

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BLACK BEAR CONDOMINIUMS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made effective this __ day of _____, 2023, by Rywest Homes Inc, an Idaho Corporation (hereinafter “Declarant”).

RECITALS

A. Declarant is the Owner of certain real property in McCall, Valley County, Idaho (the “Property”), which is the subject of that certain Plat for BLACK BEAR CONDOMINIUMS, recorded in Book __, Page __, Book of Plats, Instrument Number _____, at the office of the Valley County Recorder, Cascade, Idaho, (the “Project”).

B. Declarant is the owner of all twenty six (26) of the Units shown on the Plat and located within the Project, which is known as the Black Bear Condominiums.

ARTICLE 1 - DECLARATION

Declarant hereby declares that each Condominium Unit (hereinafter “Unit”) in BLACK BEAR CONDOMINIUMS, is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, improvement and sale of the Project, and to enhance the value, desirability and attractiveness of the Project. The terms, covenants, conditions, easements and restrictions set forth herein: (i) shall run with the land and condominiums constituting the Project, and shall be binding upon all persons having or acquiring any right, title or interest in the Project or any Unit; (ii) shall inure to the benefit of every Unit or portion of the Project and interest therein; (iii) shall inure to the benefit of and be binding upon Declarant, Declarant's successor in interest and each grantee or Owner and such grantee's or Owner's respective successors in interest; and, (iv) may be enforced by Declarant, by any Owner or such Owner's successors in interest, or by the Association as hereinafter described.

ARTICLE 2 - DEFINITIONS

Articles: “Articles” shall mean the Articles of Incorporation of the Association.

Assessments: “Assessments” shall mean those payments required of Association Members, including Regular, Special and Limited Assessments of the Association as further defined in this Declaration.

Association: “Association” shall mean the Black Bear Condominiums Property Owners' Association.

Association Rules: “Association Rules” shall mean those rules and regulations promulgated by the Association governing conduct upon and use of the property which is under the jurisdiction or control of the Association, the imposition of fines and forfeitures for violation

of Association Rules and regulations, and procedural matters for use in the conduct of business of an Association.

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

Building: “Building” shall mean the structures built on the Property as depicted on the Plat and which contain all the Units.

Bylaws: “Bylaws” shall mean the Bylaws of the Association.

Common Area: “Common Area” shall mean all of the Property and Buildings, except the Units, including, without limiting the generality of the foregoing, the following components:

(a) All units identified as “CA” or “Open Space” on the Plat; and,

(b) All portions of the Buildings not defined herein as Units (including, but not by way of limitation, the foundation, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, patios, balconies, staircases, entrances and exits, and the mechanical installations of the Buildings consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating and central air conditioning which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith); and

(c) All other apparatus, installations, and equipment in, affixed to or connected to the Buildings existing for the use of one or more of the Owners; and,

(d) Exclusive Use Common Areas (EUCAs) as defined in this Article 2.

The Common Areas shall be owned by the Owners of the separate Condominium Units, each Owner of a Condominium Unit having an undivided interest in the Common Areas as provided below at Section 3.1.

Condominium Units (also referred to herein as “Units”): The separate fee simple interest in a unit as depicted on the Plat, as bounded by the interior surfaces of the perimeter walls, ceiling, windows, and doors thereof, together with all fixtures and improvements therein contained, together with an undivided pro-rata interest in the Common Area based upon the relative square footage of all of Units in the Black Bear Condominiums, as shown at the attached **Exhibit A**. Notwithstanding such markings, the following are not part of a Unit: bearing walls, columns, and foundations, pipes, vents, ducts, flues, chutes, conduits, wires, and other utility installations, wherever located, except the outlets thereof when located within the Unit.

Declarant: “Declarant” shall mean Rywest Homes Inc, and any successor bulk purchaser of Units whom is designated in writing recorded with the Office of Recorder of Valley County, Idaho by Rywest Homes Inc. as a successor Declarant.

Declaration: “Declaration” shall mean this Declaration as it may be amended from time to time.

Exclusive Use Common Area or EUCA: “Exclusive Use Common Area” or “EUCA” shall mean those parts of the Common Areas which are limited to and reserved for the use of the Owners of one or more, but fewer than all, of the Condominium Units. The balcony or patio adjacent to each Unit, as shown on the plat, shall be reserved for the exclusive use of the Owner of the adjacent Unit. Each storage area designated on the plat with an “S” and the number of a Unit shall be for the exclusive use of the Owner with that Unit number.

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

Local Housing Unit: “Local Housing Unit” shall mean those Units restricted for use pursuant to a deed recorded for such Unit which provides for Local Housing Restrictions. Units currently restricted as Local House Units are Units 4, 5, 6 and 9 in building B. The Local Housing Restrictions are detailed at Section 4.12 below.

Member: “Member” shall mean every person or entity who is a record Owner of a fee interest in any Unit.

Owner: “Owner” shall mean the person or other legal entity, including Declarant, holding fee simple title of record to a Condominium Unit and buyers under executory contracts of sale, but excluding those having an interest merely as security for the performance of an obligation.

Person: “Person” shall mean any individual, partnership, corporation or other legal entity.

Plat: “Plat” shall mean any condominium plat covering any portion of the Property as recorded at the office of the County Recorder, Valley County, Idaho, as the same may be amended by duly recorded amendments thereof.

The Property: The real property which is the subject of the Plat.

The Project: The real property and all buildings and other improvements located on the Property.

Transfer of Control Date: “Transfer of Control Date” shall have the meaning defined at Section 7.6.

ARTICLE 3 - NATURE AND INCIDENCE OF UNIT OWNERSHIP

3.1 Estates of an Owner: The project is hereby divided into twenty six (26) Condominium Units, each consisting of a separate interest in the Unit and an undivided interest in common in the Common Area. Each aforesaid Unit's percentage of Ownership interest in the Common Area shall be pro-rata based upon the relative square footage of all of Units in the Black Bear Condominiums, as shown at the attached **Exhibit A**.

