A QUALIFIED OCCUPANT PROVIDED BY BKHA. BKHA DOES NOT GUARANTY THE ACCURACY OF ANY INFORMATION OR REPORTS PROVIDED BY BKHA, IT AGENTS, EMPLOYEES OR CONTRACTORS. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER AND QUALIFIED BUYER RELEASE BKHA FROM ANY AND ALL LIABILITY RELATING TO ANY ASPECT OR CONDITION OF THE PROPERTY, KNOWN OR UNKNOWN, FORESEEABLE OR UNFORESEEABLE, ACTUAL OR CONTINGENT, ARISING BY STATUTE, COMMON LAW OR OTHERWISE. AS USED HEREIN "HAZARDOUS WASTE" SHALL MEAN ANY HAZARDOUS WASTE OR POLLUTANTS, CONTAMINANTS OR HAZARDOUS WASTE AS DEFINED BY THE FEDERAL WATER POLLUTION CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1990 AND ANY AMENDMENTS THERETO, THE RESOURCE CONSERVATION AND RECOVERY ACT AND ANY AMENDMENTS THERETO OR ANY SIMILAR STATE, LOCAL OR FEDERAL LAW, RULE OR



REGULATION, INCLUDING, WITHOUT LIMITATION, ASBESTOS OR ASBESTOS CONTAINING MATERIALS, PCBs, PETROLEUM AND PETROLEUM PRODUCTS AND UREA-FORMALDEHYDE.

10.2 OWNER HEREBY RELEASES AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS BKHA FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITY, CAUSES OF ACTION, JUDGMENTS, EXPENSES (INCLUDING ATTORNEY FEES AND ATTORNEY FEES ON ANY APPEAL) (COLLECTIVELY "CLAIMS") ARISING FROM OWNER'S USE OR OCCUPANCY OF THE PROPERTY, AND SHALL FURTHER INDEMNIFY, DEFEND AND HOLD BKHA HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING FROM ANY BREACH OR DEFAULT IN THE PERFORMANCE OF ANY OBLIGATION ON OWNER'S PART TO BE PERFORMED UNDER THE TERMS OF THIS COVENANT, OR ARISING FROM ANY ACT, OMISSION OR NEGLIGENCE OF OWNER, OR ANY OF ITS AGENTS, CONTRACTORS, TENANTS, OCCUPANTS OR INVITEES, AND FROM AND AGAINST ALL CLAIMS OR ANY ACTION OR PROCEEDING BROUGHT THEREON; AND IN CASE ANY ACTION OR PROCEEDING BE BROUGHT AGAINST BKHA BY REASON OF ANY SUCH CLAIM, OWNER, UPON NOTICE FROM BKHA, SHALL DEFEND THE SAME AT OWNER'S EXPENSE BY COUNSEL REASONABLY SATISFACTORY TO BKHA. OWNER, AS A MATERIAL PART OF THE CONSIDERATION TO BKHA, HEREBY ASSUMES ALL RISK OF DAMAGE TO PROPERTY OR INJURY TO PERSONS IN, UPON OR ABOUT THE PROPERTY FROM ANY CAUSE AND OWNER HEREBY WAIVES ALL CLAIMS IN RESPECT THEREOF AGAINST BKHA, EXCEPT THOSE CLAIMS SOLELY CAUSED BY BKHA'S NEGLIGENCE OR WILFUL MISCONDUCT.

10.3 BKHA SHALL NOT BE LIABLE FOR INJURY OR DAMAGE WHICH MAY BE SUSTAINED BY THE PERSON, GOODS, WARES, MERCHANDISE OR PROPERTY OF OWNER, OR ANY OCCUPANTS OR INVITEES TO THE PROPERTY, OR ANY OTHER PERSON IN OR ABOUT THE PROPERTY CAUSED BY OR RESULTING FROM FIRE, STEAM, ELECTRICITY, GAS, WATER OR RAIN, FREEZING, OR LEAKAGE, OBSTRUCTION OR OTHER DEFECTS OF THE PIPES, SPRINKLERS, WIRES, APPLIANCES, PLUMBING, AIR CONDITION, LIGHTING FIXTURES OR OTHER ASPECT OR FEATURES OF THE PROPERTY.

