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**CONDOMINIUM DECLARATION**

**FOR**

**LEIGHTON'S GLEN**

**CONDOMINIUMS**

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**EXHIBITS**

- EXHIBIT A — Legal Description of the Property
- EXHIBIT B — Plat of Leighton’s Glen Condominiums
- EXHIBIT C — Articles of Incorporation
- EXHIBIT D — Proportionate Interest in Common Area
- EXHIBIT E — Graphic Depiction of Mixed Use Parking Areas

## CONDOMINIUM DECLARATION

FOR

### LEIGHTON'S GLEN CONDOMINIUMS

THIS CONDOMINIUM DECLARATION FOR LEIGHTON'S GLEN CONDOMINIUMS (this "Declaration") is made effective as of NOVEMBER 7<sup>th</sup>, 2023 (the "Effective Date"), by Falcon One Saturn, LLC, an Idaho limited liability company ("Grantor"). Capitalized terms not otherwise defined in the text of this Declaration are defined in Section 3.

#### SECTION 1 RECITALS

**1.1 Property Covered.** Grantor is the owner of that certain real property located in Ada County, Idaho, legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"), as shown on the final plat for Leighton's Glen Condominiums, recorded in the real property records of Ada County, Idaho, on NOVEMBER 7<sup>th</sup>, 2023, as Instrument No. 2023-063032, Book 127 of Plats at Pages 20127 through 20132 a copy of which is attached hereto as Exhibit B and incorporated herein by this reference (the "Plat").

**1.2 Use.** Grantor intends to develop the Property with multiple storage condominium buildings and one mixed use commercial building (each a "Building" and collectively, the "Buildings") in accordance with the Plat, this Declaration, and the development approvals now or hereinafter obtained from the City of Boise and other governing authorities. The Property, together with the Buildings and every other improvement or structure thereon, and every easement or right appurtenant thereto, is referred to in this Declaration as the "Project." The Project may be commonly known as the "Leighton's Glen Storage Condos" or "Leighton's Glen Condominiums." A complete description of the Buildings and every Unit thereof is provided in the Plat.

**1.3 Purpose.** The purpose of this Declaration is to provide for condominium ownership of the Project pursuant to Condominium Act, designate Common Area and Limited Common Area, create the Association as the management body to administer the Project pursuant to the Condominium Act, and to set forth the restrictions, covenants, limitations, easements, conditions, and equitable servitudes that apply to and are unique to the Project and this condominium ownership regime (collectively, the "Restrictions").

#### SECTION 2 DECLARATION

Grantor hereby declares that the Project and every Unit and portion thereof is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved in accordance with and subject to the provisions of this Declaration, each and all of which are hereby declared to be in furtherance of a general plan: (a) for the creation, maintenance, and sale of an ownership in fee simple of separate interests in Units and for co-ownership with others, as tenants-in-common, of Common Area and Limited Common Area, all pursuant to the Condominium Act; and (b) to protect, enhance, and preserve the value, amenities, desirability, and attractiveness of the Project and to ensure a well-integrated, high quality residential condominium development. This Declaration shall: (i) run with the land and shall be binding upon any Person having or acquiring any right, title, or interest in the Project and every Unit and portion thereof; (ii) inure to the benefit of the Project and every Unit and portion thereof; and (iii) inure to the benefit of and be binding upon Grantor and each Owner having or holding any right, title, or interest in any Unit or portion of the Project, and their successors, heirs, and assigns.

### SECTION 3 ADDITIONAL DEFINITIONS

“**Applicable Laws**” means all applicable federal, state, and local laws, rules, regulations, ordinances, and orders relating to the use, occupancy, and/or ownership of the Project or any portion thereof.

“**Articles**” mean the Articles of Incorporation of the Association, a true, correct, and certified copy of which is attached hereto as Exhibit C and incorporated herein by this reference, as the same may be amended from time to time in accordance with the provisions thereof; provided, however, in order to be effective such amendment must reference this Declaration, as amended, and be recorded in the real property records of Ada County, Idaho.

“**Assessments**” mean the Regular Assessments, Special Assessments, Transfer Assessments, and Limited Assessments, together with any late payment charges, interest, administrative fees, and costs (including without limitation attorneys’ fees) incurred in collecting the same.

“**Association**” means Leighton’s Glen Condominium Owners Association, Inc. an Idaho nonprofit corporation, its successors and assigns.

“**Association Rules**” means the rules and regulations relating to the Project that may be adopted, amended, or repealed from time to time by the Board, as more particularly described in Section 9.7.3 hereof.

“**Board**” means the board of directors of the Association.

“**Bylaws**” mean the bylaws of the Association, as the same maybe amended from time to time in accordance with the provisions thereof.

“**Club House**” means Unit 1201 as identified on the Plat. The Club House is hereby designated as Common Area.

“**Common Area**” means: (a) all portions of the Project other than the Units (except the Club House, which is Common Area), including all Limited Common Area; (b) all leases, licenses, use rights, or agreement rights for amenities or facilities owned or held by or for the benefit of the Association from time-to-time; and (c) any personal property owned or held by or for the benefit of the Association from time to time. Common Area may be established from time to time by Grantor or the Association on any portion of the Project by describing such area on the Plat, by granting or reserving it in a deed or other instrument, or by designating it as such in this Declaration. In addition, the Association may acquire any Common Area it deems necessary and/or beneficial to the Project.

“**Condominium**” means a separate ownership interest in a Unit together with an undivided tenant-in-common interest in the Common Area (expressed as percentages of the entire ownership interest in the Common Area), as set forth on Exhibit D attached hereto and incorporated herein by this reference.

“**Condominium Act**” means the Condominium Property Act of the State of Idaho, Idaho Code Section 55-1501, *et seq.*, as may be amended from time to time.

“**Condominium Documents**” means this Declaration, the Plat, the Articles, the Bylaws, the Associate Rules, the Management Agreement, and any other procedures, rules, regulations, or policies adopted under such documents by the Board, as the same may be amended from time to time according to their terms.

“**Lessee**” shall mean any Person leasing all or any part of a Condominium from any Owner.

**“Limited Assessment”** means a charge against a particular Owner for an expense directly attributable to such Owner, equal to the cost incurred or estimated to be incurred by the Association in connection with corrective action or maintenance, repair, replacement, and operation activities performed pursuant to the provisions of this Declaration, including damage to or maintenance, repair, replacement, and operation activities performed for any Common Area or the failure of an Owner to keep the Owner’s Condominium in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all Owners, as more particularly described in Section 10.5 herein.

**“Limited Common Area”** means those portions of the Common Area designated for the exclusive use of an Owner or Owners to the exclusion, limitation, or restriction of other Owners. Limited Common Area may be established from time to time by Grantor or the Association on any portion of the Project by describing such area on the Plat, by granting or reserving it in a deed or other document or instrument, or by designating it as such in this Declaration. The term Common Area as used in this Declaration shall include Limited Common Area.

**“Management Agreement”** means any agreement and all amendments thereto entered into by the Association and the Management Company, providing for the management, maintenance, and operation of the Project, including, without limitation the Common Area, by the Management Company.

**“Management Company”** means the Person hired by the Association to manage the Project on the terms and conditions set forth in a Management Agreement.

**“Mixed Use Units”** means Units 1101, 1102, 1103, and 1104, as identified on the Plat.

**“Mortgage”** means any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

**“Mortgagee”** means any Person or any successor to the interest of such Person named as the mortgagee, trust beneficiary, or creditor pursuant to any Mortgage under which the interest of an Owner’s interest in its Condominium, or successor to the interest of such Owner, is encumbered.

**“Owner”** means the record owner, whether one or more Persons, holding fee simple Mortgages, unless and until such Mortgagee has acquired fee simple title pursuant to foreclosure or other proceedings.

**“Person”** means an individual, corporation, trust, estate, partnership, limited liability company, association, joint venture, government, government subdivision or agency, and any other legal entity.

**“Regular Assessment”** means an assessment by the Association to provide for the payment of all estimated expenses growing out of or connected with the Project as a whole, as more particularly described in Section 10.3 herein.

