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CONDOMINIUM DECLARATION AND COVENANTS, CONDITIONS AND RESTRICTIONS FOR ROOSTER CONDOMINIUMS

THIS CONDOMINIUM DECLARATION AND COVENANTS, CONDITIONS AND RESTRICTIONS FOR ROOSTER CONDOMINIUMS ("**Declaration**") is made and entered into by Montague-Sauriol, LLC, an Idaho limited liability company ("**Declarant**").

ARTICLE I RECITALS AND CERTAIN DEFINITIONS

Section 1.1 The Declarant; The Real Property. Montague-Sauriol, LLC, an Idaho limited liability company ("**Declarant**") is the Owner of all that certain real property (the "**Real Property**") located in the City of Eagle, Ada County, Idaho, which is more particularly described in **Exhibit A** attached hereto and made a part hereof. Declarant is presently constructing or improving upon the Real Property certain improvements consisting of: three (3) commercial buildings commonly known as the Eagle Place Condominiums (filed of record with Ada County as the Rooster Condominiums), one (1) with two (2) aboveground stories and two (2) single story buildings, internal common areas, elevators, stairwells, hallways, restrooms, landscaped areas, surface parking, and other interior and exterior features (all of said improvements being referred to herein as the "**Improvements**"). The Real Property and the Improvements together constitute the "**Project**."

Section 1.2 Intention of Declarant. Declarant intends (i) to divide the Buildings into condominiums as defined in Chapter 15 of title 55, Idaho Code (the "**Condominium Property Act**"); and (ii) to sell the condominiums thus created.

Section 1.3 The Project. The Units are all integral parts of an overall development, which comprise a single architectural entity. The utility and enjoyment of each Unit is dependent upon common elements of the Improvements and requires the establishment of easements and covenants for the common and joint government of the Project in a manner beneficial to all of the Units, all components thereof and all interests therein. Accordingly, Declarant desires to establish and create easements, covenants and restrictions to provide for the joint use, management, governance and operation of the Units as integral parts of a single architectural entity and as part of a common plan for the joint use and occupancy of each and every part of the Project and interest therein.

NOW, THEREFORE, incorporating the foregoing Recitals, Declarant hereby creates and establishes easement, covenants and restrictions which shall run with the land and be binding upon and inure to the benefit of the successors and assigns of the Owners of the Units and every part thereof and every interest therein as part of a common plan to regulate and govern the joint use and occupancy of the Project, to enhance the value thereof, and for other beneficial purposes.

ARTICLE II ADDITIONAL DEFINITIONS

The following terms shall have the following meanings when used herein unless the context otherwise requires.

Section 2.1 **"Articles"** shall mean the Articles of Incorporation of the Association, which have been filed in the office of the Idaho Secretary of State under Organizational ID/Filing Number C175625 and are attached hereto as **Exhibit B**.

Section 2.2 **"Assessment"** shall mean that portion of the cost of maintaining, improving, operating and managing the Project, which is to be paid by each Owner as determined by the Association.

Section 2.3 **"Association"** shall mean and refer to the Eagle Place Association, Inc., an Idaho nonprofit corporation, the Members of which shall be Owners of the Units.

Section 2.4 **"Association Easements"** shall mean easements granted to Owners and the Association for the benefit of its Members.

Section 2.5 **"Association Property"** shall mean all real and personal property now or hereafter owned by or leased to the Association.

Section 2.6 **"Association Rules"** and/or **"Regulations"** shall mean the rules and regulations of the Association as adopted and/or amended from time to time.

Section 2.7 **"Board"** and **"Board of Directors"** shall mean and refer to the governing body of the Association.

Section 2.8 **"Building"** shall mean one of the individual structures located upon the Real Property consisting of Buildings No. 1, Building No. 2 and Building No. 3 as shown on the Condominium Plat.

Section 2.9 **"Building Common Areas"** shall mean all those interior portions and components of a Building devoted or to be devoted to, or for the common use and benefit of Occupants of the Units within that Building, such portions and components to include, but without limitation, all utility pipes, security and life safety systems, lines, conduits, ducts and flues to the outlets thereof, all structural bearing portions of the Building and all columns and girders, regardless of location, roof, roof membrane, common hallways, stairwells, the elevator, the elevator lobby which services and provides ingress and egress to all floors in the Building and service areas. Subject to Section 10.4, portions of the Building Common Area not devoted to the common use and benefit of all Occupants of the Units within that Building shall be Limited Common Area.

Section 2.10 **"Buildings"** shall mean the collective structures located upon the Real Property comprised of one (1) two (2) story building and two (2) one (1) story buildings.

~~Section 2.11 **"Bylaws"** shall mean or refer to the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto marked as Exhibit C and made a part hereof.~~

Section 2.12 **"Common Area"** shall mean, collectively, the Building Common Area, the Limited Common Area and the General Common Area.

Section 2.13 **"Condominium"** shall mean a Unit within a Building or condominium interest therein as described or depicted in the Condominium Plan.

Section 2.14 **"Condominium Plan"** shall mean and refer to a diagrammatical floor plan, pursuant to the Condominium Property Act, subdividing the Buildings into condominium regimes.

Section 2.15 **"Condominium Plat"** shall mean that certain Condominium or Parcel Map for Rooster Condominiums filed or to be filed for record in the office of the County Recorder of Ada County, Idaho, a reduced copy of which is attached marked as **Exhibit D** and made a part hereof, consisting of a plat or survey map of the surface of the ground of the Real Property showing a survey and legal description thereof, the location of the Buildings with respect to the boundaries of the Real Property, together with the diagrammatic floor plans of the Buildings showing the boundaries of each Unit within the Building, including horizontal and vertical locations and dimensions of all boundaries of each Unit and the Unit number identifying the Units, together with such other information as may be included therein in the discretion of Declarant.

Section 2.16 **"Declarant"** shall mean and refer to Montague-Sauriol, LLC, an Idaho limited liability company, together with its successors and assigns.

Section 2.17 **"Declaration"** shall mean and refer to this Declaration.

Section 2.18 **"General Common Area"** shall mean all of the Common Area, excepting the Building Common Area and the Limited Common Area, but including, without limitation, all parking areas, landscaping, planters, outdoor art, water features or similar amenities, driveways, curbing, monument or pylon sign structures advertising more than one (1) Occupant, sidewalks, storm water retention facilities, water, sewer and utility lines (excluding telephone and communication lines) to their entrance into a Building, and those areas designated as Common Area on the Condominium Plat.

Section 2.19 **"Improvements"** shall mean all of the improvements located upon the Real Property including, but not limited to, the Buildings; exterior sidewalks, parking lots and landscaped areas, and all other improvements referenced in Section 1.1.

Section 2.20 **"Limited Common Area"** shall mean any portion of the General Common Area or Building Common Area allocated by this Declaration or by operation of law for the exclusive use of one or more, but fewer than all, of the Units as provided in Article VI.

Section 2.21 **"Member"** shall mean and refer to a member in the Association.

Section 2.22 **"Mortgage"** shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

Section 2.23 **"Mortgagee"** shall mean any Person, partnership, corporation, trust, bank, savings and loan association, insurance company or other financial institution holding a recorded mortgage or deed of trust which constitutes an encumbrance upon any Unit securing payment of money other than this Agreement and liens for real estate taxes and assessments.

Section 2.24 **"Mortgagor"** shall include the trustor, mortgagor or grantor of a Mortgage.

Section 2.25 **"Occupant"** shall mean the Owner and/or tenant of a Unit or interest therein.

Section 2.26 **"Owner"** or **"Owners"** shall mean or refer to the record holder or holders of title, if more than one, of a Unit, or a portion thereof. This shall include any Person having fee simple title to any Unit, but shall not include contract sellers under a recorded installment land sale contract of any specific Unit. "Owner" shall not include Declarant unless Declarant otherwise qualifies as an "Owner" hereunder, and those Persons or entities having any interest merely as security for the performance of any obligation. If a Unit, or any portion thereof is sold under a recorded installment land sale contract to a purchaser, such purchaser, rather than the fee owner, shall be considered the "Owner" for the purposes hereof.

Section 2.27 **"Person"** shall mean a natural Person, a corporation, a partnership, a trustee or other legal entity.

Section 2.28 **"Project"** shall mean the Real Property and Improvements, together with all appurtenant rights and interests.