3.2 Description of Units: Every contract for the sale of a Unit and every other instrument affecting title to a Unit shall describe the Unit by the number shown on the plat for

the Project, which is filed of record with the Office of Recorder, Valley County, Idaho, in the following manner: Unit # _____, as shown on the official plat of the Black Bear Condominiums, as the same is filed of record with the Office of Recorder, Valley County, Idaho, as Instrument # _____, and subject to the Declaration of Covenants, Conditions and Restrictions for Black Bear Condominiums, which is filed of record with the Office of Recorder of Valley County, Idaho, as Instrument # _____.

Such description shall be construed to describe the Unit, together with the appurtenant undivided interest in the Common Area, and incorporate all the rights incident to Ownership of a Unit and all the limitations of such Ownership as described in this Declaration.

3.3 Title: Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Idaho.

3.4 Inseparability: No part of a Unit or of the legal rights comprising Ownership of a Unit may be separated from any other part thereof, or further divided and shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit.

3.5 Partition not Permitted: The Common Area shall be owned in common by all Owners of Units and no Owner may bring any action for partition thereof.

3.6 Undivided Interest: The undivided interest which is herein established and to be conveyed with the respective Units can not be changed and shall not be separated or separately conveyed. Each undivided interest shall be deemed to be conveyed or encumbered with its respective Unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit.

3.7 Owner's Right to Common Area: Subject to the limitations contained in this Declaration, each Owner shall have the non-exclusive right to use the Common Area.

3.8 Taxes and Assessments: Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Unit, together with the Owner's undivided interest in the Common Area. If any taxes or special district or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Project or any part thereof, the Association shall pay the same and assess the same to the Owner or Owners responsible therefor. Each Owner shall pay the taxes or assessments assessed against the Unit, or interest therein, or his/her interest in the Common Area. Each Owner shall pay all taxes, rates, impositions and assessments levied against the Project or any part of the Common Area in proportion to his/her interest in the Common Area, such payment to be made to the Association no later than thirty (30) days after notice thereof is given by the Association to the Owner. Such payment may be paid on a monthly basis if allowed by the Association. Each such unpaid tax or assessment shall bear interest at the rate of twelve percent (12%) per annum from and after the time the same becomes payable by each Owner and shall be secured by lien as provided for in Article 8 herein.

3.9 Owner's Right with Respect to Interiors: The Owner of each Unit shall have the exclusive right to paint, repair, tile, wash, paper or otherwise maintain, refinish and decorate the interior surfaces of the walls, ceiling, floors, windows, and doors forming the boundaries of his/her Unit and all walls, ceilings, floors and doors within such boundaries, except that Owners shall obtain the consent of the Association with regard to window treatments which are visible

from the exterior of the Building, the color, texture and materials of which shall correspond with the general color and architectural scheme of the Project.

3.10 Owner's Right with Respect to EUCAs: Each Owner shall have the exclusive right to the use of the balcony or patio adjoining their Unit. Each Owner shall also have the exclusive right to use of the storage area designated on the plat with an "S" and the Owner's Unit number. The cost of maintenance and repair of EUCAs shall be as provided at Section 8.2 below. Notwithstanding the foregoing, the Association shall have the right to adopt such rules and regulations as the Association deems reasonable with regard to property that may be stored on or in a EUCA, and cleanliness of the EUCA.

3.11 Easement for Encroachments: If any part of the Common Area encroaches or shall hereinafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance, repair, and replacement of the same is hereby created in favor of the Association.

3.12 Easements for Access for Repair, Maintenance and Emergencies: Some of the Common Area are or may be located within the Units or may be conveniently accessible through the Units. The Association is hereby granted an irrevocable easement for purposes of access to and through each Unit, during reasonable hours and as necessary for the maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area, or to another Unit or Units. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Area, or as a result of emergency repairs within another Unit at the insistence of the Association, shall be an expense of the Association; provided, however, that if such damages result from the negligence of the Owner of the Unit, then such Owner shall be responsible for all of such damages.

3.13 Avigation Easement and Air Traffic Disclosures:

A. Avigation Easement: Every Unit is burdened with an easement permitting the operation of aircraft in all air space above or in the vicinity of the Property in accordance with all applicable federal, state and local regulation of aviation and operation of such an airstrip, potentially resulting in noise, vibrations, fumes, deposits of dust or other particulate matter, fuel particles (which are incidental to the normal operation of said aircraft), fear, interference with sleep and communication and any and all other effects that may be alleged to be incident to or caused by the operation of aircraft over or in the vicinity of the City of McCall Airport or in landing at or taking off from, or operating at or on the City of McCall Airport. Additionally, each Owner does for themselves, their tenants, guests, invitees, heirs, administrators, executors, successors and assigns, fully waive, remise, and release any right or cause of action which they may now have or which they may have in the future against the Declarant, the Association, and their successor and assigns, due to such noise, vibrations, fumes, dust, fuel particles and all other effects that may be caused or may have been caused by the operation of aircraft in accordance with all applicable federal, state and local regulation of aviation or the City of McCall Airport, including the landing at, or taking off from, or operating at or on the City of McCall Airport.

B. Air Traffic Disclosures:

(i) The Idaho Airport Land Use Guidelines provide a chart showing the most likely places surrounding an airport approach for an airplane to go down. The Property is very near the most likely places for a plane to crash.

(ii) Noise Contours are included in the City's Airport Masterplan. While the Property is not within the City of McCall Airport Noise Contour area, the Property is very close to the City of McCall Airport and Owners are to be aware that airport noise is a common occurrence.

All Rental Agreements for the rental of a Unit in accordance with this Declaration shall include the above stated Air Traffic Disclosures.

3.14 Owner's Right to Ingress and Egress and Support: Each Owner shall have the right to ingress and egress over, upon and across the Common Area necessary for the access to his/her Unit, and shall have the right to the horizontal and lateral support of his/her Unit, and such right shall be appurtenant to and pass with the title to each Unit.

3.15 Association's Right to Use and Management of Common Area: The Association shall have a non-exclusive easement to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration. The Association shall have the exclusive right to manage and control the Common Area, subject to the Owners' right of use thereof.