**“Special Assessment”** means that portion of the costs of the capital improvements, replacements, equipment purchases and replacements, or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration as more particularly described in Section 10.4 herein.

**“Storage Units”** mean all Units at the Property except the Club House and the Mixed Use Units.

**“Transfer Assessment”** has the meaning set forth in Section 10.6 herein.



“Unit” means the separate ownership interest component of a Condominium, as bounded by the unfinished interior surfaces of the perimeter: (a) walls; (b) floors; (c) ceilings; and (d) doors (including door frames and door trim) of each Unit as shown the Plat, together with the airspace so encompassed. The Unit includes all of the following within the said boundaries of each Unit shown on the Plat: (i) all finishes and coverings on the interior surfaces of said perimeter walls, floors, ceilings, windows, and doors, including without limitation paneling, wood, tile, paint, paper, carpeting, and texturing; (ii) all fixtures, improvements, hardware, and appliances; and (iii) all heating and refrigerating elements or related equipment, utility lines and outlets, electrical fixtures, pipes, and all other related equipment required to provide heating, air-conditioning, electrical, and utility services located within and serving only the Unit. The following are not part of a Unit: (A) bearing walls; (B) structural columns; (C) floors; (D) roofs; (E) foundations; and (F) pipes, conduits, wires and other utility installations that serve more than one Unit, except the outlets thereof when located within the Unit, provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines located within a Unit that serve more than one Unit. As used herein, the term Unit includes both the Mixed Use Units and the Storage Units, but excludes the Club House.

#### **SECTION 4 NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP**

**4.1 Estates of an Owner of a Condominium.** The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit and an undivided tenant-in-common interest in the Common Area. The percentage of ownership interest in the Common Area which is to be allocated to each Condominium as a whole for purposes of Assessments, tax assessment under Section 55-1514 of the Condominium Act, and liability as provided by Section 55-1515 of the Condominium Act, is set forth on the attached Exhibit D.

**4.2 Title.** Title to a Condominium may be held or owned by any Person and in any manner in which title to any other real property may be held or owned in the State of Idaho.

**4.3 No Further Division.** No Owner may divide, adjust, or further condominiumize such Owner’s Unit without the prior written approval of the Association, the City of Boise, and all other governing authorities whose approval is required, and all such divisions, adjustments, and further condominiumizations must comply with any condominium project amendment requirements of Ada County, and otherwise comply with all Applicable Laws.

**4.4 Inseparability of Condominiums.** No part of a Condominium, or of the legal rights comprising ownership of a such Condominium may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to such Unit shall always be conveyed, devised, encumbered, transferred, and otherwise affected only as a complete Condominium and shall not be transferred in any way resulting in the division of the Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of the Condominium or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Condominium together with all appurtenant rights created by law or this Declaration.

**4.5 Partition of Common Area Not Permitted.** The Common Area shall be owned in common by all of the Owners of Units, and no Owner may bring any action for partition thereof.

**4.6 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 of special districts or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Property or any part thereof, the

Association shall pay the same and assess the same to the responsible Owner or Owners. Each Owner shall pay the taxes and assessments assessed against such Owner's Condominium, or interest therein, and such Owner's interest in the Common Area, or any part of any or all of the foregoing. The Association reserves the right to protest any tax valuations or assessments by any taxing government agency and to pay for any costs associated with such protests. Each Owner agrees to reimburse the Association for any costs associated with such protests as related to that Owner's Unit.

**4.7 Owner's Rights with Respect to Interiors.** Each Owner shall have the exclusive right to maintain, finish, refinish, and decorate the interior surfaces of the walls, floors, ceilings, and doors (including door frames and door trim) forming and within the interior boundaries of the Owner's Unit, subject to the terms and conditions of the Condominium Documents, including without limitation Section 7 of this Declaration.

## **SECTION 5 EASEMENTS**

**5.1 Easements for Encroachments.** If any part of the Common Area encroaches or shall hereafter 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 or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered encumbrances on the Common Area or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by settling, rising or shifting of the earth under the Buildings, or by changes in position caused by repair or reconstruction of the Buildings or any part thereof. Notwithstanding the foregoing, no Owner shall be entitled to deliberately and intentionally encroach on the Common Area without the prior written approval of the Board, or on any other Unit without the prior written consent of the other Unit Owner.

**5.2 Easements of Access for Repair, Maintenance, and Emergencies.** Portions of the Common Area and/or easement areas granted pursuant to this Declaration or any other Condominium Document, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners have the irrevocable right, to be exercised by the Association as their agent, of access to each Unit and to all Common Area from time to time during such reasonable hours as may be necessary and established by the Board for the construction, installation, inspection, operation, maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or the construction, installation, inspection, operation, maintenance, repair or replacement of any improvements and facilities located within the Common Area, or for making repairs, maintenance and emergencies therein necessary to prevent damage to the Common Area or to another Unit or Units or to correct a violation of any covenant, condition or restriction of the Declaration when, after reasonable efforts by the Association, the Owner fails to do so. The Association shall also have such right of access independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the construction, installation, inspection, operation, maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners shall be an expense of all of the Owners; provided, however, that if such damage is the result of the negligence of an Owner or such Owner's Lessees, invitees, or licensees, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Unit shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association as an Assessment pursuant to Section 10 herein.

**5.3 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 necessary for access to that 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. In exercising the

rights granted in this Section, each Owner agrees to use reasonable efforts to avoid interference with the access to other Condominiums.

**5.4 Association's Right to Use of Common Area.** The Association shall have the right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration or other Condominium Documents, including the right to grant utility easements, alter the Common Areas, and to construct and maintain maintenance and storage facilities in the Common Area for use by the Association.

**5.5 Grantor's Right Incident to Construction.** Grantor and Persons it shall select, shall have the express and unconditional right to ingress and egress over, upon and across the Project, including Common Area and all Units, the right to store materials thereon and to make other use thereof as may be reasonably necessary or incident to completion of development and construction of the Buildings and Units shown on the Plat or any amendment thereto and the completion of all Units for use and occupancy; provided, however, that no such rights shall be exercised by Grantor in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to an Owner's Condominium by that Owner or such Owner's Lessees, invitees, or licensees.

**5.6 Certain Easements Benefit City and ACHD.** The easements herein granted to an Owner for ingress and egress to and from such Owner's Condominium over, upon, and across the Common Area are hereby recognized to be a condition of platting the Property imposed by the City of Boise and the Ada County Highway District. Such easements shall not be dissolved or altered in any material way that would prevent their beneficial use for their intended purposes without the express written consent of the City of Boise and the Ada County Highway District, as applicable.

**5.7 Emergency Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and property within the Project in the proper performance of their duties. The easement granted herein is recognized to be a condition of platting the Property imposed by the City of Boise. Such easement shall not be dissolved or altered in any material way that would prevent its beneficial use for its intended purpose without the written consent of the City of Boise.

The Owners expressly acknowledge that the Association and the Boise City Fire Department shall each have one master key capable of accessing all doors connected to the common security system of any of the Buildings.

**5.8 Recorded Easements.** The Property, and all portions thereof, shall be subject to all easements shown on any recorded Plat affecting the Property, or any portion thereof, and to any other easements of record or of use, now existing or hereafter created, including without limitation any storm drainage easements, street light easements, sanitary sewer easements, or any other public utility easement shown on the Plat.

**5.9 Easements for Annual Inspection.** Any Person authorized by the Board shall have the right of access to all Units on an annual basis for the purpose of inspecting such Units for compliance with the terms and conditions of the Condominium Documents.

**5.10 Easements Deemed Created.** All conveyances of Condominiums hereafter made, whether by the Grantor or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Sections 5.1 through 5.10, even though no specific reference to such easements or to those Sections appear in any such conveyance.