Section 2.29 **"Real Property"** shall mean all that certain real property more particularly described and shown on the Condominium Plat.

Section 2.30 **"Rocky Mountain Business Park Association"** shall mean the association formed to manage and oversee the operation of the property subject to the Rocky Mountain Business Park Declaration.

Section 2.31 **"Rocky Mountain Business Park Declaration"** shall mean that certain Amended Declaration of Covenants, Conditions, Restrictions and Easements for Rocky Mountain Business Park filed with the Ada County Recorder as Instrument No. 99070278, as the same may be amended from time to time.

Section 2.32 **"Unit"** shall mean the separate interest in a Condominium as bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors thereof, as shown and numbered on the Condominium Plat, together with all fixtures and improvements therein contained. Notwithstanding the foregoing, the following are not part of a "Unit": bearing walls, columns, floors and roofs (except for the interior surfaces thereof within a Unit), foundations, shafts, central heating systems, reservoirs, tanks, pumps, and other services used by more than one Unit, pipes, vents, ducts, flues, chutes, conduits, and wires, except the outlets thereof when located within the Unit. The interior surfaces of a perimeter window or door means at the points at which such surfaces are located when such windows or doors are

closed; the physical windows and doors themselves are part of the Common Area as herein defined.

Section 2.33 "User" shall mean all Owners and Occupants of a Unit, and all licensees, invitees, employees and agents thereof.

ARTICLE III STATEMENT OF INTENTION AND PURPOSE AND RESERVATION OF RIGHTS

Section 3.1 Declaration. Declarant hereby declares that the Project and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied, improved, and otherwise affected in any manner, subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plans and scheme of condominium ownership referred to in Article I and are further declared to be for the benefit of the Project and every part thereof and for the benefit of each Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to the Declarant and the Declarant's assigns and to all Persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

Section 3.2 Reservation of Rights. Declarant, for itself and its successors and assigns, hereby reserves the right to complete the Project and related improvements indicated on the plat without limitation or interference by any Owner or the Association; to maintain signs advertising the Project; and to elect or remove members of the Board as set forth in Article VIII until seventy-five percent (75%) of the total square footage of all Units created by the plat are sold.

ARTICLE IV NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

Section 4.1 Estates of an Owner. The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit, plus the Limited Common Area appurtenant to that Unit. Subject to Section 10.4, each Unit shall also consist of an undivided interest in common in the Building Common Area in the Building in which the Unit is a part in the proportion set forth in **Exhibit E**. In addition, each Condominium includes a share of the General Common Area in the proportions set forth in **Exhibit E**. The percentage of ownership interest in the Common Area, which is to be allocated to each Unit for purposes of tax assessment under Section 55-1514 of the Idaho Code and for purposes of liability as, provided by Section 15-1515 of the Idaho Code shall be the same as set forth in **Exhibit E** for the General Common Area. The percentage of ownership interest in the Common Area is based upon the size (square feet of floor space) of each Unit. The percentage of ownership interest in the General Common Area is calculated by dividing the number of square feet of floor area of each Unit by the number of square feet of floor area of all Units in the Buildings. Subject to Section 10.4, the percentage of ownership interest in the Building Common Area is calculated by dividing the number of square feet of floor area of each Unit by the number of square feet of floor area of all Units in the Building in which the Units are located. Notwithstanding that square feet of floor area may be measured differently, the number of square feet of floor area set forth on **Exhibit E** shall be conclusive and final for purposes of this Declaration and Declarant makes

no representation or warranty regarding the actual square footage of the Unit. For the purpose of complying with Section 55-1505(c) of the Idaho Code, Declarant has determined that the best way to determine the value of each Unit is to base the value upon the size of each Unit compared to the size of all other Units in the Project.

Section 4.2 Limited Common Area. In addition to the items set forth in Article VI, Limited Common Area shall consist of the patio area adjacent to Unit A, Building 1 for the exclusive use of that Unit. The Limited Common Area shall be used in connection with, and maintained separately by the Owner of such Unit to the exclusion of the use thereof by the other Owners except by invitation.

Section 4.3 Right to Combine Units. 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 Condominiums in the future. Declarant reserves the right to designate and convey to any purchaser of such combined Units as additional Limited Common Area 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 Building Common Area if the combined Units become subject to separate ownership in the future. Combination of Units shall not affect the percentage of ownership interest calculation as set forth in **Exhibit E**.

Section 4.4 Title. Title to a Condominium 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.

Section 4.5 Inseparability. No part of a Condominium or of the legal rights comprising ownership of that Condominium may be separated from any other part of that Condominium during the period of Condominium ownership prescribed herein, so that each Condominium and the undivided interest and/or share in the Common Area appurtenant or allocated to such Condominium shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Condominium or any part thereof shall be presumed to be a gift, devise, request, transfer, encumbrance, or conveyance, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration.

Section 4.6 Partition Not Permitted. The Common Area shall be owned in common by all Owners of Condominiums, and no Owner may bring any action for partition thereof.

Section 4.7 Owner's Right to Common Area. Subject to the limitations contained in this Declaration and to the Association Rules and Regulations, each Owner shall have the nonexclusive right to use and enjoy the General Common Area, and shall have the exclusive right to use and enjoy the Limited Common Area designated herein for exclusive use by such Owner. Also subject to the limitations contained in this Declaration, Section 10.4, and to the Association Rules and Regulations, each Owner of a Unit within a particular Building shall also have the nonexclusive right to use and enjoy the Building Common Area within that Building.

Section 4.8 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 Condominium. 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 such Owner's Condominium or interest therein, or such Owner's interest in the Common Area or any part thereof. Each Owner shall pay all taxes, rates, impositions, and assessments levied against the Project or any part of the Common Area in proportion to such Owner's interest in such Common Area as set forth in **Exhibit E**, and such payment is to be made to the Association at least thirty (30) days prior to the delinquency of such tax or assessment. Each such unpaid tax or assessment shall bear interest at the rate of ten percent (10%) per annum from and after the time the same becomes payable by each Owner and shall be secured by the lien created by Section 10.7 hereof. Notwithstanding the foregoing, taxes, assessments, or other charges attributable to the Common Area shall be apportioned among the Owners as provided in Article X hereof.

Section 4.9 Owner's Rights With Respect to Interiors. Each Owner shall have the exclusive right to paint, repaint, tile, paper, or otherwise maintain, refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors and to clean the interior surfaces of windows, all of which form the boundaries of that Owner's Unit and all walls, ceilings, floors, and doors within such boundaries.

Section 4.10 Windows. The cleaning of exterior surfaces of windows (except for those windows between a Unit and that Unit's Limited Common Area) is expressly reserved to the Association, provided, however, the Association may require the Owners of all Units to clean the exterior surfaces of all windows located within their Unit regardless of the fact that such exterior surfaces are not actually part of the Owner's Unit. No Owner may, without the consent of the Association, place anything in or on the Unit windows, which is in variance with the general appearance of windows of similar Units.

Section 4.11 Easements 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 of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Area or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Area or the Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by settling, rising, or shifting of the earth or by changes in position caused by repair or reconstruction of the Project or any part thereof.

Section 4.12 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Area is or may be located within the Units or may be conveniently accessible only through the Units. The Owners shall have the irrevocable right, to be exercised by the Association as their agent, to have access to all parts of the Project from time to time during such reasonable hours as may be necessary, and with such notice as may be specified in tenant leases, if any, except in cases of emergency, 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 Project. (As used herein "emergency" means repair, maintenance, or replacement, which is required to rectify or mitigate any condition that imposes a real and immediate risk of injury to a Person, or serious damage to property in which an immediate response will mitigate repair costs). The Association shall also have such right independent of any agency relationship. Subject to Section 10.4, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency

repair, or replacement of any of the Building Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners shall be an expense of all of the Owners within that Building; provided however, if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. ~~Amounts owing by Owners pursuant hereto shall be collected by the Association by assessment pursuant to Article X below.~~

Section 4.13 Owner's Right to Ingress, Egress and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Area reasonably necessary for access to such Owner's Condominium, any parking space or spaces and any storage space or spaces which such Owner has the right to use and to the Limited Common Area designated for use in connection with such Owner's Condominium and shall have the right to the horizontal and lateral support of such Owner's Condominium, and such rights shall be appurtenant to and pass with the title to each Condominium.