## 11. DEFAULT.

11.1 Upon the expiration of thirty (30) days' (ten [10] days' for the failure to pay money) written notice from any party bound or benefited by this Covenant stating the other party has failed to perform its obligations hereunder, such party shall be deemed to be in default unless such failure to perform is cured within the thirty (30) days (ten [10] days' for the failure to pay money) period, in which case no default shall be deemed to have occurred. Notwithstanding the foregoing sentence, if such default (other than the failure to pay money) cannot be cured within the thirty (30) day period and the defaulting party is diligently working to remedy the default, the cure period shall be extended for such time as is reasonably necessary to cure the default.

11.2 In order to ensure compliance with the provisions of this Covenant, BKHA, by its authorized representative, may inspect the Property between the hours of 8:00 AM and 5:00 PM, Monday through Friday, or at such other time as may be agreed to by Owner and BKHA, after providing the Owner with not less than twenty-four (24) hours' prior written notice.



11.3 Upon receipt of a notice of default and prior to the expiration of the applicable cure period, an Owner may request in writing a hearing before the BKHA Board of Commissioners to determine the merits of the allegations. Upon BKHA's receipt of a hearing request, the remainder of the applicable cure period shall be tolled pending the outcome of the hearing, and a hearing shall be held at the next regularly scheduled meeting of the BKHA Board of Commissioners. If no hearing is requested in writing during such time period and the violation is not cured within the applicable period, the Owner shall be in default of this Covenant. If a hearing is held before the BKHA Board of Commissioners, the decision of the BKHA Board of Commissioners shall be final for purposes of determining if a violation has occurred.

11.4 It is expressly agreed that no breach of this Covenant shall entitle any Owner, Qualified Buyer, Qualified Occupant, BKHA or any other party affected by this Covenant to terminate this Covenant, but such limitation shall not affect in any manner any other rights or remedies which such persons or entities may have hereunder by reason of any breach of this Covenant.

## 12. REMEDIES.

12.1 In the event of a default or breach of any term, covenant, warranty or provision of this Covenant, the non-defaulting party may at any time thereafter without limiting the exercise of any right or remedy at law or in equity which the non-defaulting party may have by reason of such default or breach;

- (a) Seek specific performance of this Covenant;
- (b) Perform any work, pay any amounts due, or complete any duties or obligations of Owner and otherwise exercise any self-help remedies;
- (c) Enjoin any Sale of or proposed Sale of the Property; and
- (d) Require the immediate Sale of the Property to a Qualified Buyer in accordance with Section 3.2.

12.2 Without limiting any other remedy available to BKHA, in the event an Owner shall accept or otherwise receive consideration in excess of the Maximum Sales Price or Maximum Rental Amount in violation of this Covenant or the Guidelines, such Owner shall immediately pay such amount or the cash equivalent of such amount to BKHA. Such amount shall accrue interest from the date such consideration was received by the Owner to the date paid to BKHA at the rate of Eighteen percent (18%) per annum, compounded on an annual basis. Furthermore, Section 14.2 shall apply to any recovery or enforcement action commenced pursuant to this Section.

12.3 In the event of a default by Owner, the Maximum Sales Price shall, upon the date such default first occurred, automatically cease to increase as set out in Section 5.1, and shall remain fixed until the date Owner cures the default.



12.4 In the event that significant damage or reduction in the utility of the Property has occurred during the term of Owner's ownership (other than ordinary wear and tear and functional obsolescence due only to the passage of time), BKHA may reduce the Maximum Sale Price by an amount sufficient to repair the damage or restore the Property's utility as a residence as determined necessary by BKHA in its sole and absolute discretion.

12.5 In the event BKHA pays any amount payable by Owner or incurs any expense due to the default of Owner, such amount shall be immediately due and payable by Owner upon receipt of an invoice from BKHA. Interest shall accrue from the date the invoice is received by Owner to and including the date BKHA receives payment in full at a rate equal to the lesser of (i) the highest rate allowed by law, and (ii) twelve percent (12%). Furthermore, in the event the Owner does not pay the invoice in full within ten (10) days after receipt, BKHA may file a lien on the Property for the amount of said expenses plus accrued interest as set forth above and such lien shall be effective upon recording in the county in which the Property is located. Upon any Sale of the Property, if the Owner has not previously paid all amounts due BKHA, BKHA shall be paid the amounts it is due from the sale proceeds and any escrow company or closing agent handling the transaction shall be bound to pay such amounts due as though specifically instructed by Owner and Owner agrees to and acknowledges the same. Notwithstanding the foregoing sentence, BKHA's right to the sale proceeds shall not have priority over any lien on the Property recorded prior to any lien filed by BKHA. In the event BKHA does not file a lien for the amounts it is due, BKHA's claim shall be subordinate to any recorded lien on the Property.