## SECTION 6 DESCRIPTION OF CONDOMINIUM

Every contract for the sale of a Condominium and every other instrument affecting title to such Condominium shall describe that Condominium by the Unit shown on the Plat with appropriate reference to the Plat and to this Declaration, as each appears on the records of Ada County, Idaho, in the following manner:

Unit \_\_\_ as shown on the final plat of Leighton's Glen Condominiums, recorded in the real property records of Ada County, Idaho, on \_\_\_\_\_, 2023, as Instrument No. \_\_\_\_\_, Book \_\_\_\_\_ of Plats at Pages \_\_\_\_\_ through \_\_\_\_\_, as the same may be amended or supplemented from time to time, and as defined in the Condominium Declaration for Leighton's Glen Condominiums, recorded in the real property records of Ada County, Idaho, as the same may be amended or supplement from time to time.

Such description shall be construed to describe the separate ownership interest in the identified Unit, together with the appurtenant undivided tenant-in-common interest in the Common Area, and to incorporate all rights incident to ownership of a Condominium interest and all the limitations on such ownership as described in the Condominium Documents or any amendments or supplements thereto, whether or not so specified in the instrument.

## SECTION 7 USES AND REGULATION OF USES – STORAGE UNITS

**7.1 Storage Purposes.** The Storage Units shall be used solely for the passive activity of storing personal property in accordance with the terms of this Declaration and Applicable Law. No portion of a Storage Unit shall be used at any time for any wholesale or retail activity; provided, however, an Owner may lease its Storage Unit to a third party to be used by the third party for the passive activity of storing personal property. It is the explicit purpose of the Project that the Storage Units shall be used and maintained as a first-class storage facility for the mutual benefit of each of the Owners.

**7.2 Permissible Uses.** The following are deemed permissible uses of Storage Units to the extent performed in conjunction with the passive activity of storage:

**7.2.1 Maintenance.** An Owner or its Lessee engaging in routine maintenance on any boat, automobile, truck, recreational vehicle, other vehicle and/or other equipment which is stored within the Storage Unit; provided, however, that no such routine maintenance may be engaged in for pecuniary benefit. No such routine maintenance shall be conducted outside the Storage Unit and all waste generated by such routine maintenance, including but not limited to gasoline, oil, other petroleum products and byproducts, anti-freeze, petroleum cleaning products, cleaning rags and containers, shall be fully removed from the Storage Unit and the Project at the end of each and every routine maintenance session.

**7.2.2 Inventory Turnover and Assessment.** Any Owner or its Lessee may utilize the Storage Unit for the storage of any permissible item of inventory and/or supplies used in a lawful trade or business, may add to or withdraw from storage such inventory and/or supplies, or any part thereof, as and when required, and may take count of such inventory and/or supplies at all such times as deemed necessary by such Owner or Lessee.

**7.2.3 Business and Personal Records.** An Owner or its Lessee may utilize the Storage Unit for the storage of any business and personal records, and any Owner or its Lessee may conduct such reviews of such records as deemed necessary by such Owner or Lessee.

**7.3 Prohibited Uses.** The following uses are expressly prohibited:

7.3.1 Retail or Wholesale Outlet. No Owner or Lessee shall use any Storage Unit as a retail or wholesale outlet for the sale of goods or services to any third party, and no Owner or Lessee may permit potential customers of such goods or services to enter the Project for such purpose. Notwithstanding the foregoing, nothing herein shall prohibit the owner of an item of personal property held for personal use, such as a boat, automobile, truck, recreational vehicle or other personal vehicle from showing such item for sale while in storage in a Storage Unit on a casual basis only.

7.3.2 Manufacture or Assembly. No Owner or Lessee shall utilize any Storage Unit as a place of manufacture or assembly of any item or combination of items, however characterized or conceived, for sale or resale to third parties.

7.3.3 No Business Activities. No Owner or Lessee shall utilize any Storage Unit as a place of business, whether primary or secondary, for the conducting of repair or maintenance activities and/or services of any sort, however characterized or conceived, for pecuniary benefit.

7.3.4 Noxious Activity. No Owner or Lessee shall use any Storage Unit so as to cause an unacceptable level of noise, vibration, odor, garbage or other waste, the precise levels of which shall be determined by the Board, and which may be more restrictive than levels established by any Applicable Law.

7.3.5 Hazardous Substances. No Owner or Lessee shall cause or permit any Hazardous Substance (as defined below) to be used, stored, generated, released, handled or disposed of on or in any Storage Unit in violation of Applicable Law, or otherwise in violation of any rules relating to the same as adopted by the Board from time to time, which rules may be more restrictive than those established by any Applicable Law; provided, however, that any fuels or other liquids contained within any boat, mobile home, motor home, automobile, truck, recreational vehicle, other vehicle and/or other equipment which is stored within a Storage Unit shall be deemed permitted even if so defined, so long as such fuels or other liquids are necessary for the operation thereof and are lawfully contained within such item of personal property for such purpose. As used herein, the term "**Hazardous Substance**" shall include all flammable materials, explosives, radioactive materials, hazardous wastes, toxic substances or other hazardous materials, including without limitation, substances defined as "hazardous substances," "hazardous materials," "hazardous wastes" or "toxic substances" in any Applicable Law or in any guideline pertaining to health, industrial hygiene or the environment, whether now or hereinafter promulgated.

7.3.6 High Piled Combustible Storage. No Owner or Lessee shall store combustible materials in violation of Applicable Law or otherwise in violation of any rules relating to the same as adopted by the Board from time to time, which rules may be more restrictive than those established by any Applicable Law. Without limiting the generality of, and subject to, the foregoing, no Owner or Lessee shall store combustible materials in closely packed piles or on pallets or on racks or on shelves where the top of that high piled storage is greater than twelve (12) feet in total height, and if the high piled combustible materials also include certain high-hazard commodities, such as rubber tires, Group A plastics, flammable liquids, idle pallets and similar products, then that high piled storage use shall be limited to six (6) feet of total high piled height.

7.3.7 Residential Use. No Owner or Lessee shall use Storage Unit, or permit another to use such Storage Unit, for residential purposes, permanent or temporary.

7.3.8 **Animals.** No Owner or any Lessee shall use any Storage Unit to shelter any animal, whether or not that animal is a pet, and whether or not such shelter is permanent or temporary. "Shelter" shall mean any event where an animal is left in a Storage Unit unattended for any period of time.

7.3.9 **Leash Regulation.** Animals belonging to an Owner, Lessee, or their guests must be kept on a leash and under the control of the animal's owner. All animal owners must pick up animal waste and dispose of the same, either by depositing the same in the outdoor Common Area trash container or by removing the same from the Project.

7.4 **Storage Unit Rental.** The Owner of a Storage Unit, including the Grantor, a mortgagee in possession, or any successor in interest thereto, may lease or rent a Storage Unit for a term of not less than thirty (30) days, subject to the limitation that any such lease or rental agreement shall be in writing and by its terms shall provide that such lease or rental agreement and the Lessee thereunder are subject, in all respects, to the Condominium Documents. Any such lease or rental agreement shall provide that any failure by the Lessee to comply with the terms contained in said documents shall be a default under the terms of said lease or rental agreement and shall be a basis for termination thereof. The Association shall approve the form of all lease and rental agreements to ensure compliance with the provisions hereof. Each Owner shall notify the Association in writing within five (5) business days following the execution of any lease or rental agreement covering a Storage Unit, of the identity, telephone numbers and addresses of each Lessee and of the duration of the lease/rental agreement. The Owner of a Storage Unit so leased or rented shall at all times be responsible for and liable to the Association and other Owners for all acts and omissions of its Lessee, including but not limited to fines and Assessments levied against the Storage Unit and its Owner based on the Lessee's use violations of the Condominium Documents.