Section 4.14 Association's Right to Use of Common Area. The Association shall have a nonexclusive easement to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Area maintenance and storage facilities for use by the Association.

Section 4.15 Easements and Utilities. In order to adequately serve each Unit, utility facilities may be constructed and may encroach on Common Area or on the Units. An easement for such encroachment and for the maintenance of the same shall and does exist.

Section 4.16 Declarant's Right Incident to Construction. Declarant shall have the right to and does hereby reserve an easement and right-of-way for ingress and egress over, upon, under, through and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary incident to Declarant's development of the Project.

Section 4.17 Easements Deemed Created. All conveyances of Condominiums, whether by the Declarant or otherwise, shall be construed to convey and reserve such reciprocal easements as shall give effect to this Article IV, even though no specific reference to such easements or to this Article IV may exist in any such conveyance.

Section 4.18 Maintenance and Management of Common Areas. The Association may hire an outside building management company, building manager or maintenance company, which shall be instructed to act prudently and diligently to manage, control and maintain the Common Area in a manner compatible with good business practices and for the benefit of all Owners. Maintenance of the General Common Area shall be an expense of all Owners. Subject to Section 10.4, expense of maintenance of the Building Common Areas shall be allocated to the respective Building Unit Owners. Maintenance of the Limited Common Areas shall be an expense of the Owner of the Unit to which such Limited Common Area is appurtenant.

**ARTICLE V
DESCRIPTION OF A CONDOMINIUM**

Section 5.1 Description of Condominium. ~~Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium shall describe that Condominium by the number shown on the Condominium Map or Condominium Plat and in this Declaration as each appears on the records of the County Recorder of Ada County, Idaho in the following fashion:~~

Unit _____ as shown on the Condominium Map for Rooster Condominiums recorded in the Records of Ada County, Idaho as Instrument No. 107153879 and as defined and described in that Condominium Declaration and Covenants, Conditions and Restrictions for Rooster Condominiums recorded in the Records of Ada County, Idaho as Instrument No. 107153878

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

**ARTICLE VI
LIMITED COMMON AREA**

Section 6.1 Description. Any tanks, pumps, motors, ducts, chutes, flues, pipes, plumbing, wires, conduits, and other utility or life safety system, equipment, installation, or fixture serving only one Unit is Limited Common Area of that Unit. Any decks, patios, fences, signs and all exterior doors and windows or other fixtures designed to serve a single Unit but which are located outside the appurtenant Unit's boundaries, are Limited Common Areas allocated exclusively to that Unit. Any hallways, even though designated as a Unit on the Condominium Plat, which are owned by the Association and devoted to the common use and benefit of some, but not all, of the Occupants within that Building.

Section 6.2 Reallocation. Limited Common Area may be reallocated between Units or all Units, or Common Area reallocated as Limited Common Area, or Limited Common Area may be incorporated into an existing Unit, with the approval of the Owners by amendment of this Declaration as provided herein. The reallocation or incorporation shall be reflected in an amendment to the Declaration and Condominium Plat. The Owner or Owners benefited thereby shall bear all costs associated therewith in proportion to the relative benefits to each such Unit as determined by the Board. Notwithstanding the foregoing, in no event shall Limited Common Area be reallocated without the consent of the Owner of the Unit to which Limited Common Area is allocated.

Section 6.3 Use and Access. The Owner of the Unit to which Limited Common Area is allocated shall have the right to the exclusive use of the Limited Common Area, which right shall extend to the Owner's Occupants, tenants, family members, invitees, guests and other Users authorized by the Owner.

**ARTICLE VII
MECHANIC'S LIEN RIGHTS**

Section 7.1 Condominium Labor. No labor performed or services or materials furnished with the consent or at the request of an Owner or such Owner's agent, contractor, or subcontractor shall be the basis for the filing of a lien against the Project of any other Owner or against any part thereof or against any other property of any other Owner unless such other Owner has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if duly authorized by the Association, shall be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove such Owner's Condominium from a lien against two or more Condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien, which is attributable to such Owner's Condominium.

**ARTICLE VIII
THE ASSOCIATION**

Section 8.1 Membership. The Articles of Incorporation and Bylaws of the Association copies of which are attached hereto. Every Owner shall be entitled and required to be a Member of the Association. If title to a Condominium is held by more than one Person, the membership related to that Condominium shall be shared by all such Persons in the same proportionate interests and by the same type of tenancy in which the title to the Condominium is held. An Owner shall be entitled to one membership for each Unit owned by that Owner. No Person or entity other than an Owner may be a Member of the Association, and the Articles of Incorporation or Bylaws of the Association always shall so state and shall in addition state that the memberships in the Association may not be transferred except in connection with the transfer of a Condominium; provided, however, the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium.

Section 8.2 Voting Rights. Initially there shall be two (2) classes of voting Members, Class A and Class B.

(a) Class A Members. Class A Members shall be all Owners, with the exception of Declarant until the Class B Membership, as defined below, has been converted to Class A Membership, and after such conversion all Owners shall be Class A Members. Each Class A Member's voting right shall be based upon a percentage basis. The percentage basis to which each Class A Member is entitled shall be the percentage of ownership interest in the General Common Area which is set forth in **Exhibit E** attached hereto. When more than one (1) Person owns a portion of a Unit, each such Person shall be a Member of the Association and any vote allowed for such Unit shall be exercised as said Persons determine, but in no event shall more than one (1) Class A Member vote be cast with respect to any one (1) Unit. The Association may, but shall not be obligated to, recognize the vote or written consent of any co-Owner and if the Association is in doubt of the authority of any co-Owner, the Association may, but shall not be obligated to, accept the vote or consent of the co-Owner designated in writing only if executed by all co-Owners of the Unit and delivered to the Association.

(b) Class B Members. The Class B Member shall be the Declarant. The Class B Member's voting rights shall be based upon a percentage basis multiplied by three (3).

The percentage basis to which the Class B Member is entitled shall be the percentage of ownership interest in the General Common Area which is set forth in **Exhibit E** attached hereto for each Unit owned by Declarant. The Class B Membership shall cease and be converted to Class A Membership on the earlier of when (i) Declarant owns less than twenty-five percent (25%) of the total square footage of all Units; (ii) Declarant voluntarily elects to terminate its Class B Membership by written notice to the Board; or (iii) December 31, 2022.

Section 8.3 Election of Directors. In any election of the members of the Board of Directors, the candidates receiving the highest number of votes up to the number of Directors to be elected shall be deemed elected. Any director may be removed from office by a vote of the Members entitled to vote at an election of directors as further detailed in the Bylaws. If any or all Directors are so removed, new directors may be elected at the same meeting. Provided, however, that until such time as seventy-five percent (75%) of the total square footage of all Units are sold, Declarant, as the Class B Member, shall have the sole and exclusive right to elect and remove the Directors.

Section 8.4 Transfer. Except as otherwise expressly stated herein, any of the rights, interests, and obligations of the Association set forth herein or reserved herein may be transferred or assigned to any other Person or entity; provided, however, no such transfer or assignment shall relieve the Association of any of the obligations set forth herein. Any such transfer or assignment shall not revoke or change any of the rights or obligations of any Owner as set forth herein.

Section 8.5 Amplification. The provisions of this Article VIII are amplified by the Articles of Incorporation of the Association and by the Bylaws of the Association; provided, however, no present or future provision of such Articles of Incorporation or Bylaws shall substantially alter or amend any of the rights or obligations of the Owners set forth herein unless this Declaration be similarly amended.

Section 8.6 Voting and Approvals. No action requiring a vote, the consent or the approval of the Members, with the exception of the election of the Board of Directors as set forth in Section 8.3 above, shall be deemed passed or approved except upon the affirmative vote of the Members holding seventy-five (75%) or more of the applicable Common Area percentage. The applicable Common Area voting percentage to which each Member is entitled shall be determined according to the matter being put to a vote. If the matter relates to or affects the Project, all Members shall vote and each Member shall vote according to the Member's voting percentage as set forth for General Common Area on **Exhibit E**. Subject to the next following sentence, if the matter relates to or affects only the Building in which the Member is a Unit owner, the matter shall be decided only by the Members in that Building according to the Member's applicable voting percentage as set forth for Building Common Area on **Exhibit E**. If the matter relates to or affects only the portions of the Building Common Area giving rise to the Selected Building No. 1 Expenses, the matter shall be decided only by the Members charged Selected Building No. 1 Expenses according to their voting percentage as set forth for Selected Building No. 1 Expenses on **Exhibit E**. In the event of a dispute over whether a matter relates only to a Building or not, the matter shall be determined by all Members of the Association.