### 13. NOTICES.

13.1 All notices given pursuant to this Covenant shall be in writing and shall be given by personal service, by United States certified mail, return receipt requested, or by United States express mail or other established express delivery service (such as Federal Express) with signature confirmation required, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below. If a notice is delivered to Owner by personal service or by United States express mail or other established express delivery service (such as Federal Express), such notice may be delivered to the Property. If a notice must be given to a person other than one designated below or otherwise sent to Owner, such notice shall be sent to the person and address shown on the then current real property tax rolls of the county in which the Property is located. All notices given to the appropriate party shall be sent to the address set forth below:

To Declarant: Thunder Spring III, LLC  
c/o Richard K. Robbins  
Wareham Development Company, Inc.  
1120 Nye Street, Suite 400  
San Rafael, Ca 94901



To BKHA:                    Director  
                                  BLAINE-KETCHUM HOUSING AUTHORITY  
                                  P.O. Box 550  
                                  Hailey, ID 83333

The person and address to which notices are to be given may be changed at any time by such party upon written notice to the other party. All notices given pursuant to this Covenant shall be deemed given upon receipt.

13.2 For the purpose of this Covenant, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to Section 13.1 as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to 13.1, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (a) the date of the attempted delivery or refusal to accept delivery, (b) the date of the postmark on the return receipt, or (c) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

#### 14. GENERAL PROVISIONS

14.1 This Covenant shall be a permanent burden on the Property, for the benefit of BKHA, and shall run with the land.

14.2 In the event any party bound or affected by this Covenant initiates or defends any legal action or proceeding in any way connected with this Covenant, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its reasonable costs and attorneys' fees (including, without limitation, its reasonable costs and attorneys' fees on any appeal). All such costs and attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

14.3 Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Covenant or related document.

14.4 The laws of Idaho, without giving effect to its choice of law principles, govern all matters with respect to this Covenant, including all tort claims.

14.5 This Covenant shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, successors and assigns, and upon any person or entity acquiring the Property, or any portion thereof, or any interest therein, whether by merger, consolidation, dissolution, operation of law or otherwise; provided,



however, that if any Owner Sells all or any portion of the Property in accordance with this Covenant , such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the Property arising under this Covenant after the Sale but shall remain liable for all obligations arising under this Covenant prior to the Sale. The new Owner of the Property or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Covenant with respect to the Property or portion thereof after the date of Sale.

14.6 This Covenant may only be amended by a written agreement signed by Owner and BKHA that identifies itself as an amendment to this Covenant.

14.7 Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

14.8 The parties to this Covenant, and Owners, agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

14.9 BKHA may amend the Guidelines at any time in its sole and exclusive discretion.

14.10 The failure of BKHA to insist upon strict performance of any terms, covenants or conditions of this Covenant shall not be deemed a waiver of any rights or remedies BKHA may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any terms, covenants or conditions of this Covenant by the same or any other person or entity. A party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.



14.11 The terms of this Covenant are subject to the terms and conditions of the Declarations, Covenants, Conditions and Restrictions of Pineridge Townhomes recorded in the official records of Blaine County, Idaho, on December 20, 2005, as Instrument No. 530201, records of Blaine County, Idaho ("Original Declaration"), and as supplemented and amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530204 ("First Amendment"), and as further supplemented and amended by that certain Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded Feb 22, 2006, as Instrument No. 532371, records of Blaine County, Idaho ("Second Amendment") (the Original Declaration, the First Amendment and the Second Amendment, are hereinafter referred to collectively referred to as the "Declaration"). In the event of any conflict between this Covenant and the Declaration, including without limitation the terms with respect to use, occupancy, maintenance, repair and insurance requirements, the terms of the Declaration shall control.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

THE BLAINE-KETCHUM HOUSING AUTHORITY

By: [Signature]  
Title: Executive Director

DECLARANT:

Thunder Spring III, LLC,  
An Idaho limited liability company

By: [Signature]  
Richard K. Robbins, Gary Von Acker  
Managing Member Member



This document  
provided courtesy of  
Sun Valley Title

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**OF**  
**PROPERTY**

Sublots 13, 14 and 16 of Pineridge Townhomes Phase 2, Blaine County, Idaho, according to the official plat thereof, recorded FEB 22, 2006, as Instrument No. 532370, records of Blaine County, Idaho.