3.16 Restriction on Exterior Construction: No building, fence, wall, or other structure or improvement shall be commenced, erected, altered, or maintained upon the Project, nor shall any exterior additions thereto or change or alteration therein be made until and without the express prior written consent of the Board of Directors, which consent can be withheld for any reason. This Article shall not affect or in any way be applicable to the Declarant, insofar as the Declarant's full development and construction of the Project is concerned. The Association shall have exclusive control over and responsibility for maintenance and repair of the Common Area, including without limitation the maintenance and repair of all EUCAs, and maintenance and painting of any visible exteriors of the Building.

3.17 Easements Deemed Created: All conveyances or encumbrances of Units hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are defined hereinabove, even though no specific reference to such easements or to these declarations appears in such conveyance.

ARTICLE 4 - GENERAL AND SPECIFIC RESTRICTIONS

4.1 Use of Units: All Units shall be used for dwelling purposes only, and shall be occupied by no more than the number of persons for whom sleeping facilities are available. Owners of Units in building A may rent or lease such Units to others for the purposes allowed under this Declaration, in accordance with the terms provided at Section 4.11 below. Owners of units in building B are restricted to renting for 30 days or longer. No short term renting of any unit in Building B for less than 30 days shall be allowed. Timeshare, interval ownership, fractional ownership, and similar plans shall not be allowed. A Unit may be used for a Home Office, only if the Association has issued a written permit for such activity. The Association may refuse to issue a permit in its sole and absolute discretion, if, in the Association's reasonable judgment, such activity

would:

- (i) create additional vehicular traffic to or from such Unit;
- (ii) employ persons at such Unit other than those residing at such Unit;
- (iii) require storage of any significant materials, machinery, inventory or other items on or in such Unit;
- (iv) require processing of materials into finished products or the assembly of parts produced off site;
- (v) require additional parking for such Unit, whether for customers, delivery or otherwise;
- (vi) be incompatible with the quiet enjoyment of the surrounding Units by such Units' Owners, guests or invitees; or,
- (vii) otherwise violate the provisions of this Declaration.

Any such permit shall be issued for such period and upon such terms as the Association, in its sole discretion, deems reasonable.

4.2 Use of Common Area: Except as provide at Section 3.10 above, there shall be no obstruction of any Common Area, nor shall anything be stored on any part of the Common Areas without the express prior written consent of the Association. Nothing shall be altered or, constructed on, or removed from the Common Area, except with the prior written consent of the Association. Control of and any rights regarding the construction of structures or improvements in or to the Common Area is hereby reserved in the Association.

4.3 Prohibition of Damage and Certain Activities: Nothing shall be done or kept in any Unit, or in the Common Area, or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof, or increase in the rates of insurance on the Project or any part thereof over what the Association, but for any such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Area or any part thereof which would be a violation of any statute, regulation, rule, ordinance, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or any invitee of any Owner; and, each Owner hereby indemnifies and agrees to hold the Association and other Owners harmless against any and all damages, fees, costs, or liability of any kind caused by the Owner or his/her invitees. No noxious, destructive or offensive activities shall be carried on in any Unit or in the Common Area or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other person at any time lawfully residing in the Project.

4.4 Antennas: No Antennas, satellite dishes, or other devices for the transmission or reception of television, radio or electric signals or any other form of electromagnetic radiation shall be erected, used or maintained on the Project, except by or with the prior written consent of the Board.

4.5 Signs: No sign of any kind shall be displayed to the public view without the approval of the Board, except: (i) such signs as may be used by Declarant in connection with the development of the Project and sale or rental of the Units; (ii) temporary signs used by Declarant

naming the contractors, the architect, and the lending institution for a particular construction operation; (iii) signs by Declarant or the Association identifying the Project.

4.6 Nuisances: No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Project and no odor shall be permitted to arise therefrom so as to render the Project or any portion thereof unsanitary, unsightly, offensive or detrimental to the Project or to its occupants, or to any other property in the vicinity thereof or to its occupants. No noise or other nuisance, as described in Title V, Chapter 5, Subchapter C of the McCall City Code as the same may be amended or replaced from time to time, shall be permitted to exist or operate upon any portion of the Project so as to be offensive or detrimental to the Project or to its occupants or to other property in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), flashing lights or search lights, shall be located, used or placed on the Project without the prior written approval of the Association.

4.7 Garbage: Refuse, garbage and trash shall be kept at all times in such containers and in areas approved by the Association.

4.8 Parking. Parking shall be accommodated in the designated parking areas. There shall be no storage of anything other than licensed motor vehicles in parking spaces. No trailers of any kind are permitted to be parked in any parking stall at any time.

4.9 Animals/Pets: No animals, birds or insects shall be kept on the Property other than one household pet per Unit from an owner or long term renter. No pets of any kind are allowed for short term (less than 30 days) tenants Household pets shall mean domesticated dogs, cats, and other household pets, for non-commercial purposes, which do not unreasonably bother or constitute a nuisance to others. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. Each dog shall be kept on a leash and otherwise controlled at all times when such animal is outside of the Unit owned by its Owner. Owners shall be responsible for cleaning up after their own pets. Owners shall comply with leash laws and other applicable ordinances related to pets in the City of McCall. The Board may adopt Rules and Regulations to further govern pets in the project, which Rules and Regulations may include penalties for violation, and loss of the right to keep a pet on the Property.

4.11 Rental: Vacation and long term rental of Units is permissible in all units of building A, subject to Rules and Regulations that may be promulgated by the Board, which may restrict such rental in the Board's sole discretion. Notwithstanding the foregoing, the rental of Local Housing Units is subject to the provisions of Section 4.12 below.

4.12 Local Housing Unit Restrictions:

(1) General Criteria:

- (a) General criteria for all tenants or purchasers of Local Housing Units ("**General Criteria**"):
 - (i) Employed, work minimum 30 hours/week or 1,560 hours/year, within the city of McCall for a set period (6 consecutive months) or have employment offer from a McCall Business; or
 - (ii) Senior (age 65 and older) as primary resident; or

- (iii) Person with disability; and
- (iv) No Short-Term Rental or vacation renting or sub-leasing.
- (b) Clarification of General Criteria:
 - (i) An employer with employees who satisfy the General Criteria may rent or purchase the Local Housing Unit for rental to such employees, subject to these Local Housing Restrictions with regard to rentals.
 - (ii) A “**McCall Business**” is a business that has a physical location within the McCall City Limits. Businesses that have multiple physical locations, must include at least one location within the McCall City Limits, to qualify as a McCall Business.
 - (iii) Short-Term Rentals shall be defined as a rental or lease for thirty (30) days or less.