7.5 **Vehicle Parking.** Parking or storing any motor vehicle at any location within the Property, outside of the boundaries of a Storage Unit or a designated parking space, is strictly prohibited. No motor vehicle shall obstruct in any fashion the free passage of vehicles and/or pedestrians to and from every other Unit. Storage Unit Owners, and their Lessee's and guests, may park their motor vehicles within their respective Storage Units at any time without limitation. Any motor vehicle parked at any location within the Property other than inside a Storage Unit shall be operable. No motor vehicle shall be stored in the Common Area. A motor vehicle (including a boat, motorcycle, snowmobile and all forms of recreational equipment) is "stored" when it is parked at any location within the Property, outside the boundaries of a Storage Unit, for more than two (2) consecutive hours, unless it is parked directly in front of that Storage Unit Owner's respective Storage Unit, for allowed Storage Unit uses, and in a manner that does not otherwise encumber or limit other Storage Owners' access to their respective Units and to general ingress and egress to the Property. The Board may require the immediate removal of any inoperable or improperly stored vehicle left outside of a Storage Unit and/or any other item of personal property improperly stored within the Property, whether or not contained within a Storage Unit. If the same is not removed by the responsible Storage Unit Owner, the Board may cause removal thereof at the risk and expense of the Storage Unit Owner thereof.

7.6 **Driving Areas and Walkways.** Driving areas, walkways and corridors within the Common Area shall be used exclusively for normal transit, other than during the process of entering or leaving a Storage Unit, and no obstructions shall be placed within the Common Area except by express written consent of the Association.

7.7 **Signs.** No sign of any kind shall be displayed from the exterior of any Storage Unit or from the Common Area without the prior written consent of the Board.

**7.8 Exterior Appearance.** No Storage Unit Owner shall be permitted to alter, in any fashion, the Common Area, including the exterior finish of the exterior surfaces of the walls surrounding a Storage Unit, and exterior surfaces of the doors, which are part of the Common Area.

**7.9 Trash Collection.** All trash and trash collection from a Storage Unit shall be the responsibility of the Storage Unit Owner, and no trash shall be permitted to be stored inside or outside of the Storage Unit(s). There is a common trash collection bin that shall be provided for by the Grantor or by the Association, and each Storage Unit Owner shall be solely responsible for his or its trash produced by the Storage Unit Owner from permitted uses within the Storage Unit, which shall be promptly removed by the Storage Unit Owner.

**7.10 Storage Units for Sale or Lease and Realtor Signage.** All "Unit For Sale or Lease" signage placement requests shall be approved, prior to placement on the Property, by the Board. The Board shall designate the landscaping areas for "Unit for Sale or Lease" sign placement locations. Each Storage Unit Owner may request One (1) sign per "Unit For Sale or Lease" to be placed in the designated area within the Common Area. Approved "Unit For Sale or Lease" signs shall not exceed 2'(W) by 4'6"(H) and shall be constructed of a metal material in a workmanship like manner, and be in good physical and aesthetic condition. The approved signage shall demonstrate "Unit For Sale or Lease". The use of mobile signs or portable signs; balloons, flags, wiggle flags or kite style signs, inflatable signs, signs which produce odor, sound, smoke, flame or other emissions, signs which imitate or simulate official signs, or which use yellow or red blinking or intermittent lights resembling danger or warning signals; signs with lights; roof signs and billboards are prohibited. The approved "Unit For Sale or Lease" signage shall be removed by the Storage Unit Owner within 72 hours after the sale or the cancellation or termination thereof. Liability for damage and/or destruction of the Common Area by the signage, installation, or removal shall be the sole responsibility of the Storage Unit Owner. Reasonable efforts shall be made by the Board to notify a Storage Unit Owner of a sign that fails to comply with the terms contained herein prior to the removal of the signage. The Board reserves the right to have any unauthorized or non-conforming signage removed, without notification, at the Storage Unit Owner's sole and separate cost. It shall be the Storage Unit Owner's sole responsibility to ensure that, prior to placement, that all approved "Unit For Sale or Lease" signage conforms to Applicable Law.

**7.11 Maintenance of Interiors and Limited Common Area.** Each Owner shall keep such Owner's Storage Unit, including, without limitation, interior walls, floors, ceilings, doors, and permanent fixtures and appurtenances thereto, in a clean, sanitary, and attractive condition, and good state of operating condition and repair and shall keep the related devices exclusively serving the Owner's Storage Unit in a good state of operating condition and repair and free from any odor and/or mold. Each Owner shall keep the Limited Common Area designated for the exclusive use of such Owner in connection with the Storage Unit in a clean, sanitary, and attractive condition, and good state of operating condition and repair, including removal of snow and ice on Limited Common Area. Each Owner shall notify the Association of any unsafe condition existing in, on, or around the Limited Common Area. In addition, nothing unsightly, in the reasonable opinion of the Board, shall be kept on any exterior Limited Common Area.

**7.12 Prohibition of Damage and Certain Activities.**

7.12.1 No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or such Owner's Lessees, invitees, or licensees, and each Owner shall 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 Lessees, invitees, or licensees.

7.12.2 No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Project or any portion thereof, except in such containers and other areas designated for

such purpose by Grantor or the Board, and no odor shall be permitted to arise from any portion of the Project so as to render, in the reasonable opinion of the Board, the Project or any portion thereof unsanitary, offensive, or detrimental to the Project, or to any other property in the vicinity of the Project. No fires and no obstructions of pedestrian walkways shall be permitted to exist at the Project. No noise, no unsightliness, and no other nuisance shall be permitted to exist or operate upon any portion of the Project in violation of Applicable Law or so as to be, in the reasonable opinion of the Board, offensive or detrimental to the Project or to its Owners or to other property in the vicinity Project. Without limiting the generality of any of the foregoing, no Owner shall use or install or permit to be used or installed any whistles, bells or other sound devices, or flashing lights or search lights within the Project without the Board's approval.

7.12.3 Owners shall not use or suffer or permit any Person or Persons to use any Condominium or any part thereof for any use or purpose in violation of Applicable Law.

7.12.4 Owners shall not use or suffer or permit any Person or Persons to use any Condominium or any portion thereof, for any use or purpose in violation of any of the terms and conditions of this Declaration or other Condominium Documents.

7.12.5 Owners shall not do or permit anything to be done in or about any Storage Unit or in the Common area, nor bring or keep anything therein, which will in any way result in the cancellation of or increase in the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Board or which would be in violation of Applicable Law. Any Owner taking or permitting any such action, which has been approved by the Board and results in an increased rate of insurance on the Project or any part thereof, shall be solely responsible for the payment of the resulting difference in such increased premium.

7.12.6 Owners shall not do or permit anything to be done in or about the Storage Unit or Common Area which will in any way obstruct or interfere with the rights of other Owners or Lessees in the Buildings, create undue noise and disruption, or injure or annoy them or use or allow the Storage Unit to be used for an unlawful or objectionable purpose, nor shall Owner cause, maintain or permit any nuisance in, on, or about the Buildings.

**7.13 No Hazardous Activities.** No activities shall be conducted on the Project, which are or might be unsafe or hazardous to any Person or property including, without limitation, any fires and/or the discharge of firearms.

**7.14 Energy Devices, Outside.** No energy production devices or generators of any kind (including without limitation solar energy devices and windmills), shall be constructed or maintained on or in any portion of the Common Area without the prior written approval of the Board. In the event that the addition or use of such a device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

**7.15 Construction and Structural Alterations.** It is the concurrent responsibility of the Grantor, the Association and each Storage Unit Owner to ensure the continuing structural integrity of each of the Buildings. The construction characteristics of the Buildings do not permit the addition of loads, except as are specifically engineered and approved in accordance with the provisions of the Uniform Building Code. It is also anticipated, however, that individual Storage Unit Owners may elect, at the Storage Unit Owner's sole and separate cost, to erect storage lofts within their Storage Units. Accordingly, it shall be permissible for a Storage Unit Owner to make alterations to the interior of such Owner's Storage Unit that do not adversely affect the continuing structural integrity of any of the Buildings; provided, however, that such alterations shall be absolutely subject to the limitation that no alteration shall be allowed which causes an adverse effect upon the Common Area or the structural integrity of any portion of any



Building. Accordingly, the Board shall provide to each Owner specifications concerning permissible interior alterations to Storage Units, and no such alterations shall be made except which are in compliance with such specifications. Each Storage Unit Owner is required to notify the Board of all improvements by the Storage Unit Owner to such Owner's Storage Unit which cost in excess of \$5,500.00. Furthermore, any Storage Unit Owner who makes or permits alterations to such Owner's Storage Unit shall be liable for any damage caused as a consequence thereof to any other Unit or to any Common Area.