COMMUNITY HOUSING COVENANTS RUNNING WITH THE LAND - 20



This document provided courtesy of Sun Valley Title

### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

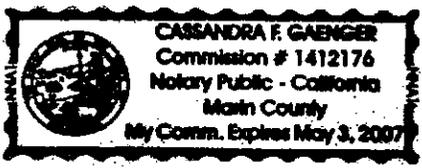
State of California }  
County of Marin } ss.

On February 13, 2006 before me, Cassandra F. Gaenger, Notary Public  
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Gary Van Acker  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.  
Cassandra F. Gaenger  
Signature of Notary Public

#### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

#### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



2



This document provided courtesy of Sun Valley Title  
RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

J. Eshman Law P.C.  
Jill W. Eshman, Esq.  
Post Office Box 4991  
Ketchum, Idaho 83340

**Instrument # 536511**  
HAILEY, BLAINE, IDAHO  
2006-06-19 09:51:00 No. of Pages: 4  
Recorded for : AMERITITLE  
MARSHA RIEMANN Fee: 12.00  
Ex-Officio Recorder Deputy  
Index to: AMENDED COVENANTS & RESTRICTIONS

BS

**THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINERIDGE TOWNHOMES**

This Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes (“**Third Amendment**”), supplementing and amending the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530201, records of Blaine County, Idaho (“**Original Declaration**”), and as supplemented and amended by that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Pineridge Townhomes recorded December 20, 2005, as Instrument No. 530204 (“**First Amendment**”), and as supplemented and amended by that certain Second Amendment to the Declaration of Covenants, Conditions and Restrictions together with the Original Declaration for Pineridge Townhomes recorded February 22, 2006, as Instrument No. 532371 (“**Second Amendment**,” the Original Declaration together with the First Amendment, Second Amendment and this Third Amendment are hereinafter referred to collectively as the “**Declaration**”), is made and effective this 19<sup>th</sup> day of JUNE, 2006, with reference to the following:

**I. Recitals.**

**A.** As of the date of this Third Amendment, Sublots 1-8 have been completed, and the final plat creating Sublots 1-8 titled Pineridge Townhomes: Phase 1 has been recorded in the Official Records of Blaine County, Idaho on December 20, 2005, as Instrument No. 530203 (“**Phase 1 Plat**”), and Sublots 9-17 have been completed, and the final plat creating Sublots 9-17 titled Pineridge Townhomes: Phase 2 has been recorded in the Official Records of Blaine County, Idaho, on February 22, 2006, as Instrument No. 532370 (“**Phase 2 Plat**”).

**B.** Upon recordation of the final plat of Pineridge Townhomes: Phase 3, the Sublots numbered 18-32 created by such plat are to be subject to the terms and conditions of the Declaration and subject to the jurisdiction of the Association pursuant to the terms of the Declaration. The final plat for Pineridge Townhomes: Phase 3 has been recorded in the Official Records of Blaine County, Idaho on



JUNE <sup>th</sup> 19, 2006, as Instrument No. 536510 ("Phase 3 Plat"), and as such Sublots 18-32 created thereby are to be subject to the Declaration and the jurisdiction of the Association by this Third Amendment.

**II. Amendments.**

A. Annexation of Phase 3. Sublots 18-32 of Pineridge Townhomes: Phase 3 Plat are hereby annexed and incorporated into the Property, and are hereby encumbered by the Declaration and subject to the jurisdiction of the Association.

B. Revised Allocated Ownership Interest. Exhibit "A" setting forth the Allocated Ownership Interests and attached to the Original Declaration is hereby deleted in its entirety and replaced with the revised Exhibit "A" attached hereto and made a part hereof.

**III. Construction.** The First Amendment, Second Amendment, this Third Amendment and the Original Declaration are intended to be complimentary and one instrument. In the event of any ambiguity or inconsistency between this Third Amendment and the First Amendment, Second Amendment and/or Original Declaration, the terms of this Third Amendment shall control. Unless the context clearly requires a different meaning, all capitalized terms used in this Third Amendment shall have the meaning established in the Original Declaration.

**IV. Ratification.** Except as otherwise expressly provided herein, the Declaration, as amended, is ratified and affirmed.