(2) Restrictions on Rental of the Local Housing Units:

- (a) Any tenant must meet the General Criteria at the time of commencement of the lease.
- (b) The Base Rental Rate for the Local Housing Unit shall be as set forth in the initial deed recorded after recording of the Plat. Annual increases in the rental rate for the Local Housing Unit may not exceed the Base Rental Rate multiplied by the CPI Percentage Increase. CPI Percentage Increase shall be calculated as follows: $\text{CPI for Rental Year} - \text{Base CPI} = \text{CPI Point Change}$. $\text{CPI Point Change} / \text{Base CPI} \times 100 = \text{CPI Percentage Increase}$.
- (c) If a tenant ceases to satisfy the General Criteria during the lease term, they shall not be required to move out of the Local Housing Unit until the expiration of the term of their lease. Leases shall have a maximum term of one year; provided, that the lease can be renewable on a year to year basis upon confirmation of qualification of the General Criteria prior to each renewal period.

(3) Restrictions on Sale of the Local Housing Unit:

- (a) Any purchaser of the Local Housing Unit must meet the General Criteria at the time of purchase, or they must rent the Local Housing Unit to tenants who satisfy the General Criteria.
- (b) The Base Valuation for the Local Housing Unit shall be as set forth in the initial deed recorded after recording of the Plat. The sales price for the Local Housing Unit may not exceed the Base Valuation multiplied by the greater of: (i) 3% per year; or, (ii) the CPI Percentage Increase. The CPI Percentage Increase shall be calculated as follows: $\text{CPI for Year of Sale} - \text{Base CPI} = \text{CPI}$

Point Change. $\text{CPI Point Change} / \text{Base CPI} \times 100 = \text{CPI Percentage Increase}$.

- (c) If an owner who purchases the Local Housing Unit satisfies the General Criteria at the time of purchase, they shall not be required to sell the Local Housing Unit at such time as they fail to satisfy the General Criteria. However, they may not lease the Local Housing Unit except pursuant to the terms of Section (2) above.
- (d) If an owner who purchases the Local Housing Unit does not satisfy the General Criteria themselves at the time of purchase, but does rent the Local Housing Unit to tenants who satisfy the General Criteria, they shall be required to sell the Local Housing Unit at such time as they fail to rent the Local Housing Unit pursuant to the terms of Section (2) above for a period of longer than 9 months.

(4) Modification: The Local Housing Restrictions for any Local Housing Unit may be amended or modified only with the written approval of the then owner of the Local Housing Unit, the Black Bear Condominium Owners Association, and the City of McCall, and such amendment or modification shall be recorded with the Valley County, Idaho Recorder. Upon such recordation, the Local Housing Restrictions as modified shall apply to that Local Housing Unit, instead of the provisions stated in this Section above.

(5) Enforcement: The City of McCall, Idaho, or its successors in interest, shall be authorized to enforce these Local Housing Restrictions by such legal means as are provided for the enforcement of covenants running with the land. Owners waive any defenses of privity or any other defenses which may be asserted against the City of McCall which seek to limit the enforceability of these Local Housing Restrictions.

4.13 Exterior Doors and Windows. While exterior doors and windows are part of the Common Area, the exterior doors and windows in each Unit are to be maintained, repaired and replaced by the Owner of the Unit. Any repair or replacement shall match the exterior doors or windows of the other Units as closely as possible; and, prior to such repair or replacement, the Association shall be contacted in order for the Owner to obtain approval of the repaired or replaced door or window. Notwithstanding the foregoing, the Association may decide to replace all exterior doors and/or windows as part of a Project wide improvement, in which case the Association will pay for the cost of replacement.

4.14 Rules and Regulations: No Owner shall violate the rules and regulations for the use of the Units and the Common Area as may, from time to time be adopted by the Association.

4.15 Structural Alterations: No alterations to any Unit shall be made that would cause structural weakness or damage to the Unit, or other Units within the same building, and no architectural changes, plumbing, electrical or similar work within the Common Area shall be done by any Owner without the prior written consent of the Association.

ARTICLE 5 - INSURANCE

5.1 Types of Insurance: The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain other insurance coverage not required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

A. Casualty Insurance: If reasonably available, the Association shall obtain insurance on the Project in such amounts and shall provide for full replacement thereof in the event of damage or destruction from the casualty against which such insurance is obtained, all in the manner in which a corporation owning similar multiple-family residential buildings in the vicinity of the Project would, in the exercise of prudent business judgment, obtain. Such insurance shall include fire and extended coverage, vandalism and malicious mischief coverage, and coverage for such other risks and hazards against which the Association deems it reasonably appropriate to provide insurance protection. In the event that insurance coverage regarding casualty on Units becomes feasible for Owners to purchase individually, the Association may delegate its responsibilities in regard to casualty and other insurance required by this Section to the individual Owners by a majority vote, said Owner to then take the place of the Association in regard thereto. In such case, the Association shall maintain insurance coverage on the Common Area.

B. Public Liability and Property Damage Insurance: The Association shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems reasonably advisable to provide adequate protection from risks which include, without limitation, liability for personal injuries, Association activities, or any other activities in connection with the Ownership, operation and maintenance and other use of the Project.

C. Other: The Association may obtain insurance against such other risks as it deems reasonably appropriate with respect to the Project, including any personal property of the Association located thereon, and shall obtain such additional insurance as is required by law.

D. Form: Casualty insurance shall be carried in a form or forms naming the Association as the insured, as the Trustee for the Owners, which policy or policies shall specify the interest of each Unit Owner and which policy or policies shall provide a standard loss payable clause providing for payments of insurance proceeds to the Association as trustee for the Owners and the respective first mortgagees which from time to time shall give notice to the Association of such first mortgages. Each such policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days' prior written notice is first given to each Owner and to each first mortgagee. Upon request, the Association shall furnish to any Owner and to Declarant a true copy of a policy declaration or certificate identifying the interests of the Owners. Public liability and property damage insurance shall name the Association as the insured, as trustee for the Owners, and shall protect each Owner against liability for acts

of the Association in connection with the Ownership, operation, maintenance or other use of the Common Area or otherwise.