**7.16 No Smoking.** The Project is hereby designated as "smoke free," and no smoking of any kind is allowed at the Project, including without limitation "vapor" smoking. Notwithstanding the foregoing, the Board may from time to time designate certain outdoor areas of the Project as "Permitted Smoking Areas," in which event smoking shall be allowed only in such designated areas. Neither Grantor nor the Association guarantees a smoke free environment at the Project or any portion thereof.

**7.17 Right to Enjoy and Use Storage Units.** Each Owner shall be entitled to use and enjoy the Owner's Storage Unit for its intended purpose and nothing herein is intended to impose or grant the authority to impose any restrictions, limitations or prohibitions which would deprive an Owner of the reasonable use and enjoyment of the Owner's Unit. Notwithstanding the foregoing, no Owner shall be entitled to use the Owner's Storage Unit for any uses not allowed under the Boise City Code or otherwise limited by this Declaration or any other Condominium Documents.

## **SECTION 8 USES AND REGULATION OF USES – MIXED USE UNITS**

**8.1 Permitted Use.** Subject to the limitations set forth in Section 8.2, the Mixed Use Units may be used for any use then-permitted by Applicable Law and then-current zoning regulations, including uses that are a "conditional" use under the then-current zoning regulations.

**8.2 Prohibited Uses.** Notwithstanding the generality of Section 8.1, no Mixed Use Unit may be used for any of the following purposes:

8.2.1 Any dumping, disposing, incineration, or reduction of garbage (or than disposing of garbage in trash containers located near the Mixed Used Units as may be designated by the Board from time to time);

8.2.2 Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;

8.2.3 Any cemetery, mortuaries, funeral homes or similar service establishments;

8.2.4 Any adult book or adult video stores or establishments selling or exhibiting pornographic materials or drug-related paraphernalia, or any other use of a sexually-oriented or "adult" nature;

8.2.5 Any operation which involves fires, explosions, or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks; or

8.2.6 Any operation which involves refining, smelting, or mining;

**8.3 Common Area Usage.** No Mixed Use Unit Owner may use the Common Area for selling or goods, services, or merchandise; provided, however, if approved by the Board, a Mixed Use Unit that is operated as a restaurant may sell food and beverages within such portion of the Common area as is approved in writing by the Board.

**8.4 Additional Restrictions.** In addition to the other restrictions set forth in this Article, the restrictions set forth in Sections 7.3.4 through 7.3.9, 7.9, 7.11, 7.12, 7.13, 7.14, 7.16, 7.17 applicable to the Mixed Use Units and the Owners thereof to the same extent they are applicable to the Storage Units and the Owners thereof. Except as expressly set forth in the preceding sentence, the terms of Section 7 do not apply to the Mixed Use Units or the Owners thereof.

**8.5 Leasing.** If a Mixed Use Unit is leased, then any such lease or rental agreement shall provide that any failure by the Lessee to comply with the terms contained in the Condominium Documents shall be a default under the terms of said lease or rental agreement and shall be a basis for termination thereof. Each Owner shall notify the Association in writing within five (5) business days following the execution of any lease or rental agreement covering a Mixed Use Unit, and such notice shall identify the identity, telephone numbers and addresses of each Lessee and of the duration of the lease/rental agreement. The Owner of a Mixed Use Unit so leased or rented shall at all times be responsible for and liable to the Association and other Owners for all acts and omissions of its Lessee, including but not limited to fines and Assessments levied against the Storage Unit and its Owner based on the Lessee's use violations of the Condominium Documents.

**8.6 Parking.** Notwithstanding anything set forth in this Declaration, the parking areas graphically depicted on Exhibit E attached hereto and incorporated herein (the "Mixed Use Parking Areas") are hereby designated as Limited Common Area for the exclusive benefit of the Mixed Use Units Owners and their respective Lessees, and the employees, agents, guests, and customers of such Owners and Lessees (the "Mixed Use Parking Users"). The Mixed Use Parking Users have the exclusive right, in common with each other, to use the Mixed Use Parking Areas for vehicular parking on a first come, first served basis, and vehicle may be parking the Mixed Use Parking Areas for more than eighteen (18) consecutive hours. The Board may require the immediate removal from the Mixed Used Parking Areas of any inoperable vehicle or any vehicle that is parked in excess of eighteen (18) consecutive hours; or (b) inoperable. If the Board reasonably determines that the Mixed Use Parking Areas are being overused or used in an unreasonable manner or a manner not contemplated by the spirit and intent of this Declaration, it shall have the right reserve specific parking spaces for the use of Units in any manner deemed reasonably equitable by the Board.

**8.7 Exteriors Appearance; Signs.** No Mixed Use Unit Owner shall be permitted to alter, in any fashion, the Common Area, including the exterior finish of the exterior surfaces of the walls surrounding a Mixed Use Unit, and exterior surfaces of the doors, which are part of the Common Area. No signage shall be affixed to or allowed on the exterior of any Mixed Use Unit unless approved by Board in writing, such approval not to be unreasonably withheld, conditioned, or delayed. All such signage so approved shall be subject to and comply with all Applicable Laws.

## **SECTION 9 LEIGHTON'S GLEN CONDOMINIUM OWNERS ASSOCIATION**

**9.1 Creation and Designation of Association.** Grantor has incorporated the Association as a nonprofit corporation under the laws of the State of Idaho, and Grantor hereby designates the Association as the "management body" of the Project in accordance with the Condominium Act. The Association is charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws, this Declaration (as it relates to the Association's management of the Project), and the other Condominium Documents, as each may be amended and/or supplemented from time to time according to their respective terms. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to conflict with this Declaration.

**9.2 Membership and Voting.** "Member" means each Person holding a membership in the Association, including Grantor. Every Owner of a Unit is a Member of the Association and has one (1)

membership for each Unit in the Project owned by such Owner; provided, however, that for so long as the Club House is owned by the Association as Common Area, it shall not be considered a "Unit" for voting, membership, and assessments purposes. If the Owner of a Unit shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Unit may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Unit. To this end, only one (1) vote is allocated to each Unit, regardless of the number of Persons that hold an ownership interest in such Unit. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

9.2.1 **Class A Members.** "Class A Members" shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Prior to the Class B Member Termination Date, Class A Members are not entitled to vote. At all meetings of the Association after the Class B Member Termination Date, each Member will be entitled to one (1) vote for each Lot owned by such Member.

9.2.2 **Class B Member.** The "Class B Member" is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association for the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the "Initial Development Period"). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) the date on which Grantor has conveyed one-hundred percent (100%) of the Units to third parties; or (b) the date on which Grantor terminates its rights by delivery of notice to the Association and recording a copy of the same in the real property records of Ada County, Idaho (as applicable, the "Class B Member Termination Date").

9.3 **Member Meetings.** The Association shall hold an annual meeting of the members and periodic special meetings of the members as set forth in the Bylaws.

9.4 **Proxies.** A membership in the Association shall be appurtenant to and inseparable from the Condominium owned by such Member. A membership in the Association shall not be assigned, transferred, pledged, or alienated in any way except: (a) that an Owner may give a proxy pursuant to the Bylaws; and (b) upon the transfer of title to the Condominium and then only to the transferee of title to said Condominium. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium or to any Person that has assumed by contract, or otherwise, liability for paying Assessments of any Owner.