**Declarant:**

Thunder Spring III, LLC  
An Idaho limited liability company

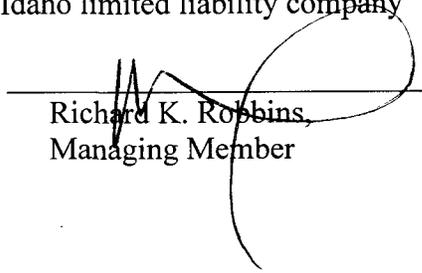
By:   
Richard K. Robbins,  
Managing Member



EXHIBIT "A"

**ALLOCATED OWNERSHIP INTEREST**  
**EFFECTIVE UPON RECORDATION OF THE FINAL PLAT FOR PHASE 3 OF**  
**PINERIDGE TOWNHOMES**

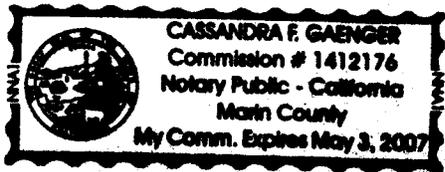
Sublot Number	Living Space Square Footage	Garage Space Square Footage	Total Square Footage	Allocated Percentage Interest for Voting Rights	Allocated Percentage Interest of HOA Dues/Assessments
1	1,320.0	231.0	1,551.0	2.78%	2.78%
2-DR	1,256.0	000.0	1,256.0	2.25	2.25
3-DR	1,256.0	000.0	1,256.0	2.25	2.25
4	1,429.0	218.0	1,647.0	2.95	2.95
5	1,429.0	218.0	1,647.0	2.95	2.95
6-DR	1,256.0	000.0	1,256.0	2.25	2.25
7-DR	1,256.0	000.0	1,256.0	2.25	2.25
8	1,320.0	231.0	1,551.0	2.78	2.78
9	1,752.0	472.0	2,224.0	3.98	3.98
10	1,592.0	584.0	2,176.0	3.90	3.90
11	1,598.0	584.0	2,182.0	3.91	3.91
12	1,770.0	472.0	2,242.0	4.01	4.01
13-DR	733.0	000.0	733.0	1.31	1.31
14-DR	700.0	000.0	700.0	1.25	1.25
15	1,543.0	584.0	2,127.0	3.81	3.81
16-DR	1,440.5	566.0	2,006.5	3.59	3.59
17	1,521.0	584.0	2,105.0	3.77	3.77
18	1,784.0	472.0	2,256.0	4.04	4.04
19-DR	1,217.0	000.0	1,217.0	2.18	2.18
20	1,765.0	472.0	2,237.0	4.00	4.00
21-DR	1,798.0	472.0	2,270.0	4.05	4.05
22-DR	1,217.0	000.0	1,217.0	2.18	2.18
23	1,782.0	472.0	2,254.0	4.03	4.03
24	1,521.0	584.0	2,105.0	3.77	3.77
25-DR	1,440.5	566.0	2,006.5	3.59	3.59
26	1,543.0	584.0	2,127.0	3.81	3.81
27-DR	733.0	000.0	733.0	1.31	1.31
28-DR	700.0	000.0	700.0	1.25	1.25
29	1,770.0	472.0	2,242.0	4.01	4.01
30	1,598.0	584.0	2,182.0	3.91	3.91
31	1,592.0	584.0	2,176.0	3.90	3.90
32	1,752.0	472.0	2,224.0	3.98	3.98
Total:	45,384.0	10,478.0	55,862.0	100%	100%



STATE of California )  
 )  
County of Marin )

On this 7<sup>th</sup> day of June, 2006, before me Cassandra F. Gaenger, a Notary Public in and for said State, personally appeared Richard K. Robbins, known or identified to me to be the managing member of Thunder Spring III, LLC, an Idaho Limited Liability Company, the company that executed the within instrument, or the person who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Cassandra F. Gaenger  
Notary Public for State of California  
Residing at 219 Forbes Avenue, San Rafael, CA  
My commission expires 5/3/07



# PINERIDGE TOWNHOMES : PHASE 2

## OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS that THUNDER SPRING III, LLC, an Idaho limited liability company, does hereby certify that it is the owner of a certain parcel of land described as follows:

Phase 2 as depicted on the official plat of PINERIDGE TOWNHOMES, PHASE 1, records of Blaine County, Idaho.

Pursuant to Idaho Code 50-1334, the undersigned, as owner, does hereby state that the lots on this plat are eligible to receive water service from the Ketchum Water Department.