E. Insurance Proceeds: The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Article. The Association shall apportion the proceeds to the portions of the Project which have been damaged and shall determine the amount of the proceeds attributable to damage to the Common Area. To the extent that reconstruction is required, the proceeds shall be used for such purposes. To the extent that reconstruction is not required, and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed to the Owners. Each Owner and each mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

F. Owner's Own Insurance: Each Owner is responsible for maintaining insurance at his/her own expense which provides coverage upon his/her Unit, personal property, for his/her personal liability, and for such other risk as he/she may deem appropriate; provided, each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Article.

ARTICLE 6 - CASUALTY, DAMAGE OR DESTRUCTION

6.1 Association as Agent: All Owners irrevocably constitute and appoint the Association as 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 grantee of a deed from the Declarant or from any other Owner shall constitute such appointment.

6.2 General Authority of Association: As attorney-in-fact, the Association shall have the full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interests of a Unit Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used herein means restoring the Project to 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 and all mortgagees unanimously agree not to rebuild in accordance with the provisions set forth hereinafter. In the event any mortgagee should fail or refuse to agree not to rebuild, the Association shall have the option to purchase such mortgage by payment, in full, of the amounts secured thereby if the Owners are in unanimous agreement not to rebuild. The Association may obtain the funds for such purpose by special assessment pursuant to Article 8 of this Declaration.

6.3 Funds for Reconstruction: The proceeds of any insurance policy collected 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 8 hereof, may levy in advance a special assessment sufficient to provide funds to pay such estimated 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. It

shall be deemed that the first money disbursed in payment for the cost 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 made by each Owner pursuant to the assessment made by the Association pursuant to this Article. If no such assessments have been made, then the balance shall be distributed equally to the Owners.

6.4 Decision not to Rebuild: If all Owners and all holders of mortgages on Units agree not to rebuild, as provided herein, the Project shall be sold; and, the insurance and sales proceeds shall be distributed equally to the Owners.

ARTICLE 7 - BLACK BEAR CONDOMINIUMS PROPERTY OWNERS' ASSOCIATION

7.1 Organization: The Black Bear Condominiums Property Owners' Association (Association) shall be initially organized by Declarant as an Idaho, non-profit corporation. The Association is charged with the duties and vested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. In the event that there should exist any ambiguity in any provision of the Articles or Bylaws, then such provision shall be construed, to the extent possible, so that such provision shall be interpreted so as to be consistent with the provisions of this Declaration.

7.2 Membership: Every person or entity who is a record Owner of a fee or undivided fee interest in any Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the fee Ownership of any Unit. Ownership of such Unit shall be the sole qualification for membership. Transfer of a Unit shall automatically transfer membership in the Association.

7.3 Voting Rights: The Association shall have one (1) class of voting members, which shall consist of all Owners, who shall be voting Members. The votes of such voting Members shall be one vote per unit with 26 total voting units.

7.4 No Fractional Votes; No Severance of Voting Rights: Fractional votes shall not be allowed. In the event that joint Owners of a Condominium Unit are unable to agree among themselves as to how their vote or votes shall be cast, such Owners shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint Owners of the Unit(s) from which the vote derived. The right to vote may not be severed or separated from the Ownership of the Unit to which it is appurtenant, except that any Owner may give a revocable proxy to any adult person, or may assign such Owner's right to vote to a lessee, mortgagee, beneficiary or contract purchaser of the Unit concerned, for the term of the lease, mortgage, deed of trust or contract. Any sale, transfer or conveyance of such Unit to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

7.5 Board of Directors and Officers: The affairs of the Association shall be conducted and managed by the Board of Directors ("Board") and such officers as the Board may elect or

appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time. The Board of the Association shall be elected in accordance with the provisions set forth in the Association Bylaws, which provisions provide that the Declarant has the right to appoint a majority of the members of the Board of Directors until the Transfer of Control Date.

7.6 Declarant's Transfer of Control of the Association: Declarant's right to control the Association and the selection of its Board shall terminate upon the occurrence of the *first* of the following events:

A. By written notice from the Declarant to the President or Secretary of the Association of the Declarant's intention to terminate its right to appoint the majority of the members of the Board of Directors; or

B. Upon that date which is three (3) months after all of the Units within the Property have been sold to persons other than Declarant.

Such date is herein referred to as "the Transfer of Control Date".

7.7 Powers and Duties of Association:

A. Powers: The Association shall have all the powers of a corporation organized under the non-profit corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and the Articles and Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Association's affairs and the performance of the other responsibilities herein assigned, including, without limitation:

(1) Assessments: The power to levy Assessments on any Owner or any portion of the Project and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

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

(3) Delegation of Powers: The authority to delegate its powers and duties to committees, officers, employees, or to any person, firm or corporation. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by any person or entity of any such duty or power so delegated.

(4) Association Rules: The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable; provided, however, that any Association Rules shall apply equally to all Owners and shall not be inconsistent with this Declaration, the Articles or

Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Owner. E-mail may be used as a form of delivery of a copy of Association Rules so long as an Owner has not specified that they do not want to receive such deliveries by e-mail. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between such Association Rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

(5) Emergency Powers: The power, exercised by the Association or by any person authorized by it, to enter upon any Unit in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance of construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association.

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

(1) Insurance: Obtain and maintain insurance as required by Article 5.

(2) Rule Making: Make, establish, promulgate, amend and repeal such Association Rules as the Board shall deem advisable.

(3) Duty to Accept Property and Facilities Transferred By Declarant: The Association shall accept title to any property, including without limitation, any improvements thereon, any easement or other right, and personal property transferred to the Association by the Declarant or by any third party with Declarant's permission, and equipment related thereto, together with the responsibility to perform any and all Association functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration.