9.5 **Board of Directors.** The business and affairs of the Association will be managed and controlled by the Board of Directors (the "Board"). The Board will consist of three (3) directors or five (5) directors, and will initially consist of three (3) directors. Upon the vote or written consent of Members representing more than fifty percent (50%) of the total voting power in the Association, the number of directors may be increased to five (5), or decreased back three (3), as applicable under the circumstances. Directors need not be Owners. During the Initial Development Period, Grantor has the exclusive right to appoint, remove, and replace directors at any time and from time-to-time in Grantor's sole discretion, and

to otherwise fill vacancies on the Board as they arise. After the Initial Development Period, the Owners have the right to elect and remove directors as provided in the Bylaws. After the Initial Development Period, any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining Directors through a special election at any meeting of the Board.

**9.6 Delegation of Authority.** The Board may at any time and from time-to-time delegate all or any portion of its powers and duties to committees, officers, employees, or to any Person to act as manager, including the Management Company.

**9.7 Powers of the Association.** The Association shall have all the powers of a nonprofit corporation incorporated under the laws of the State of Idaho and all of the powers and duties set forth in the Condominium Documents, including the power to perform any and all acts which may be necessary to, proper for, or incidental to the foregoing powers. The powers of the Association include, by way of illustration and not limitation:

9.7.1 Assessments. The power and authority to levy Assessments on the Owners of Condominiums and to enforce payment of such Assessments, including the power and authority to establish and fund via Assessments such operating and capital reserves as the Board deems necessary or prudent.

9.7.2 Right of Enforcement. The power and authority at any time and from time-to-time, on its own behalf or on behalf of any consenting Owners, to take any action, including any legal action, to prevent, restrain, enjoin, enforce, or remedy any breach or threatened breach of the Condominium Documents. The power of enforcement includes:

9.7.2.1 The right to remove, alter, rebuild, or restore any improvements constructed, reconstructed, refinished, added, altered, or maintained in violation of the Condominium Documents. If such improvements are located in a Unit, the Board must first provide the Owner thereof with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure, and the Owner of the improvements must immediately reimburse the Association for all expenses incurred with such removal.

9.7.2.2 The right to enforce the obligations of the Owners to pay each and every Assessment or charge provided for in the Condominium Documents.

9.7.2.3 The right to perform any duty or obligation of an Owner under the Condominium Documents if such duty or obligation is not timely performed by such Owner. In such event, the defaulting Owner must immediately reimburse the Association for all costs reasonably incurred by the Association in performing such duty or obligation. Except in the event of an emergency, the Association must provide the defaulting Owner with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure prior to exercising its power and authority hereunder.

9.7.2.4 The right to authorize variances from the requirements of this Declaration when required by applicable law or when needed to prevent the requirements would impose an undue hardship on an Owner that would be inequitable for such Owner to bear. The granting of a variance does not waive any element of the Declaration for any purpose except as to the particular Condominium and the particular provision covered by the variance. Approval of a variance does not affect the Owner's obligation to comply with the other elements of this Declaration or Applicable Law.

9.7.3 Association Rules. The power and authority to adopt, amend, and repeal the Association Rules as the Board deems reasonable and appropriate to govern the Project, including rules and

regulations regarding: (a) the use of the Common Area; and (b) ) procedures in the conduct of business and affairs of the Association. Except when inconsistent with this Declaration, the Association Rules have the same force and effect as if they were set forth in and were made a part of this Declaration. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner.

9.7.4 Emergency Powers. The power and authority to enter upon any Unit as necessary in connection with any maintenance or construction for which it is responsible, or when necessitated by violation of the Declaration or other Condominium Documents, or in the event of any emergency involving potential danger to life or property and the power to take corrective action. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association, except as otherwise provided herein.

9.7.5 Common Area. The power and authority to manage, operate, maintain, repair, and replace the Common Area for the benefit of the Project and the Owners, and the power and authority to construct, install, maintain, repair, replace, and operate any improvements in the Common Area, any public right-of-way serving the Project or any other location deemed by the Board to benefit the Project, including any fences, signs or other improvements at Project entrances or otherwise in the vicinity of the Project, and any berms, retaining walls, fences, and other amenities within or abutting any Common Area.

9.7.6 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Project, and/or for the preservation of health, safety, convenience and welfare of the Owners. The foregoing power includes, without limitation, the power to grant and convey to such third parties licenses, easements, and rights-of-way for the purpose of constructing, erecting, operating, or maintaining any of the following:

9.7.6.1 Lines, cables, wires, conduits, or other devices for the transmission of electricity, heating, power, telephone, television and data, other utility services and, meters and other facilities associated with the foregoing;

9.7.6.2 Sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

9.7.6.3 Cross parking easements, sidewalk abutments, drive lanes, parking areas, curb cuts, landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose.

9.7.7 Property for Common Use. The power and authority to acquire and hold for the use and benefit of all of the Owners, or for the benefit of only those Owners within a particular Condominium, tangible and intangible personal property and real 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 their respective interest in the Common Area.

9.7.8 Amenity Agreements. The power and authority to enter into any lease, license, use, or other agreement as the Board deems proper or convenient to secure the use of off-site amenities or facilities for the benefit of the Project.

9.7.9 Inspection. The power and authority to enter a Unit for the purpose of conducting regular maintenance inspections.

9.7.10 Taxes. The power and authority to pay all real and personal property taxes and assessments (if any) levied against the Common Area, the Association, and any other property owned by the Association. In addition, the Association must pay all taxes, including income, revenue, corporate, or other taxes (if any) levied against the Association.

9.7.11 Entitlement Obligations. The power and authority to fulfill any duties imposed by any governmental or other quasi-governmental agencies as part of the entitlements for the development of Project, including any requirements or obligations identified in such entitlements as the responsibility of community association or homeowners' association or management body, such as plat notes, development agreements, or conditions of approval.

9.7.12 Financing. The power and authority to enter into any agreements necessary or convenient to allow Owners to take full advantage of, or secure the full availability of, any financing programs offered.

9.7.13 Estoppel Certificates. The power and authority to execute a written statement stating: (a) whether or not, to the knowledge of the Association, a particular Owner or Owner's Condominium is in default of this Declaration or other Condominium Documents; (b) the dates to which any Assessments have been paid by a particular Owner; and (c) such other matters as the Board deems reasonable. Any such certificate may be relied upon by a bona-fide prospective purchaser or Mortgagee of such Owner's Condominium, but only to the extent such prospective purchaser or Mortgagee has no knowledge to the contrary. The Association may charge a reasonable fee for such statements.

9.7.14 Improvements in Public Right-of-Way. The power and authority to enter into license and easement agreements with any governmental authority (or assume the duties and obligations under any such license agreement entered into by Grantor) to install, maintain, improve, irrigate, trim, repair, and replace improvements and landscaping in the public rights-of-way (including sidewalk easements and planter strips).

9.7.15 Implied Rights. Notwithstanding the foregoing, the Association may exercise any other right or privilege given to it expressly by this Declaration or by Applicable Law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such rights shall include without limitation the right to acquire water meters for each Unit.

9.7.16 The Power to Levy Fines. The power to impose reasonable monetary fines which shall constitute a lien upon the Unit owned or occupied by the Owner, Lessee, or other Person determined by the Board to be in violation of the Condominium Documents (individually, a "**Violation**"). Provided, however, the Association shall not impose a fine on an Owner for a Violation unless: (i) the Board votes to impose the fine at any regular or special meeting of the Board or the Association (individually, a "**Levy Meeting**"); (ii) such Owner is provided at least thirty (30) days advance written notice of the Levy Meeting by personal service or certified mail at the last known address of such Owner as shown in the records of the Association; and (iii) such Owner is given a reasonable opportunity to respond to the Violation during the Levy Meeting. Provided further, the Association shall not impose a fine on an Owner if such Owner, prior to the Levy Meeting, begins resolving the Violation and continues to address the Violation in good faith until the Violation is fully resolved (the "**Remedial Period**"). For purposes of this Section, the phrase "address the violation in good faith until the Violation is fully resolved" means the Owner must resolve the Violation within thirty (30) calendar days of the Notice; provided, however, if the nature of the Violation is such that more than thirty (30) calendar days are required for its resolution, then the Owner must diligently prosecute the same to completion within sixty (60) calendar days. All such fines shall be deemed to be a part of the Assessments to which the Owner's Unit is subject under this Declaration.