The easements shown hereon are not dedicated to the public, but the right to use the same shall be reserved to the undersigned and their heirs and assigns, other than for such utility and other designated uses as to be created within the lines of said easements.

It is the intention of the undersigned to and they do hereby include said land in this plat.

IN WITNESS WHEREOF, we have hereunto set our hands.

Thunder Spring III, LLC  
THUNDER SPRING III, LLC

Richard K. Robbins, by Edward A. Lawson  
attorney-in-fact for Richard K. Robbins and Thunder Spgs III, LLC

by: RICHARD K. ROBBINS, Managing Manager  
Signed this 25 day of JANUARY, 2006



## ACKNOWLEDGEMENT

STATE OF Idaho )  
COUNTY OF Blaine )

On this 25 day of JANUARY, 2006, before me, the undersigned, a Notary Public for said State, personally appeared Richard K. Robbins, known or identified to me to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that said limited liability company executed the same.

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

My commission expires: 10.09.10



Deborah Erickson  
Notary Public

## SURVEYOR'S CERTIFICATE

I, James E. Robinson, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed and shown hereon, and that the same has been prepared in accordance with the laws and regulations established and promulgated in strict accordance with the State of Idaho. Other relating to plats and surveys.



1/05/06  
DATE

## CITY ENGINEER'S APPROVAL

I, Richard K. Robbins, a Licensed Professional Engineer for Ketchum, Idaho do hereby approve the foregoing plat.

Richard K. Robbins  
STEVEN R. YEARSLEY  
DATE 1/24/06

## COUNTY SURVEYOR'S APPROVAL

This is to certify that I, Jim W. Koonce, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

Jim W. Koonce  
JIM W. KOONCE  
DATE 1/26/06

## CITY OF KETCHUM APPROVAL

I, Sandra Cady, City Clerk in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision Ordinance.

Sandra Cady  
SANDRA CADY  
DATE 1/23/06



## BLAINE COUNTY TREASURER'S CERTIFICATE

On this 24th day of January, 2006, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

Michelle X. Dick by Mark Johnson

## COUNTY RECORDER'S CERTIFICATE

I hereby certify that this instrument was filed at the request of \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock, \_\_\_\_\_ m., on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D., in my office and duly recorded in book \_\_\_\_\_ of plats of page \_\_\_\_\_ Instrument No. \_\_\_\_\_ Fee: \$ \_\_\_\_\_