(4) Duty to Maintain Common Area: The Association shall maintain the Common Area in good repair and clean condition, including but not limited to the following:

- (i) The community barbeque and bike racks;
- (ii) Landscaping and irrigation of Common Areas;
- (iii) Parking areas;
- (iv) Snow Removal;
- (v) Storm drainage;

- (vi) Exterior surfaces of the buildings, including EUCAs and common areas in and around the buildings; and,
- (vii) Noxious Weed management.

The costs associated with such maintenance shall be allocated among the Members as provided at Section 8.2 below.

(5) Safety and Security. Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Black Bear Condominiums. The Association may, but shall not be obligated to, maintain or support certain activities within Black Bear Condominiums designed to enhance the level of safety or security which each person provides for himself and his property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within Black Bear Condominiums, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Black Bear Condominiums, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within Black Bear Condominiums assumes all risks of personal injury and loss or damage to property, including Units and contents of Units, resulting from acts of third persons.

7.8 Personal Liability: No Member of the Board, or member of any committee of the Association, or any officer of the Association, or the 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 the account of any act, omission, error or negligence of the Association, the Board, or any other representative or employee of the Association, the Declarant, or the Architectural Committee, or any other committee, or any officer of the Association, or the Grantor, provided that such person, upon the basis of such information as may be possessed by such person, has acted in good faith without willful or intentional misconduct.

ARTICLE 8 - ASSESSMENTS

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

A. Assessment Constitutes Lien: Such Assessments and charges, together with interest at a rate established by the Board, costs and reasonable attorney's fees which

may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such Assessment or charge is made.

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

8.2 Allocation of Assessments: Allocation of Regular Assessments shall be as follows:

A. Utilities: All utilities shall be allocated in a manner which best reflects the actual use of the utilities. If utilities are metered by Unit, the Owner of the Unit shall pay the metered rate. If utilities are not metered by Unit, and absent another method of allocation which better reflects actual utility use, the non-metered units shall initially allocate the cost of utilities pro-rata based upon the relative square footage of all of the Units in the Condominium. The Board shall have the right to modify this allocation method to more accurately reflect actual use.

B. Common Area: Costs related to the Common Area shall be paid for through the assessments.

The cost of routine maintenance and repair of Exclusive Use Common Areas (EUCAs), in the discretion of the Board (the Board may also determine that the cost to maintain and repair EUCAs and Exclusive Open Space should be allocated as a Limited Assessment pursuant to Section 9.2(b) below); Any damage caused to other portions of the Common Area or to other Units due to the improper maintenance of a Deck shall be repaired at the cost of the Owner with exclusive use of such Deck.

8.3: Regular Assessments: The regular assessments may include, and shall be limited to, the following regular expenses:

- A. Expenses of the management of the Association and its activities;
- B. Taxes and special assessments upon the Association's real and personal property;
- C. Premiums for all insurance which the Association is required or permitted to maintain;
- D. Common services to Owners as approved by the Board;
- E. Legal and accounting fees for the Association;
- F. Expenses related to the maintenance, repair and operation of the Common Area;

G. The cost of routine maintenance and repair of Exclusive Use Common Areas (EUCAs), in the discretion of the Board (the Board may also determine that the

cost to maintain and repair EUCAs and Exclusive Open Space should be allocated as a Limited Assessment pursuant to Section 8.8(A) below);

H. Any deficit remaining from any previous assessment year; and,

I. The creation of reasonable contingency reserves for the future maintenance or improvement, administration expenses, or legal expenses.

Regular assessments shall be paid annually as provided in Section 8.6.

8.4: Declarant's Obligations: The Declarant shall have the following options regarding assessments on Units owned by Declarant: Declarant may pay such assessments; or, Declarant shall be deemed to have met its obligation regarding assessments by the contribution of such funds and/or services to the Association as are necessary to permit the Association to perform its responsibilities and meet its financial needs.

8.5: Maximum Regular Assessments: The annual regular assessment may be increased by the Board by a sum not to exceed twenty percent (20%) of the prior year's regular assessment. Any increase in the regular assessment which exceeds twenty percent (20%) of the prior year's regular assessment shall require at least a majority of the votes of the Members. Such a vote shall be held at a meeting of the Members scheduled for the purpose of considering such a matter, at which a quorum is present. Notice of such meeting shall set forth the purpose therefore and shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting.

8.6: Regular Assessment Procedure:

A. The Association's Board of Directors shall set the total annual regular assessment based upon an advanced budget of the Association's requirements for the following assessment year. A summary of that budget shall be mailed by ordinary first class mail or otherwise delivered to all Owners and all Directors by no later than December 1 of the current budget year (i.e. to take effect on January 1 of the next assessment year). Subject to the voting requirements for any increase in the annual regular assessment which exceeds twenty percent (20%) of the prior year's regular assessment, the budget shall take effect on January 1 of the assessment year to which it applies.

B. The Board shall cause to be prepared, delivered, or mailed to each Owner, at least forty five (45) days in advance of the date payment is due, a payment statement setting forth the annual regular assessment. All payments of regular assessments shall be due and payable without any notice or demand, on the due dates declared by the Board. Each Owner shall become responsible for the regular assessment allocable to the Unit as of the date the Unit is transferred to such Owner.

8.7: Special Assessments: In the event that the Board shall determine that its Regular Assessments for a given calendar year are or will be inadequate to meet the Expenses of the Association for any reason, including but not limited to attorney's fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the amount necessary to defray such Expenses and levy a Special Assessment which shall be allocated in the same manner as Regular Assessments. No Special Assessment shall be levied without the vote or

written consent of at least a majority of the votes of the Members. Such a vote shall be held at a meeting of the Members scheduled for the purpose of considering such a matter, at which a quorum is present. Notice of such meeting shall set forth the purpose therefore and shall be sent to all Directors and all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. Additionally, prior to the Transfer of Control Date, the approval of Declarant shall be required in order to assess any Special Assessment. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments for the Association.

8.8: Limited Assessments: Notwithstanding the above provisions with respect to regular and special assessments, the Board may levy a limited assessment against a Member in the following circumstances:

A. To allocate costs of repair and maintenance of EUCAs needed due to the actions of the Owner with right of such EUCA (or the Owner's agents, invitees or assigns);
Or,

B. As a remedy to reimburse the Association for costs incurred in bringing the Member and/or the Member's Unit into compliance with the provisions of the Association Documents.