In all events, no portion of such fines may be used to increase the compensation to the Board or agent thereof

9.7.17 Use of Association Powers. Notwithstanding the foregoing, the Association shall not take any action that would impair an Owner's right to enjoy and use his/her Unit as set forth herein.

**9.8 Duties of the Association.** In addition to the power delegated to it by the Condominium Documents, the Association or its agents shall have the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

9.8.1 Operation and Maintenance of Common Area. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and all improvements thereon, including parking areas, drive lanes, common seepage beds, the exterior of the Buildings, and the Club House, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired by the Association, and shall maintain the same in a good, clean, attractive and sanitary condition, order and repair.

9.8.2 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area, the Association, or property owned by the Association and all such taxes shall be paid or a bond insuring payment posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

9.8.3 Water and Other Utilities. Acquire, provide and/or pay for water, storm drainage system maintenance, sewer, electric systems, garbage, disposal, refuse and rubbish collection and other necessary services for the Common Area and Units, except to the extent separately billed or separately metered, as may be determined by the Board from time to time in its discretion.

9.8.4 Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the policies of insurance described in Section 14 hereof.

9.8.5 Maintenance of Exteriors and Improvements. Maintain and repair the exterior surfaces of the Buildings and improvements in the Project. The exterior maintenance shall include: painting, staining, repairing, restaining, replacing and caring for all exterior surfaces including roofs and exterior portions of doors as necessary to maintain them in good condition.

9.8.6 Inspection and Maintenance Guidelines. The Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area, including, without limitation, the sewer system and drainage facilities. The Board periodically, and at least once every two (2) years, shall review and update the inspection and maintenance guidelines. The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines and shall keep records of such implementation and compliance.

9.8.7 Drainage Facilities. Operate and maintain the storm drainage area, as depicted on the Plat. Notwithstanding anything to the contrary, no buildings or other similar improvements shall be constructed within the storm drainage area that would materially interfere with the Property's drainage system.

9.8.8 Maintenance of Records and Right of Inspection. The Association shall keep such records of its business and affairs as is customary for community or homeowner associations,

including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records shall be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by persons desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Section 9.8.8. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

**9.9 Immunity and Indemnification.** Each Owner understands and agrees that Grantor, the Association, and the members, managers, directors, officers, agents, employees, and committee members of any of them (each individually a "**Released Party**") shall be immune from personal liability to such Owner, and such Owner hereby knowingly and voluntarily waives and releases each Released Party, for such Released Party's actions or failure to act with respect to the Condominium Documents to the extent that such acts or failures to act do not constitute gross negligence or willful misconduct on the part of such Released Party. The Association shall indemnify, defend, and hold each Released Party harmless from any action, expense, loss or damage caused by or resulting from such Released Party's actions or failure to act with respect to the Condominium Documents; provided, however, the Association shall not be obligated to indemnify, defend, and hold harmless any Released Party for their own gross negligence or willful misconduct.

**9.10 Waiver of Consequential Damages.** The Grantor and Association shall not be liable to any Owner for, and each Owner releases the Grantor and Association from, any form of indirect, special, punitive, exemplary, incidental, consequential, or similar costs, expenses, damages, or losses.

## **SECTION 10 ASSESSMENTS**

**10.1 Covenant to Pay Assessments.** By acceptance of a deed to any Condominium, each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against such Owner or such Owner's Condominium pursuant to the Condominium Documents. Assessments against a Condominium shall be a continuing lien on such Condominium until paid, whether or not ownership of such Condominium is transferred. Assessments against a Condominium are also the personal obligation of the Owner of the Condominium when the Assessment becomes due and payable. Such personal obligation shall remain with such Owner regardless of whether such Owner remains the owner of the Condominium. Delinquent Assessments related to a Condominium shall not pass to such Owner's successors in title unless expressly assumed by them. Such Assessments and charges, together with interest, costs and reasonable attorneys' fees, which may be incurred in collecting the same, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such Assessment or charge is made. The due date, manner and method of payment shall be as set forth in this Declaration or as established by the Board from time to time.

**10.2 Rate of Assessment.** Except as otherwise provided herein, all Owners shall be responsible for Regular Assessments and Special Assessments levied by the Association in proportion to their percentage ownership interest in the Common Area, as set forth on Exhibit D. Owners shall be responsible for Limited Assessments levied by the Association, as set forth in Section 10.5.

### **10.3 Regular Assessments.**

**10.3.1 Purpose of Regular Assessments.** The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including attorneys' fees and other professional fees, for the conduct of its affairs as provided in this Declaration (including without limitation



Section 9 hereof) and other Condominium Documents, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area and furnishing utility services, including water, sewer, gas, trash and electricity and other common services to the Common Area, and each Condominium (if not separately metered), insurance, and any deficit remaining from previous periods (collectively the “**Expenses**”). “Expenses” shall also include and an amount to fund adequate reserves for repairs, replacement, maintenance, and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis, and for extraordinary operating expenses, contingent risks or liabilities (such as indemnification and defense expenses), capital repairs, capital replacements, and any other expenses for which the Board, in its reasonable opinion, deems prudent to fund a reserve. If not already separately metered, the Board reserves the right to separately meter utility services provided to each Condominium, and in such event the Owner of the Condominium shall be fully responsible for the costs of providing utilities for the Owner’s individual use.

10.3.2 Computation of Allocation for Regular Assessments. Unless otherwise determined by the Board, the Association shall compute and forecast the amount of its Expenses and Regular Assessments on an annual basis. The computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association, unless a change in the Members or other circumstance makes its impracticable to compute the Regular Assessments in that timeframe. In such event, the Owners shall be immediately notified upon completion of such computation. Notwithstanding the foregoing, the computation of Regular Assessments shall be completed in good faith and shall be valid upon completion. The computation of the Regular Assessments for the period from the recordation of this Declaration until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one year. The Board shall have the exclusive right to approve any Assessment under this Section 10.

Except as provided herein, Regular Assessments shall be levied by the Association against Condominiums in proportion to their percentage ownerships in the Common Area as set forth on Exhibit D. Certain Expenses which exist only for the benefit of or only to serve a single Condominium or group of Condominiums (but not all Condominiums) shall only be levied against the Owners thereof in proportion to their percentage ownerships, as among each other, as set forth on Exhibit D.

**10.4 Special Assessments.** In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including, without limitation, costs of construction, reconstruction, unexpected repairs or replacement of improvements upon the Common Area, attorneys’ fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment for such amount. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid. If such Special Assessment shall affect more than one Condominium or group of Condominiums (but not all Condominiums), the Owners of the affected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownerships, as among each other, as set forth on Exhibit D, while all Owners shall share such costs associated with the Common Area in proportion to their ownership interests set forth on Exhibit D.

**10.5 Limited Assessments.** Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an Owner: (a) for any fines in accordance with Section 9.7.16, and for fees or charges levied against the Owner under the Condominium Documents; (b) to reimburse the Association for any costs incurred to bring the Owner’s Condominium or any improvements therein into compliance with the Condominium Documents; (c) to reimburse the Association for any damages caused by an Owner or such Owner’s Lessees, invitees, or

licensees to any Common Area or improvements or other property owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Condominium Documents that benefit such Owner or Owner's Condominium (such as goods or services provided with respect to Limited Common Area), but less than all Owners or all Owners' Condominiums. If such Limited Assessment shall affect more than one Condominium, but not all Condominiums, the Owners of the effected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownership, as among each other, while all Owners shall share such costs associated with the Common Area in proportion to their percentage ownership interest set forth on Exhibit D, as applicable.

**10.6 Transfer Assessments.** Upon the transfer of fee simple title to a Unit from Grantor to an Owner, and upon each subsequent transfer of such Unit thereafter, the transferee will pay a transfer assessment to the Association (the "**Transfer Assessment**"). The amount of the Transfer Assessment shall initially be \$195.00, subject to change at any time upon approval of the Board. Each Transfer Assessment will be paid at the escrow closing of such Lot for the benefit of the Association, or if no such escrow closing, directly to the Association. The Transfer Assessments are to be used to pay for Expenses and are not to be used for any purpose prohibited by law. Transfer Assessments are not to be considered prepayment of any other type of Assessments, are in addition to the Owner's continuing obligation to pay all other types of Assessments, and are not refundable.