**ARTICLE IX
CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

Section 9.1 The Management Body. The Association is hereby designated to be the "**Management Body**" as provided in Sections 55-1503 and 55-1506 of the Idaho Code and shall administer the Project in accordance with the Condominium Property Act of the State of Idaho, the Idaho Code, the Articles of Incorporation and Bylaws of the Association, and the provisions of this Declaration.

Section 9.2 The Common Area. The Association, subject to the rights of the Owners set forth in Article IV hereof, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in good, clean, attractive and sanitary condition, order and repair; however, each Owner of a Unit shall keep the Limited Common Area designated for use in connection with such Owner's Unit in a clean, sanitary, and attractive condition and shall maintain, repair and replace such Limited Common Area at such Owner's sole cost and expense. The Association shall be responsible for the maintenance and repair of General Common Area and the Building Common Area including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the landscaping and the care of the grounds, the maintenance and repair of roofs, and utility lines and all other improvements or materials located within or used in connection with the General Common Area and the Building Common Area. The Association shall be responsible for the removal and disposal of all snow and ice within the General Common Area so as to maintain clear access, and ingress and egress, to all driveways, parking areas, and pedestrian pathways and sidewalks. The specification of duties of the Association with respect to particular Common Area shall not be construed to limit the Association's duties with respect to other Common Area, as set forth in the first sentence in this section. For all duties set forth in this section, the outside building management company or building manager hired by the Association under Section 4.18 may attend to the same, and the Association shall oversee such company or manager in the performance of these duties. The cost of such management, maintenance, and repair by the Association shall be borne as provided in Article X.

The Association by and through the Association's officers shall have the right to grant easements for utility purposes over, upon, across, under, or through any portion of the Common Area, and each Owner hereby irrevocably appoints the Association and the Association's officers as attorney-in-fact for such purposes.

Section 9.3 Miscellaneous Services. From time to time, the Association may obtain and pay for the services of any Person or entity to manage the Association's affairs, or any part thereof, to the extent the Association deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any Person or entity with whom or which the Association contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may, but shall not be obligated to, arrange with others to furnish electrical, water, sewer, trash collection, and other common services to each Unit. In the event any User consumes, uses or requires more of a common service provided to the Units than the other Users of that service, the Association shall be entitled to assess the additional cost to the User's Unit in accordance with Article X.

Section 9.4 Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as the Owner's respective voting interests in the General Common Area. ~~Such interest shall not be transferable except with the transfer of a Condominium.~~ A transfer of a Condominium shall transfer to the transferee ownership of transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Condominium under the foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Condominium.

Section 9.5 Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units and of the Common Area ("**Rules and Regulations**"), which Rules and Regulations shall be consistent with the rights and duties established in this Declaration. Such Rules and Regulations, may include, without limitation, assignment of particular portions of the parking areas within the General Common Area for exclusive use by Owners of a particular Building or for exclusive but temporary use by any third party. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner or such Owner's Users fail to comply with such Rules and Regulations or with any other obligations of such Owner under this Declaration. The Association may also take judicial action, including, without limitation, injunctive action against any Owner to enforce compliance with such Rules, Regulations, or other obligations or to obtain damages for noncompliance, all to the extent permitted by law.

The Association is hereby appointed as the Owners' representative for the purpose of enforcing compliance with such Rules and Regulations. The outside building management company or building manager hired by the Association under Section 4.18 may also be appointed by the Association to serve as such Owner's representative, so long as the Association provides adequate supervision of the activities of such company or manager.

Section 9.6 Implied Rights. The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right or privilege.

Section 9.7 Association Property. The Association may accept and exercise jurisdiction over all property, real and personal, conveyed free and clear of all liens and encumbrances to the Association by Declarant, including (a) easements for operation and maintenance purposes over any portion of the Project and (b) the Association Easements. For purposes of this section, a nonexclusive easement, license or other contractual right to use in favor of the permitted users or any of them shall not be deemed a lien or encumbrance.

Section 9.8 Title to Property Upon Dissolution. The Association may convey, upon dissolution of the Association, the assets of the Association to an appropriate public agency or agencies to be used for purposes similar to those for which the Association was created, or to a nonprofit corporation, association, trust or other organization organized and operated for such similar purposes.

ARTICLE X ASSESSMENTS

Section 10.1 Agreement to Pay Assessment. Declarant, for each Condominium owned by Declarant within the Project and for and as the Owner of the Project and every part thereof, hereby covenants, and each Owner of any Condominium by the acceptance of a deed, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association periodic assessments made by the Association for the purposes provided in this Declaration and special assessments for capital improvements and other matters as provided in this Declaration. In the case of joint or co-ownerships of a Unit, this liability shall be joint and several amongst all Owners of the Unit. Such assessments shall be fixed, established, and collected from time to time in the manner provided in this Article X.

Section 10.2 Amount of Total Periodic Assessments. The total periodic assessments against all Condominiums shall be based upon advance estimates of cash requirements by the Association to provide for the payment of all estimated expenses connected with the maintenance and operating of the Common Area, or the furnishing of electrical, water, sewer, trash collection, and other common services to each Unit or the extent not separately metered and/or billed to a specific Unit, which estimates may include, among other things, expenses of management, taxes and special assessments, assessments or charges payable to the Rocky Mountain Business Park Association, premiums for all insurance which the Association is required or permitted to maintain pursuant hereto, landscaping and care of grounds, common lighting and heating, water charges, trash collection, sewer service charges, repairs and maintenance, wages for Association employees, legal and accounting fees, any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus, and/or sinking fund, and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration or by ownership or control of the Common Area.

Section 10.3 Apportionment of Periodic Assessments. The expenses attributable to the General Common Area shall be apportioned among all Owners of Units in proportion to the interest in the General Common Areas owned by each Owner of a Unit as set forth in **Exhibit E** hereof. Subject to Section 10.4, the expenses attributable to the Building Common Areas shall be apportioned among all Owners of Units within the respective Building which generated the expense or to which the expense relates in proportion to their ownership interest in the Building Common Areas as set forth in **Exhibit E** hereof. Expenses which are incurred for maintenance and operation of those items which are either common to the Building and General Common Areas or which are not associated with either the Building or General Common Areas in particular but rather with the Project as a whole, shall be paid by the Owners in proportion to the General Common Area interest of each Owner as set forth in **Exhibit E** hereof. The Board of Directors may choose to apportion expenses as General Common Area expenses or Building Common Area expenses as the Board may reasonably determine and the apportionment by the Board shall be conclusive.

Section 10.4 Apportionment of Building No. 1 Building Common Area Expenses. Building Common Area expenses within Building No. 1 shall generally be apportioned among all Owners of Units within Building No. 1 in proportion to their ownership interest in the Building Common Areas as set forth in **Exhibit E** hereof. However, because certain Building Common Areas do not benefit the Owner or User of Units 1-A, 1-B and 1-C, those expenses shall be apportioned to the remaining Units in Building No. 1 as set forth on **Exhibit E** hereof in the

column labeled Selected Building No. 1 Expenses. Building No. 1 Building Common Area expenses apportioned to the Owners in Building No. 1 according to the Selected Building No. 1 Expense percentages are limited to expenses arising from or related to: interior maintenance, repair, and janitorial (excluding maintenance, repair and replacement of the fire rise room, electrical room, mechanical room and roof access); restroom supply, maintenance, repair and replacement; interior decorating and supply; elevator maintenance, inspection, permitting, repair and replacement; exterior door lock maintenance, repair and replacement; security system maintenance, repair, replacement and service fee; Building Common Area HVAC maintenance, repair, and replacement; exterior doors and plate glass (except exterior doors and plate glass contiguous with a Unit); and interior power and heat. In the event of any rebate, refund or payment for damages solely relating to or arising from those portions of the Building No. 1 Building Common Areas giving rise to the Selected Building No. 1 Expenses, the Owners paying such expenses shall be entitled to the rebate, refund or other reimbursement for damages according to their respective percentage interest of Selected Building No. 1 Expenses.