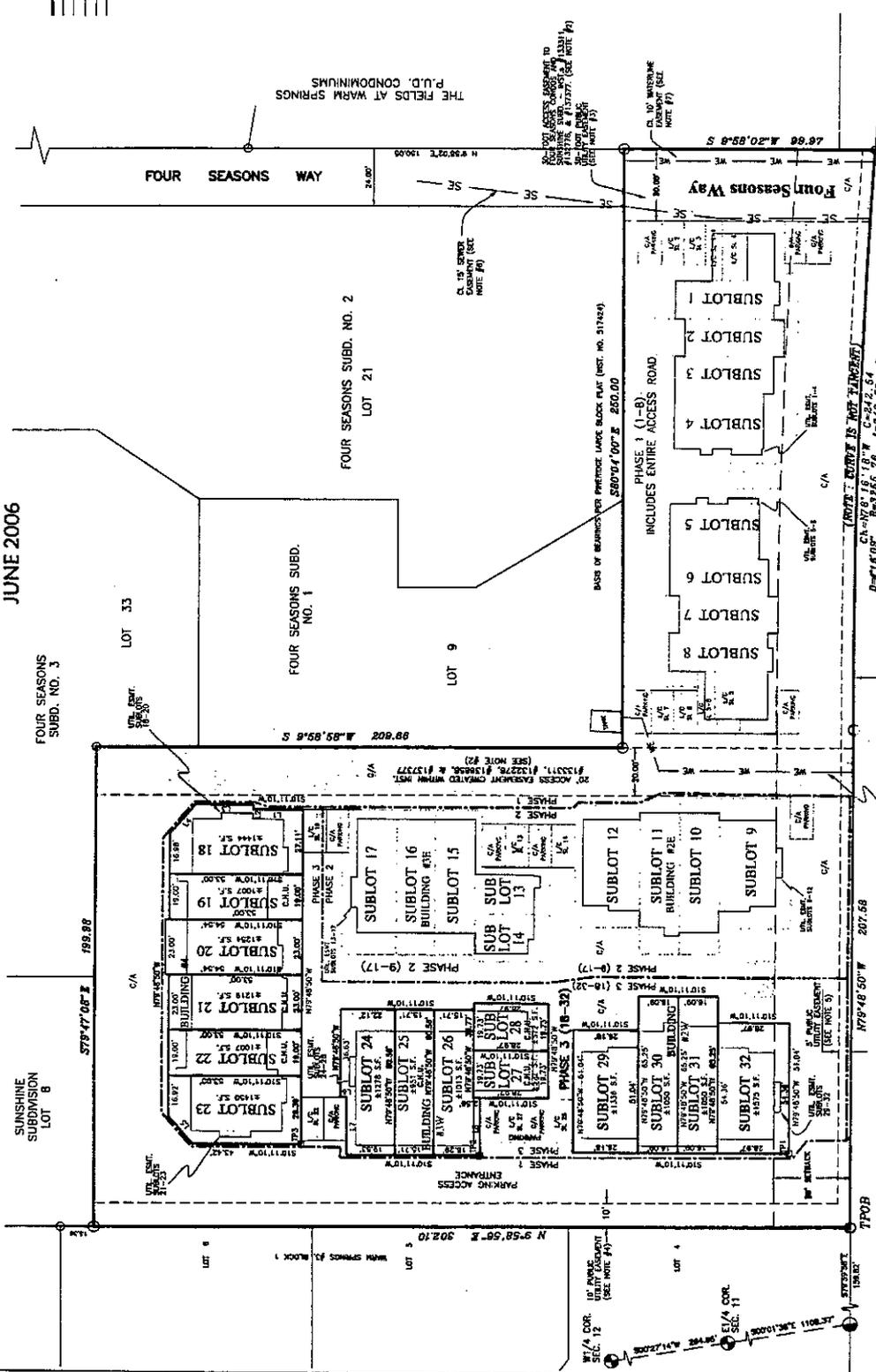
By: \_\_\_\_\_  
Instrument # 532370  
HALEY, BLAINE, IDAHO  
2006-02-23 03:30:06 No. of Pages: 2  
JAMES E. ROBBINS  
PROFESSIONAL LAND SURVEYOR  
MASSIEA HUBBARD  
Blaine County Recorder (Judge),  
Blaine, Idaho

PINDERIDGE TOWNHOMES PHASE 2	
LOCALITIES WITHIN: SECTION 12, TOWNSHIP 1 NORTH, RANGE 17 EAST, B.M., BLAINE COUNTY, CITY OF KETCHUM, IDAHO	
PROJECT NO. 03591	PREPARED FOR: THUNDER SPRING III, LLC
FINAL PLAT	DWG. BY: CFI
	DATE: 1/27/06/05
	FILE: 03591CFLJWG
	SHEET 2 OF 2

# PINERIDGE TOWNHOMES : PHASE 3

LOCATED WITHIN SECTION 12, TOWNSHIP 4 NORTH, RANGE 17 EAST, 81M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
 A TOWNHOUSE SUBDIVISION WHEREIN A PORTION OF BLOCK 1, PINERIDGE LARGE BLOCK PLAT IS DIVIDED CREATING SUBLOTS 18 THROUGH 32.

JUNE 2006



- LEGEND**
- PROPERTY LINE
  - CL 10' WATERLINE EASEMENT
  - CL 15' SEWER EASEMENT
  - PHASING BOUNDARY
  - FOUND 1/2" REBAR
  - FOUND 5/8" REBAR
  - LIMITED COMMON AREA
  - COMMON AREA
  - SUBLOT
  - C/A COMMUNITY HOUSING UNIT