8.9: Assessment Period: Unless otherwise provided in the Articles or Bylaws, the Assessment period shall commence on January 1 of each year and terminate December 31 of the year.

8.10: Notice of Default and Acceleration of Assessments: If any assessment is not paid within thirty (30) days after its due date, the Board may mail a notice of default to the Owner. The notice shall substantially set forth (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date not less than ten (10) days from the date of the mailing of the notice by which the default must be cured; and, (d) that the failure to cure the default on or before the date specified in the notice may result in the foreclosure of the lien for assessment against the Unit of the Owner and the exercise by the Board of any other remedies either provided herein or allowed by law, including an action against the Owner personally for the delinquent assessment. In such case, and as a condition of the cure of the delinquent assessment, the Owner may be obligated by the Board, at the Board's sole discretion, to additionally pay all costs of enforcement, including without limitation reasonable attorneys fees, costs and related expenses and to pay a reasonable late charged to be determined by the Board.

8.11: Enforcement of Assessments: Each Owner is and shall be deemed to covenant and agree to pay to the Association each and every assessment provided for in this Declaration; and agrees to the enforcement of all such assessments in the manner herein specified. At least 20 days prior written notice shall be given prior to commencement of enforcement actions described herein. In the event an attorney or attorneys are employed for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorneys fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. In addition to any other remedies herein or by law provided, the Board, or its authorized representative, may enforce the obligations of the Owners to pay the assessments

provided for in this Declaration, and each of them, in any manner provided by law in equity, or without any limitation of the foregoing, by either or both of the following procedures:

A. Enforcement by Suit: By commencement of a suit at law against any Owner or Owners personally obligated to pay assessments, for such delinquent assessments as to which they are personally obligated. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon as provided for herein, costs of collection, court costs and reasonable attorney's fees in such amount as the Court may adjudge against the delinquent Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

B. Enforcement by Lien: There is hereby created a claim of lien, with power of sale, on each and every Unit to secure payment to the Association of any and all assessments levied against any and all Owners, together with interest thereon as provided for in this Declaration, fines imposed for violation of these Covenants, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. At any time after the occurrence of any delinquency in the payment of any assessment, the Board or any authorized representative thereof may make a written demand for payment to the delinquent Owner. Each delinquency shall constitute a separate basis for a demand, claim of lien or a lien, and any number of defaults may be included within a single demand or claim of lien and any demand or claim of lien or lien on account of prior delinquencies shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Board or its duly authorized representative may thereafter elect to file and record a Notice of Delinquent Assessment on behalf of the Association against the Unit of the defaulting Owner. The amount of the assessment, plus any costs of collection, expenses attorney's fees and interest assessed in accordance with this Declaration shall be a lien on the Owner's Unit from and after the time the Association records the Notice of Delinquent Assessment. Such Notice shall be executed and acknowledged by any officer of the Association and shall contain substantially the following:

1. The claim of lien made pursuant to this Declaration;
 2. The name of the record Owner,
 3. The legal description of the Unit against which claim of lien is made;
- and,
4. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and attorney's fees (with any proper offset allowed).

Upon recordation, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Unit against which such assessment was levied. Such lien shall have priority over all liens or claims created subsequent to the recordation of the Notice. Any such lien may be foreclosed by appropriate action in Court or in the manner provided by the Idaho Code for the foreclosure of a deed of trust with power of sale, or in any

other manner permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any Title Company authorized to do business in Idaho as Trustee for the purpose of conducting such foreclosure sale. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Members and shall secure payment of all sums set forth in the Notice, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said Notice. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Unit.

Each Owner hereby expressly waives any objection to the enforcement and foreclosure of assessment liens in this manner. Upon the timely curing of any default for which a Notice was filed by the Board, the Board shall cause an officer of the Association to file and record an appropriate release of such Notice in the Office of the County Recorder of Valley County, Idaho. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use or abandonment of his Unit. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a Notice of Delinquent Assessment, whether judicially, by power of sale, or otherwise, until the expiration of ten (10) days after a copy of said Notice, showing the date of recordation thereof, has been mailed to the Owner of the Unit which is described in such Notice.

ARTICLE 9 - DECLARANT'S SPECIAL RIGHTS AND RESERVATIONS

9.1 Period of Declarant's Rights and Reservations: Until such time as Declarant no longer owns any Unit in the Project, Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Project. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance of a Unit or any portion of the Project by Declarant, whether or not specifically stated therein, and in each deed or other instrument by which any Unit within the Project is conveyed by Declarant. The rights and reservations hereinafter set forth shall be prior to and superior to any other provisions of the Association documents, and may not, without Declarant's written consent, be modified, amended or rescinded or affected by any amendment of the Association documents. Declarant's consent to any one such amendment shall not be construed as a consent to any other document.

9.2 Right to Combine Units: Until such time as Declarant no longer owns any Unit in the Project, Declarant reserves the right to combine physically the area or space of one Unit with the area or space of one or more adjoining Units. Such combination shall not prevent separate Ownership of such Units in the future. Declarant reserves the right to designate and convey to any purchaser of such combined Units any walls, floors, or other structural separations between Units so combined, or any space which would be occupied by such structural separations but for the combination of the Units. Such structural separations and such space shall automatically become Common Area if the combined Units become subject to separate Ownership in the future.

9.3 Successor Declarant: For purposes of the rights, reservations and easements reserved and created in favor of Declarant herein, Declarant shall have the option of notifying the Association in writing of an assignee or successor who will hold and exercise Declarant's aforesaid rights and whom the Association shall notify as required by this Declaration. In the event that Titanium Partners, LLC is dissolved and fails to notify the Association of a successor

for these purposes, then the person(s) holding a majority of ownership interest in Titanium Partners, LLC at the time of its dissolution shall be deemed the successor to Declarant for these purposes.