Section 10.5 Notice of Periodic Assessments and Time For Payment Thereof. The Association shall make periodic assessments, which assessments shall be annually, quarterly, or monthly, as the Association shall from time to time determine. The Association may, in the Association's discretion, send notice of assessments to each Owner, which notice shall specify the amount of the assessment and the date or dates of payment of the same. No payment shall be due less than fifteen (15) days after the said written notice has been given. Each periodic assessment shall bear interest at the rate equal to twelve percent (12%) per annum from the date it becomes due and payable if not paid within fifteen (15) days after such date and shall be subject to an automatic late charge of five percent (5%) of the amount due or Fifty Dollars (\$50.00), which ever is greater. Failure of the Association to give notice of the assessment shall not affect the liability of any Owner for such assessment, but the date when payment shall become due in such a case shall be deferred to a date fifteen (15) days after such notice shall have been given.

Section 10.6 Special Assessments. In addition to the annual assessments authorized by this Article X, the Association may, at any time, levy a special assessment payable over such a period as the Association may determine for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or any other expense incurred or to be incurred as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expenses, but this section shall be construed to prescribe the manner of assessing for expenses authorized by other sections hereof that shall make specific reference to this Article X. Any amounts assessed pursuant hereto shall be assessed to Owners in the same manner as provided in Section 10.3 of this Article X. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. The Association shall have the power to incur expenses for maintenance and repair of any Unit if such maintenance or repair is necessary, in the opinion of the Board of Directors of the Association to protect the Common Area or any other portion of the Project and if the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board of Directors to said Owner or Owners. The Board of Directors shall levy a special assessment against the Owner or Owners or Occupant or User of any such Unit to pay for the cost of such maintenance and repair and any other costs or expenses arising out of or incident to such maintenance and repair and the assessment therefor. A special assessment shall bear interest at the rate equal to twelve percent (12%) per annum from the

date it becomes due and payable if not paid within thirty (30) days after such date and shall be subject to an automatic late charge of five percent (5%) of the amount due or Fifty Dollars (\$50.00), which ever is greater.

~~Section 10.7~~ ~~Lien for Assessments.~~ All sums assessed to any Condominium pursuant to this Article X, together with interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association upon recordation of a notice of assessment lien as herein provided. Such lien shall be superior to all other liens and encumbrances on such Condominium except only for: (a) valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority; (b) a lien for all sums unpaid on any Mortgage which encumbers such Condominium and which has been duly recorded in Ada County, Idaho, real estate records, including all unpaid obligatory advances to be made pursuant to such Mortgages and secured by the lien thereof in accordance with the terms of such instrument; and (c) labor or materialmen's liens, to the extent required by law. All other lienors acquiring liens on any Condominium after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior liens to future liens for assessments as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To create a lien for sums assessed pursuant to this Article X, the Association may prepare a written notice of the assessment lien setting forth the amount of the assessment, giving rise to the lien, the date due, the amount remaining unpaid, the name of the record Owner of the Condominium and a description of the Condominium. Such notice shall be signed by the Association and may be recorded in the office of the County Recorder of Ada County, Idaho. No notice of an assessment lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale by the Association after failure of the Owner to pay such an assessment in accordance with its terms, such sale to be conducted in the manner permitted by law in Idaho for the exercise of power of sale in deeds of trust or in any other manner permitted by law, including, without limitation, judicial foreclosure. The Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of assessment lien and all costs and expenses related thereto, including, without limitation, reasonable attorney fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium, which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner thereof.

A further notice stating the satisfaction and release of any such lien shall be executed by the Association and recorded in the Ada County, Idaho real estate records upon payment of all sums secured by a lien, which has been made the subject of a recorded notice of assessment.

Any encumbrancer holding a lien on a Condominium may pay, but shall not be required to pay, any amounts secured by the lien created by this section, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

Without imposing any liability upon the Association for its failure to do so, the Association shall be entitled to report any unpaid assessment remaining unpaid for longer than ninety (90) days after the same shall have become due to any encumbrancer of a

Condominium; provided, however, such encumbrancer first shall have furnished written notice of such encumbrance to the Association.

~~Section 10.8 Personal Obligation of Owner. The amount of any periodic or special assessment against any Condominium shall be the personal obligation of the Owner thereof to the Association. If permitted under applicable law, suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosure or waiver of the lien securing the same. No Owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the Common Area or by abandonment of the Owner's Condominium.~~

Section 10.9 Statement of Account. Upon payment of a reasonable fee, not to exceed Fifty Dollars (\$50.00), and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Condominium, the amount of the current periodic assessment, the date that such assessment becomes or became due, and credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums, which statement shall be conclusive upon the Association in favor of Persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments, which became due prior to the date of making such request, shall be subordinate to the lien of a Mortgagee that acquired such Mortgagee's interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day period provided herein and if thereafter an additional written request is made by such purchaser, is not complied with within ten (10) days, and the purchaser subsequently acquires the Condominium.

Section 10.10 Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 10.9, a purchaser of a Condominium shall be jointly and severally liable with the seller for all unpaid assessments against the Condominium up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

ARTICLE XI USE OF CONDOMINIUMS

Section 11.1 Rock Mountain Business Park. No User shall use or permit the use of any portion of the Project subject to the Rocky Mountain Business Park Declaration in violation of the Rocky Mountain Business Park Declaration. In the event any User is found in violation of this Section, the Association expressly reserves the right to terminate or cause the termination of the offending act and to seek damages from the Owner or Occupant of the Unit associated with the User.

Section 11.2 Condominiums. Each Condominium shall be used for general commercial and retail purposes in accordance with the ordinances of the City of Eagle, Idaho; provided, however, that no Condominium shall be used for any purpose prohibited by the ordinances of the City of Eagle, or for a movie or concert theater, adult book or adult video store, or any other similar business. In the event any Condominium Owner is found in violation of these use restrictions, the Association expressly reserves the right to terminate or cause the

termination of and close the offending business and to seek damages from the Owner or Occupant of the Unit in question.

Section 11.3 Use of Common Area. Except as specifically set forth with respect to Limited Common Area, there shall be no obstruction of the Common Area, nor shall anything be stored on any part of the Common Area without the prior written consent of the Association.

Section 11.4 Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any part of the Project which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of insurance on the Project or any part thereof over what the Association or any Occupant but for such activity, would pay, without the prior written consent of the Association and each Occupant. Nothing shall be done or kept in any part of the Project that would be in violation of any statute, rule, ordinance, regulation, 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 of Owner's Occupants or Users, and each Owner shall release the Association and indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner's Occupants or Users. No noxious, destructive, or offensive activity shall be carried on in any part of the Project nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any Person at any time lawfully residing in or operating a business in the Project. Provided, however, that notwithstanding the foregoing no use or activity otherwise permitted by the City of Eagle Zoning Ordinance shall be prohibited within the Project.

Section 11.5 Rules and Regulations. No Owner shall violate the Rules and Regulations for the use of that portion of the Project to which such Rules and Regulations apply as adopted from time to time by the Association. Except as otherwise provided herein, any Owner shall have the right to enforce any or all of the provisions of any restriction contained in this Declaration or any Rule or Regulation adopted by the Association. Any violation of any state, municipal or local law, ordinance or regulation pertaining to ownership, occupation or use of any property within the Project is hereby declared to be a violation of a restriction in this Declaration and subject to any or all of the enforcement procedures set forth below.

Section 11.6 Maintenance of Interiors. Consistent with Section 4.9 and Section 4.10, above, each Owner or Occupant shall keep the interior of such Owner's or Occupant's Unit, including, without limitations interior walls, windows, glass, ceilings, floors, and permanent fixtures and appurtenances thereto, if any, in a clean, sanitary, and attractive condition and good state of repair; shall keep the Limited Common Area designated for use in connection with such Owner's Unit in a good state of maintenance and repair.

Section 11.7 Structural Alterations. No structural alterations or modification to any interior walls shall be made to any Condominium and no plumbing, electrical, or similar work within the Common Area shall be done by any Owner without the prior written consent of the Association, except that an Owner may do such work as may be appropriate to maintain and repair Limited Common Area appurtenant to such Owner's Unit.