**NOTES:**

1. PINERIDGE TOWNHOMES : PHASE 3 IS SUBJECT TO THE CONDITIONS, LIMITATIONS AND RESTRICTIONS SET FORTH IN THE PINDERIDGE LARGE BLOCK PLAT (PLAT NO. 2008-05) AND THE PINDERIDGE PUD WITHIN AN APPROPRIATELY ZONED AREA (PLAT NO. 02-053). A MAXIMUM OF 32 TOWNHOUSE UNITS IS PERMITTED TO BE CONSTRUCTED WITHIN THE PHASING BOUNDARY. THE PHASING BOUNDARY IS LOCATED WITHIN THE FOLLOWING SUBLOTS: 2, 4, 5, 14, 14, 16, 19, 21, 22, 23, 27, and 28.
2. ACCESS EASEMENTS: A 24'-FOOT WIDE ACCESS EASEMENT EXISTS ALONG THE WEST BOUNDARY OF SUBLOT 18 AND PER INSTRUMENT NO. 13371, A PORTION OF THE EASEMENT IS SHOWN AS A 12'-FOOT WIDE ACCESS EASEMENT. THIS EASEMENT IS SHOWN AS A 12'-FOOT WIDE ACCESS EASEMENT PER INSTRUMENT NO. 13371. THIS EASEMENT IS SHOWN AS A 12'-FOOT WIDE ACCESS EASEMENT PER INSTRUMENT NO. 13371. THIS EASEMENT IS SHOWN AS A 12'-FOOT WIDE ACCESS EASEMENT PER INSTRUMENT NO. 13371.
3. A 24'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT EXISTS ALONG THE NORTHERLY BOUNDARY OF SUBLOT 18. THIS EASEMENT IS SHOWN AS A 24'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT PER INSTRUMENT NO. 13371.
4. A 15'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT EXISTS ALONG THE WEST BOUNDARY OF SUBLOT 18. THIS EASEMENT IS SHOWN AS A 15'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT PER INSTRUMENT NO. 13371.
5. A 5'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT EXISTS ALONG THE NORTHERLY BOUNDARY OF SUBLOT 18. THIS EASEMENT IS SHOWN AS A 5'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT PER INSTRUMENT NO. 13371.
6. A 15'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT EXISTS ALONG THE WEST BOUNDARY OF SUBLOT 18. THIS EASEMENT IS SHOWN AS A 15'-FOOT WIDE NON-EXCLUSIVE PUBLIC UTILITY EASEMENT PER INSTRUMENT NO. 13371.
7. A 10'-FOOT WIDE WATERLINE EASEMENT EXISTS WITHIN THE 20'-FOOT WIDE WATERLINE EASEMENT EXISTING WITHIN SUBLOT 18.
8. ALL UTILITIES ARE SHOWN AS SHOWN ON THE PLAT. THE PLAT IS SUBJECT TO THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO.
9. ALL UTILITIES ARE SHOWN AS SHOWN ON THE PLAT. THE PLAT IS SUBJECT TO THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO.
10. ALL UTILITIES ARE SHOWN AS SHOWN ON THE PLAT. THE PLAT IS SUBJECT TO THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO.
11. THE PLAT IS SUBJECT TO THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO.
12. ALL UTILITIES ARE SHOWN AS SHOWN ON THE PLAT. THE PLAT IS SUBJECT TO THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO.
13. THE AREA OUTSIDE THE SUBLOTS IS COMMON AREA OR LIMITED COMMON AREA.
14. THIS PINDERIDGE TOWNHOMES PLAT SHALL SUPERSEDE ALL PREVIOUS PLATS FOR THIS PROJECT, INCLUDING BUT NOT LIMITED TO THE PINDERIDGE LARGE BLOCK PLAT AND THE PINDERIDGE TOWNHOMES PLAT. THE PLAT IS SUBJECT TO THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO, AND THE CITY OF KETCHUM, IDAHO.

**PINERIDGE TOWNHOMES PHASE 3**

LOCATED WITHIN SECTION 12, TOWNSHIP 4 NORTH, RANGE 17 EAST, 81M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: THUNDER SPRING III, L.L.C.

PROJECT NO. 03391 DWG. DT: JEL/CPL DATE: 6/01/06 FILE: 03391PHASE3 FINAL PLAT SHEET: 1 OF 2

**LINE TABLE**

LINE	BEARING	DIST.
L1	S101°11'00"W	19.97'
L2	S72°48'50"E	2.10'
L3	S101°11'00"W	22.79'
L4	S52°51'33"E	15.95'
L5	N50°19'53"E	14.94'

**TIES TO TP08**

LINE	BEARING	DIST.
TP08 - TP1	N52°19'17"E	36.92'
TP08 - TP2	N41°26'27"E	156.39'
TP08 - TP3	N18°53'31"E	222.05'

**HEALTH CERTIFICATE**

Soil test results as required by Idaho Code Title 50, Chapter 13, have been satisfied. Some of the test results are shown on the certificate of compliance.

Date: 6-11-2006

South Central District Health Dept., BIS

PREPARED BY: BENCHMARK ASSOCIATES P.A.  
 P.O. BOX 233 - 100 BELL DRIVE  
 KETCHUM, IDAHO 83740  
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