9.4 Exemption of Declarant: Nothing contained herein shall limit the right of Declarant to complete construction of improvements to and on any portion of the Project owned by Declarant or to construct such additional improvements as Declarant deems advisable in the course of development of the Project, so long as any Unit in the Project remains unsold. Such right shall include, but shall not be limited to, erecting, constructing, and maintaining on the Project, such structures and displays as may be reasonably necessary for the conduct of Declarant's business of completing the work and disposing of the same by sale, lease or otherwise. Declarant shall have the right at any time prior to acquisition of title to a Unit by a purchaser from Declarant to grant, establish and/or reserve on that Unit additional licenses, reservations and rights-of-way to Declarant, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Unit. Declarant may use any Unit owned by Declarant on the Project as model Units or real estate sales or leasing offices. Declarant need not seek or obtain Association approval of any improvement constructed or placed by Declarant or an affiliate of Declarant on any portion of the Project owned by Declarant or an affiliate of Declarant. The rights of Declarant hereunder may be assigned by Declarant to any successor in interest in connection with Declarant's interest in any portion of the Project by an express written assignment recorded in the Office of the Valley County Recorder.

9.5: Exclusive Rights to Use Name of Development: No person shall use the name "Black Bear Condominiums" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Black Bear Condominiums" in printed or promotional matter where such term is used solely to specify that the particular property is located within Black Bear Condominiums and the Association shall be entitled to use the words "Black Bear Condominiums" in its name.

9.6 Declarant's Approval: None of the rights, reservations, or easements granted to or reserved by Declarant herein may ever be modified or amended without the prior written consent of Declarant or Declarant's successor, which consent may be withheld by Declarant for any reason whatsoever. Additionally, until such time as Declarant no longer owns any Unit in the Project, the Association shall not, without first obtaining the prior written consent of the Declarant, which consent shall not be unreasonably withheld: make any amendment or repeal of any other provision of this Declaration (i.e. a provision not involving any of the rights, reservations or easements granted to or reserved by Declarant); make any amendment to any other Association documents; levy any special assessments; or, change or repeal any rules of the Association.

ARTICLE 10 - MISCELLANEOUS

10.1: Binding Effect: The various restrictive measures and provisions of these covenants and restrictions are declared to constitute mutual equitable servitudes for the protection and benefit of each Unit in the Project and of the Owners thereof and for the benefit of the Subdivision as a whole. Each grantee of a conveyance or purchaser under a contract of sale, by accepting a deed or contract of sale, accepts such subject to all of the covenants, conditions

and restrictions set forth in this Declaration and specifically agrees to be bound by each and all of them.

10.2: Term of Declaration: Unless amended as herein provided, all provisions covenants, conditions and restrictions and equitable servitudes contained in this Declaration shall be effective for twenty (20) years after the date upon which this Declaration was originally recorded, and, thereafter, shall be automatically extended for successive periods of ten (10) years each unless terminated by agreement of the Owners as provided for in Section 10.4 below.

10.3: Amendment of the Declaration by Declarant: Until the first Unit subject to this Declaration has been conveyed by Declarant to an unrelated third party by recorded deed, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination.

10.4: Amendment of Declaration by Members: Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time, upon approval of the amendment or repeal by Members holding at least ninety percent (90%) of the voting power of the Association. Such a vote shall be held at a meeting of the Members scheduled for the purpose of considering such amendments, at which a quorum is present. Notice of such meeting shall set forth the purpose therefore and shall be sent to all Directors and all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting.

Notwithstanding the preceding the paragraph, this Declaration may not be terminated except upon unanimous approval by the Members of the Association; and, in case of termination, all rights, reservations, and easements granted to or reserved by Declarant herein shall survive any such termination.

Notwithstanding any other provision in this Declaration, any amendment, repeal or termination of any Association Document shall be approved by Declarant, until such time as Declarant no longer owns any Unit in the Project.

10.5: Priority of First Mortgage Over Assessments: Each lender who recorded its mortgage or deed of trust before assessments have become delinquent and who obtains title to the Unit encumbered by the first mortgage whether pursuant to remedies provided in the mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure, shall take title to the Unit free and clear of any claims for unpaid assessment or charges against such Unit which accrued prior to the time such first mortgage acquires title.

10.6: Remedies Cumulative: Each remedy provided under the Association documents is cumulative and not exclusive.

10.7: Costs and Attorneys Fees: In any action or proceeding under the Association documents, the party which seeks to enforce the Association documents and prevails shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys fees and expert witness fees. "Action or proceeding" as herein stated shall include, without limitation, any arbitration, mediation, or alternative dispute resolution proceeding.

10.8: Limitation of Liability: The Association, Board of Directors, Declarant and any member, agent or employee of any of the same shall not be liable to any person for any action or for any failure to act if the action or failure to act was in good faith and without malice, and shall be indemnified by the Association to the fullest extent permissible by the laws of Idaho, including without limitation, circumstances in which indemnification is otherwise discretionary under Idaho law, in accordance with and subject to the terms and limitations contained in the Bylaws.

10.9: Governing Law: The Association documents shall be construed and governed under the laws of the State of Idaho.

10.10: Severability: Invalidation of any one or more of the covenants, conditions and restrictions contained herein by judgment or otherwise shall in no way affect the validity of any of the other provisions, which shall remain full force and effect.

10.11: Number and Gender: Unless the context requires a contrary construction, as used in the Association documents, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.

10.12: Captions for Content: The titles, headings and captions used in the Association documents are intended solely for convenience of reference and are not intended to affect the meaning of any provisions of this Declaration.

10.13: Mergers or Consolidations: The Association may merge with another incorporated association to the extent permitted by law. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Project together with the covenants and conditions established upon any other property, as one plan.

10.14: Conflicts in Documents: In case of any conflict between this document and the Articles of Incorporation, or the Bylaws of the Association, this Declaration shall control.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

Rywest Homes Inc.
an Idaho Corporation, Declarant

By: _____
Tim Davis, Vice President

STATE OF IDAHO)
) ss.
County of Valley)

On this _____ day of _____, 2019, before me, a Notary Public in and for said State, personally appeared **TIM DAVIS**, known or identified to me to be the Vice President of **Rywest Homes INC**, the corporation that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

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

NOTARY PUBLIC FOR IDAHO
My Commission Expires: _____