Section 11.8 Construction Work Generally.

(a) All construction, alteration, replacement or repair work undertaken upon any portion of a Unit or the Project ("**Construction Work**"), shall be accomplished in a commercially reasonable, diligent and speedy manner. Any Person undertaking Construction

Work shall take all necessary measures to minimize any damage, disruption or inconvenience caused by the Construction Work to the Occupants or Users of any affected Unit or the Project, and shall make adequate provisions for the safety and convenience of all Occupants and Users of the Project. ~~Specifically, from and after the initial occupancy of any Unit, any Construction Work shall be conducted in a manner and during restricted hours so as to avoid interference with ingress and egress to and the quiet use and enjoyment of the Occupants and Users of the Project.~~

(b) Any Occupant or User undertaking Construction Work shall promptly repair, at its own cost and expense, any and all damage caused thereby and shall restore the affected portion of the improvements upon which the Construction Work is performed to a condition equal or superior to the condition existing prior to beginning the Construction Work and shall pay all costs and expenses associated therewith and shall indemnify and hold the Association and all Occupants and Users harmless from any and all loss, cost, damages, liability, injury or expense (including, but without limitation, claims of lien for work or labor performed, and materials or supplies furnished in connection with Construction Work or the voiding or terminating of any existing warranty applicable to any item or element installed in the Project) caused by or arising out of the performance of the Construction Work.

(c) Except in the event of an emergency, Construction Work shall be undertaken only after giving the Board thirty (30) days' prior written notice of the Construction Work to be undertaken (unless the Board, in its sole discretion, agrees to a shorter notice period), the scope, nature and extent of the Construction Work, the duration of the work period, and the area in which the Construction Work is to be performed. Such notice shall include copies of any plans and specifications for the Construction Work to be undertaken.

Section 11.9 Compliance With Plans, Laws and Rules. All Construction Work shall comply with the plans and specifications therefor approved under this Declaration, and with all applicable laws, ordinances, rules, regulations and other requirements of all governmental authorities, public bodies and other authorities having jurisdiction (such as public utilities), including, without limitation, environmental and zoning laws and building codes. The Person performing the Construction Work shall also secure all licenses and permits required therefor by said authorities. All Construction Work shall be performed in accordance with rules and regulations from time to time promulgated by the Board.

Section 11.10 Emergency Work. Notwithstanding any requirement for prior notice or approval contained in this Declaration, in the event of an emergency condition, any Occupant or User may undertake the necessary Construction Work to remedy any emergency condition, provided that such Occupant or User does so in good faith, gives notice thereof to the Board upon the occurrence of the emergency condition or as soon thereafter as possible, and otherwise conforms to the applicable provisions of this Article XI, to the extent feasible under the circumstances.

Section 11.11 Enforcement Responsibility. Without limitation upon its general powers, the Association shall be responsible for enforcement of all of the covenants of this Article XI with respect to all Construction Work performed within the Project.

Section 11.12 Parking Restrictions. No vehicle shall be parked or left on the property subject to this Declaration other than on the designated parking area. The parking area shall be used for parking operable vehicles only and shall not be converted for living, recreational or overnight storage purposes. Camper, RV and boat storage on the Common

Area shall not be permitted. There shall be no overnight parking, vehicle storage or vehicle repair within the parking areas.

~~Section 11.13 Signs. Owners of Condominiums shall have the right to erect such signs as may be, from time to time, approved by the Board of Directors, which approval shall not be unreasonably withheld.~~

Section 11.14 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate, and no odors shall be permitted to arise from the Project or any Condominium so as to render any portion of the Project unsanitary, unsightly, offensive, or detrimental to any other portion of the Project, any Condominium, or to any Occupants. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Project or any Condominium so as to be offensive or detrimental to any other portion of the Project, any Condominium or any Occupants. Without limiting the generality of any of the following provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security systems used exclusively for security purposes) shall be located, used, or placed on any such portion of the Project or any Condominium without the prior written approval of the Board of Directors. Provided, however, that notwithstanding the foregoing no use or activity otherwise permitted by the City of Eagle Zoning Ordinance or the development agreement between Declarant and the City of Eagle shall be deemed to be a nuisance or shall be prohibited on the Project.

Section 11.15 Outside Installations. No satellite dishes, television antennas, microwave antennas, wiring, or installation of air condition, or other machines, unless properly screened from view or contained within roof wells as part of the original construction of the Project, shall be installed on the exterior of the Building for the use of any Unit or be allowed to protrude through the walls, windows, or roof of the Building for the use of any Unit unless the prior written approval of the Board of Directors, which approval shall not be unreasonably withheld, is secured.

Section 11.16 Enforcement of Violations. No violation of any Association Rule or Regulation, inclusive of those items described in Section 11.5 above, shall be allowed. If any Owner, Owner's Occupants, tenants, family members, invitees, guests and other users authorized by the Owner commits such violation, the Board may, in addition to any other legal remedies it may have, impose a Special Assessment upon such Owner of not more than Fifty Dollars (\$50.00) for each such violation for each day that such violation continues. Before invoking such assessment, the Board shall give such Owner sixty (60) days' written notice to cure such violation and/or to be heard by the Board regarding the violation and any potential assessment. If such violation is of a nature that it cannot be remedied within sixty (60) days, no assessment shall be invoked so long as the Owner submits a remediation plan to the Board to remedy the violation within a reasonable time and such Owner diligently pursues such plan to completion. If an Owner violates any Rule or Regulation more than twice within any three (3) year period, regardless of whether the Rule or Regulation that has been violated is the same, the accrual of such assessment shall begin three (3) days after the Board gives notice of such violation rather than sixty (60) days after such notice. Such additional assessments may be collected and enforced in the same manner as any other assessment under Article X. Each remedy provided in this Declaration or by law shall be cumulative and not exclusive. The failure to enforce any of the provisions of this Declaration at any time shall not constitute a waiver of the right to enforce such provision thereafter.

Section 11.17 Owner's Responsibility for Acts of Others. Each Owner shall be responsible for compliance with, and any violation of, the provisions of this Declaration, the Association Rules and Regulations, or the resolutions of the Board, by his/her contract purchasers, lessees or tenants, and invites and licensees.

Section 11.18 Indemnification. Each Owner shall be liable to the remaining Owners and the Association for any damage to the Common Area or the Units of the other Owners that may be sustained by reason of the negligence or willful misconduct of the Owner, his/her contract purchasers, lessees or tenants, and their invitees or licensees, to the extent any such damage is not covered by insurance. Each Owner shall indemnify each of the other Owners against, and hold him/her harmless from, and defend him/her against, any claim of any person for personal injury or property damage occurring within the Unit of the indemnifying Owner, unless the injury or damage to which such indemnity would apply occurred by reason of the active negligence or willful misconduct of the party claiming indemnification.

ARTICLE XII INSURANCE

Section 12.1 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 XII shall not be construed to limit the power of authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time. In order to facilitate the providing and maintaining of adequate and proper insurance, it is contemplated that Declarant may contract for blanket insurance coverage covering the Project as contemplated by this Article XII prior to or concurrently with the first conveyance of a Condominium. Any obligation or commitment for the payment of premiums or expenses otherwise incurred by Declarant under any such blanket policy or coverage, whether or not the same is also a personal obligation of the purchaser or purchasers of any Condominium, shall become an obligation of the Association and shall be paid for out of Association funds.

(a) Casualty Insurance. The Association shall obtain insurance on the Project in such amounts as 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 buildings in the vicinity of the Project would in the exercise of prudent business judgment obtain such insurance. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, earthquake, war risk insurance if available and if deemed appropriate by the Association and at rates deemed reasonable by the Board, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall purchase broad-form, commercial general liability coverage in such amounts and in such forms as the Association deems advisable to provide adequate protection. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Project.

(c) Worker's Compensation and Employer's Liability Insurance. The Association shall purchase worker's compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance. The Association shall purchase, in such amounts and in such forms as the Association shall deem appropriate, coverage against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(e) Other. The Association may obtain insurance against such other risks of a similar or dissimilar nature as the Association shall deem appropriate with respect to the Project, including any personal property of the Association located thereon.

Section 12.2 Form. Casualty insurance shall be carried in a form or forms naming the Association the insured as trustee for the Owners, which policy or policies shall specify the interest of each Condominium Owner (Owner's name, Unit number and the appurtenant undivided interest and/or share in the Common Area), and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first Mortgagees which from time to time shall give notice to the Association of such first Mortgage, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice is first given to each Owner and to each first Mortgagee. The Association shall furnish to each Owner who requests it and to Declarant a true copy of such policy, together with a certificate identifying the interest of the Owner. All policies of insurance shall provide for a waiver of subrogation by the insurers as to claims against the Association, the Board of Directors, employees, and agents and against each Owner and each Owner's employees, agents, and guests and shall provide that the insurance cannot be canceled, invalidated, or suspended on account of the conduct of the Association, the Board of Directors, employees, and agents or on account of any Owner or such Owner's employees, agents, or guests and shall provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee.

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 Project.

Section 12.3 Insurance Proceeds. The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Article XII. 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 herein, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed in the same manner herein provided in the event of sale of obsolete Condominiums. Each Owner and each Mortgagee shall be bound by the apportionment of damage and of the insurance proceeds made by the Association pursuant hereto.

Section 12.4 Owner's Own Insurance. Each Owner shall obtain insurance at the Owner's own expense providing coverage upon the Owner's Condominium, the Owner's personal property located in the Owner's Unit, for the Owner's personal liability, and covering such other risks as the Owner may deem appropriate, but 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 XII. All such insurance of the Owner's Condominium shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents, and guests of any of the Owners, the Declarant, and Mortgagee. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the policies, described in this Section that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner shall be liable to the Association to the extent of any such diminution. In addition, any improvements made by an Owner within such Owner's Unit may be separately insured by the Owner, but such insurance shall be limited to the type commonly known as "tenant's improvements" insurance. Owner shall, upon request, furnish the Association with a proof of insurance in compliance with this Section.

ARTICLE XIII CASUALTY DAMAGE OR DESTRUCTION

Section 13.1 Affects Title. Title to each Condominium is hereby made subject to the terms and conditions hereof which bind the Declarant and all subsequent Owners, whether or not it is so expressed in the deed by which any Owner acquires such Owner's Condominium.

Section 13.2 Association as Agent. All of the Owners irrevocably constitute and appoint the Association by and through the Association's elected officers as the Owners' true and lawful attorney-in-fact in the Owner's 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 Owner shall constitute such appointment.

Section 13.3 General Authority of the Association. As attorney-in-fact, the Association by and through the Association's elected officers 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 a Condominium Owner which may be necessary or appropriate to exercise the powers herein granted to the Association. Repair and reconstruction of the improvements as used in the succeeding subparagraphs mean 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 representing an aggregate of eighty percent (80%) or more of the voting percentage in the General Common Area and said Owner's first Mortgagees, if any, agree not to rebuild in accordance with the provisions set forth hereinafter.

Section 13.4 Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain estimates that the Association deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

Section 13.5 Repair or Reconstruction. As soon as practicable after receiving the estimates, the Association shall diligently pursue to completion the 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 consent or 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, however, in such latter event in the absence of the consent of each affected Owner, the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Unit, 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.

Section 13.6 Funds for Reconstruction. The proceeds of any insurance 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 X 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 Article X. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

Section 13.7 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 13.6 constitute a fund for the payment of cost or repair and reconstruction after casualty. 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 by each Owner pursuant to the assessments by the Association under Section 13.6 of this Declaration.

Section 13.8 Decision Not to Rebuild. If the record Owners, as reflected on the real estate records of Ada County, Idaho, representing an aggregate ownership interest of eighty percent (80%) or more of the voting percentage in the General Common Area and said Owners' first Mortgagees, if any, agree not to rebuild, as provided herein, the Project or affected portion thereof shall be sold and the proceeds distributed to the Owners according to their respective percentage ownerships. If less than all of the Project is sold, then the proceeds shall first be used to restore the General Common Area in the remaining portion of the Project (to the extent insurance proceeds may have been insufficient to restore the General Common Area) and the remaining proceeds shall be distributed to the applicable Owners according to their percentage interest in the Building Common Area. If more than one Building is part of the portion of the Project sold, the Board shall apportion the proceeds between the two Buildings as the Board may reasonably determine and the apportioned amounts shall be distributed to the applicable Owners according to their percentage interest in the applicable Building Common Area.

ARTICLE XIV OBSOLESCENCE

Section 14.1 Adoption of a Plan. The record Owners, as reflected on the real estate record of Ada County, Idaho, representing an aggregate record ownership interest of eighty percent (80%) or more of the voting percentage in the General Common Area may agree that the Project is obsolete and adopt a written plan for renewal and reconstruction, which plan has the unanimous approval of all first Mortgagees of record at the time of the adoption of such

plan. Written notice of adoption of such plan shall be given to all Owners. Such plan shall be recorded in the Ada County, Idaho, real estate records.

~~Section 14.2~~ Payment of Renewal and Reconstruction. The expense of renewal or reconstruction shall be payable by all of the Owners as assessments against their respective Condominiums. These assessments shall be levied in advance pursuant to Article X, hereof, and 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 renewal and reconstruction.

Section 14.3 Sale of Obsolete Units. The Owners representing an aggregate ownership interest of eighty percent (80%) or more of the voting percentage in the General Common Area may agree that the Condominiums are obsolete and that the Project should be sold. Such an agreement must have the unanimous approval of every first Mortgagee of record at the time the agreement is made. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the Project shall be sold by the Association as attorney-in-fact for all the Owners free and clear of the provisions contained in this Declaration, the Condominium Plat and the Bylaws. The sale proceeds shall be apportioned among the Owners in proportion to the respective Owner's Condominium value for real property tax assessment purposes (using the last assessment value established prior to the date the Owners agreed that the Condominiums are obsolete and the Project should be sold) exclusive of the amounts assessed for personal property, and such apportioned proceeds shall be paid into separate accounts, each account representing one (1) Condominium. Each such account shall remain in the name of the Association and shall be further identified by the Condominium designation and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to Mortgagees and other liens, and the balance remaining to each respective Owner.

Section 14.4 Distribution of Excess. In the event amounts collected pursuant to Section 14.2 are in excess of the amounts required for renewal and reconstruction, the excess shall be returned to the Owners by the Association by a distribution to each Owner in an amount proportionate to the respective amount collected from each such Owner.

ARTICLE XV CONDEMNATION

Section 15.1 Consequences of Condemnation. If, at any time or times during the continuance of the Condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

Section 15.2 Proceeds. All compensation, damages or other proceeds for damages to the Project, the sum of which is hereinafter called the "**condemnation award**," shall be payable to the Association. Nothing in this Article XV shall affect the Owner's or Occupant's right to relocation assistance, relocation proceeds, business damages or damages to Owner's or Occupant's the personal property.

Section 15.3 Complete Taking. In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the

Condominium ownership pursuant hereto shall terminate. The condemnation award shall be apportioned among the Owners in proportion to the respective Owner's Condominium value for real property tax assessment purposes (using the last assessment value established prior to the valuation date for condemnation purposes) exclusive of the amounts assessed for personal property; provided that if a standard different from the value of the Project as a whole is employed to measure the condemnation award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principal set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the condemnation award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 14.3 of this Declaration.

Section 15.4 Partial Taking. In the event that less than the entire Project is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the condemnation award to be determined in the following manner: as soon as practicable, the Association shall, reasonably and in good faith, allocate the condemnation award between compensation, damages or other proceeds, and shall apportion the amounts so allocated among the Owners as follows: (a) the total amount allocated to taking of or injury to the General Common Area shall be apportioned among the Owners according to their percentage interest in the General Common Area as set forth in **Exhibit E**; (b) the total amount allocated to the taking of or injury to the Building Common Area shall, subject to Section 10.4, be apportioned to those Condominiums with the affected Building according to their percentage interest in the Building Common Area as set forth in **Exhibit E**; (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within his/her own Unit shall be apportioned to the particular Unit involved; and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determined to be equitable under the circumstances. If an allocation of the condemnation award is already established in negotiation, juridical decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made in the same manner provided in Section 14.3 of this Declaration.

Section 15.5 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a Member of the Association. Thereafter, the Association shall reallocate the Ownership, voting rights and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception, and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided herein.

Section 15.6 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XIII above.

**ARTICLE XVI
REVOCATION OR AMENDMENT**

~~Section 16.1~~ Revocation or Amendment. Any amendment to this Declaration which seeks to change the boundaries of a Unit or modify the Condominium Plat may require Ada County and/or City of Eagle approval and all Persons are hereby informed that amendment of this Declaration alone will not be sufficient to achieve any amendment that requires Ada County and/or City of Eagle approval. Except where specifically provided for a higher percentage, this Declaration shall not be revoked, nor shall any of the provisions herein be amended, except upon the affirmative vote or consent of the Members holding seventy-five percent (75%) or more of the applicable Common Area percentage as set forth in Section 8.6, and all holders of any recorded Mortgage covering or affecting any or all of the Condominiums, whose interests as Mortgagees appear in such records, consent and agree to such revocation or amendment by instruments recorded. Any such revocation or amendment shall be binding upon every Owner and every Condominium whether the burdens thereon are increased or decreased by any such amendment and whether or not the Owner of each and every Condominium consents thereto.

**ARTICLE XVII
PERIOD OF CONDOMINIUM OWNERSHIP**

Section 17.1 Duration. The Condominium ownership created by this Declaration and the Condominium Plat shall continue until this Declaration is revoked in the manner provided in Article XVI of this Declaration.

**ARTICLE XVIII
MISCELLANEOUS**

Section 18.1 Compliance With Provisions of Declaration and Bylaws of the Association. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, Association Rules and Regulations, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief, or both, maintainable by the Association on behalf of the Owners or, in a proper case, by an aggrieved Owner.

Section 18.2 Registration of Mailing Address. Each Owner shall register such Owner's mailing address with the Association. All notices or demands intended to be served upon any Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Bylaws of the Association. All notices or demands to be served on Mortgagees pursuant thereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this section shall be deemed given when deposited in the United States mail in the form provided for in this section.

Section 18.3 Transfer of Declarant's Rights. Any right or any interest reserved hereby to the Declarant may be transferred or assigned by the Declarant, either separately or with one or more of such rights or interests, to any Person or entity only by document which expressly identifies itself as a transfer or assignment of Declarant's rights under this Declaration.

Section 18.4 Dispute Resolution. In the event the Owners are unable to resolve any significant dispute among themselves arising out of the operation or management of the Project, then the dispute shall be submitted to arbitration under the Rules of the American Arbitration Association. The prevailing Owner(s) in any arbitration or judicial proceeding shall be awarded reasonable costs and attorneys fees from the other Owner(s). Any unpaid award shall be imposed as a special assessment secured by a lien of the Unit(s) of the Owner(s) liable for such award as set forth in Article X of this Declaration. This Section shall not apply to the Association's filing or foreclosure of any lien for Assessments.

Section 18.5 Owner's Obligations Continue. All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may have leased or rented said interest as provided herein, but the Owner of a Condominium shall have no obligation for expenses or other obligations accruing after the Owner conveys such Condominium.

Section 18.6 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 18.7 Severability. If any of the provisions of this Declaration or any clause, paragraph, sentence, phrase, or word or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstance shall not be affected thereby.

This Declaration is executed on this 2 day of November, 2007.

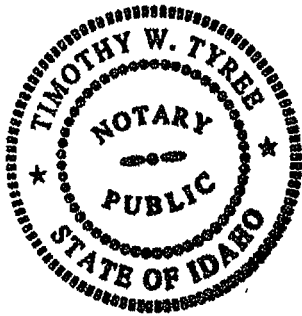
MONTAGUE-SAURIOL, LLC, an
Idaho limited liability company

By: Charles R. Montague
Charles R. Montague, Manager

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 2ND day of NOVEMBER, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles R. Montague, known or identified to me to be the Manager of Montague-Sauriol, LLC, the Idaho Limited Liability Company that subscribed said company name to the foregoing instrument, and acknowledged to me that he executed the same in said company name.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.



A handwritten signature in cursive script, appearing to read "Timothy W. Tyree".

Notary Public
Residing at BOISE ID
My Commission Expires 12-14-2010

CERTIFICATE OF CONSENT OF RECORD LIEN OWNER

Syringa Bank, as record lien holder, hereby consents to the filing of the Condominium Declaration and Covenants, Conditions, and Restrictions for Rooster Condominiums dated October 31, 2007 ("Declaration"), together, with a plat or plats of the surface of the ground included in the project pursuant to said Declaration, and other filings made or to be made pursuant to the Condominium Property Act, Title 55, Chapter 15, Idaho Code, for the purpose of creating a project which is subject to the provisions of said Act.

DATED this 29 day of October, 2007.

SYRINGA BANK

By: Jim L. Cobbs
VICE PRESIDENT

STATE OF IDAHO)
) ss.
County of Ada)

On this 29th day of October, 2007, before me, a Notary Public, personally appeared Jim L. Cobbs, known or identified to me to be the Vice President of Syringa Bank, and known to me to be the person who executed the instrument on behalf of said institution, and acknowledged to me that such institution 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.

Dean Cristobal
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 11/12/11



Exhibit A - Description of Real Property

Project: 10-06-053
Date: October 23, 2007

ROOSTER CONDOMINIUMS PLAT DESCRIPTION

That portion of the Southeast ¼ of Section 9, a portion of the Northeast ¼ of Section 16, a re-plat of a portion of Lot 2 and Lots 3 and 4, Block 4, Merrill Subdivision No. 2 recorded at Book 79, page 8492, and Parcel B & C of Lot Line Adjustment Survey Record of Survey No. 5465, all within Township 4 North, Range 1 East, Boise Meridian, City of Eagle, Ada County, Idaho, and more particularly described as follows:

Commencing at the South ¼ corner of Section 9; thence along the Southerly boundary line of said Southeast ¼ of Section 9, South 89° 55' 37" East, 654.77 feet (previously described as 654.52 feet) to an angle point in Lot 1, Block 5, Merrill Subdivision No. 2, recorded at Block 79, page 8490, Ada County Records; thence along the Westerly boundary line of said Lot 1, Block 5, North 21° 33' 58" East, 502.35 feet to the Southerly right-of-way line of East State Street; thence along said Southerly right-of-way line on a non-tangent curve to the right 124.64 feet, having a radius of 6,551.05 feet, a delta of 01° 05' 24", and a long chord which bears South 63° 41' 37" East, 124.64 feet to the POINT OF BEGINNING;

thence continuing along said Southerly right-of-way line on curve to the right, 538.34 feet, having a radius of 6,551.05 feet, a delta of 04° 42' 30", and a chord bearing of South 60° 47' 40" East, 538.19 feet to the Northwest corner of Lot 13 of Pacific Heights Subdivision;

thence along the Westerly boundary line of said subdivision, South 29° 13' 16" West, 196.28 feet to the Northeasterly corner of Lot 42 of Pacific Heights Subdivision;

thence continuing along said boundary line North 65° 06' 08" West, 150.70 feet to the Northerly corner of Lot 40, Pacific Heights Subdivision;

thence along the Westerly boundary line South 29° 50' 19" West, 97.45 feet to the Northeast corner of Eagleland Condominiums;

thence along the Northerly boundary North 62° 00' 12" West, 180.57 feet;

thence along Northwesterly boundary South 27° 59' 48" West, 22.75 feet to the Southeast corner of Parcel 8 lot line adjustment Record of Survey #5465;

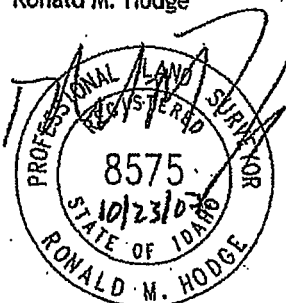
thence along the Southerly boundary of said parcel North 62° 00' 12" West, 199.69 feet to the Southeasterly right-of-way line of East Plaza Drive;

thence along said Southeasterly right-of-way line North 27° 59' 48" East, 335.89 feet to the POINT OF BEGINNING.

Containing 3.574 acres, more or less.

END OF DESCRIPTION

Prepared by:
J-U-B ENGINEERS, Inc.
Ronald M. Hodge



RMH:lhc

P:\RMH\10-06-053 - Heartland - MS Condo Plat\10-06-053-Admin\Descriptions\Rooster plat.doc