**10.7 Notice and Assessment Due Date.** Unless the Board establishes a different schedule for the payment of Regular Assessments, annual installments of the Regular Assessments shall be paid on or before the 1<sup>st</sup> of February each year.. The Board shall, in its reasonable discretion, determine the schedule under which Assessments (other than Regular Assessments) will be paid. If not paid within five (5) days after the due date, a one-time late charge equal to ten percent (10%) of the Regular Assessment shall be charged to the Owner. Each Assessment, other than a Regular Assessment, shall become delinquent if not paid within ten (10) days after the date of notice thereof to the Owner. If all or any part of an Assessment is not paid within five (5) days after its due date, then: (a) the delinquent Owner shall pay to the Association a late payment charge equal to 5% of the delinquent amount; and (ii) interest shall accrue on the delinquent amount at the rate of twelve percent (12%) per annum until paid in full. In the event an Owner's payment is returned for any reason, such Owner shall pay to the Association an administrative fee in an amount set by the Board and thereafter the Association shall have the right to require future Assessments due from such Owner to be paid in the form of a cashier's check, certified check, or other form of immediately collectible funds acceptable to the Association in the Board's discretion.

## **SECTION 11 ENFORCEMENT OF ASSESSMENTS; LIENS**

**11.1 Right to Enforce.** The Association has the right to collect and enforce its Assessments, including any late charges and/or interest accrued thereon pursuant to the provisions hereof. Each Owner shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration, including any late charges and/or interest accrued thereon, and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay (and agrees that the lien may include) reasonable attorneys' fees and costs, including the costs and expenses for any lien releases, in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Section to enforce the liens created pursuant to this Section. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

**11.2 Assessment Liens.** There is hereby created a claim of lien with power of sale on each and every Condominium to secure payment of any and all Assessments levied against such Condominium pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Condominium upon recordation of claim of lien with the Ada County Recorder, which claim of lien shall be the "notice of assessment" described in the Act. Each delinquency shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Such claim of lien may be foreclosed in any manner permitted by Applicable Law. Upon payment of such lien in full, the Association shall prepare and record a release of such claim of lien.

**11.3 Method of Foreclosure; Appointment of Trustee.** To the extent permitted by law, such lien may be foreclosed by appropriate action in court or by sale by the Association, its attorney or other Person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale in deeds of trust or any other manner permitted by Applicable Law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

**11.4 Required Notice.** No action may be brought to foreclose the claim of lien provided for herein, whether judicially, by power of sale, or otherwise, until the expiration of thirty (30) days after a copy of such notice of claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner described in such notice of assessment, and to the Person in possession of such Condominium(s).

**11.5 Subordination.** Upon recordation of a claim of lien for delinquent Assessments in accordance with Applicable Law, such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the claim of lien except for: (a) liens which, by law, would be superior thereto; and (b) the lien of a first priority Mortgage given and made in good faith and for value that is of record as an encumbrance against such Condominium prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Section 11.5, the sale or transfer of any Condominium shall not affect the lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

**11.6 Grantor Exemption.** Grantor is exempt from Assessments as set forth in Section 19.4.

## **SECTION 12 RIGHTS TO COMMON AREAS**

**12.1 Use of Common Area.** Every Owner shall have a nonexclusive right and easement to use the Common Area (exclusive of Limited Common Area) and an exclusive or semi-exclusive right to use Limited Common Area designated for exclusive or semi-exclusive use by the Owner, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

12.1.1 Assessments. The rights of the Association to levy Assessments as provided herein and the payment by an Owner of all such Assessments;

12.1.2 **Voting.** The right of the Association to suspend the voting rights and rights to use of, or interest in Common Area by an Owner for any period during which any Assessments or charges against such Owner's Condominium remains unpaid;

12.1.3 **Dedication or Transfer.** The right of the Association to dedicate or transfer all or any part of Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No dedication or transfer shall be effective unless an instrument verifying is executed and recorded by the Association verifying that such dedication or transfer has been approved by: (i) the vote or written consent of Owners representing more a majority of the total voting power in the Association, and (ii) fifty-one percent (51%) or more of all Mortgagees; and

12.1.4 **Association Rules.** The right of the Association to establish and enforce such Association Rules as the Association deems proper regarding the Project and use of Common Area.

**12.2 Delegation of Right to Use.** Any Owner may delegate in accordance with the respective Condominium Documents, such Owner's reasonable right to the use and enjoyment of the Common Area to such Owner's Lessees, invitees, or licensees.

**12.3 Damages.** To the extent permitted by law, each Owner shall be liable for expenses for corrective action necessitated by violation of the Declaration or Association Rules or for any damage to such Common Area which may be sustained by reason of such Owner's Lessees, invitees, or licensees. In the case of joint ownership of a Condominium, the liability of such Owners shall be joint and several. The cost of corrective action shall be assessed as an Assessment against the Condominium and may be collected as provided herein for the collection of other Assessments.

## **SECTION 13 MECHANIC'S LIEN RIGHTS**

No labor performed or services or materials furnished with the consent of 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 Condominium 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 in writing the performance of such labor or furnishing of such materials or services. Such express written consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency corrective action undertaken by the Association. Labor performed or services or materials furnished for the Property 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 his/her Condominium from a lien against two or more Condominiums or any part thereof by payment of sums secured by such lien which is attributable to such Owner's Condominium.

## **SECTION 14 INSURANCE**

**14.1 Types of Insurance.** The Association shall obtain and keep in full force and effect at all times such bonds and insurance as may be required by Applicable Law and such further insurance as the Board deems necessary or prudent, including casualty insurance for any property or improvements owned or maintained by the Association, public liability insurance related to the Association's operations and the use of the Common Area, directors and officers liability coverage. Unless otherwise authorized by the Board, the Association shall procure at least the following insurance policies to the extent such policies are available on commercially reasonable terms:

14.1.1 **Casualty Insurance.** The Association shall obtain and maintain a "bare walls" insurance on the Buildings and other property owned by the Association in such amounts as shall provide for full replacement thereof, including, but not limited to, those costs associated with rebuilding, design,

any required permits, legal fees, and any other fees associated with the replacement of the Buildings, in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall include fire and extended coverage, vandalism and mischief, and such other risks and hazards against which the Board deems 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 the Board, in its reasonable opinion, deems consistent with good business practice. The Association's policy of casualty insurance does not insure individual Units or the betterments or improvements made thereto (including without limitation cabinets, countertops, sinks, floor coverings, paint, attached fixtures, utility systems serving only the Unit, and the like) or the personal property or other contents thereof, all of which shall be insured by the Unit Owner pursuant to Section 14.4 hereof.

14.1.2 Commercial General Liability Insurance. The Association shall maintain a policy of commercial general liability insurance covering the activities of the Association, its Board, employees, and agents and have a combined single limit of not less than \$2,000,000 per person and per occurrence and property damage liability insurance with a limit of not less than \$2,000,000 per accident or occurrence.

14.1.3 Directors' and Officers' Liability Insurance. Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars (\$250,000) for the directors and officers of the Association. In addition, the Association shall cause the Management Company to purchase, in such amounts and in such form as the Board shall deem appropriate, coverage against liability on account of the Management Company's dishonesty of employees, officers and directors; destruction or disappearance of money or securities; and forgery.

14.1.4 Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, including errors and omissions insurance for the actions of the Board, as it shall deem appropriate with respect to the Buildings, including any personal property of the Association located thereon.

**14.2 Form.** Casualty insurance on the Project shall be carried in a form or forms naming the Association as the insured as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest 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 Mortgages, 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 requesting such notice. The Association shall furnish to each Owner and to Grantor a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

The commercial general liability policy shall name Grantor, the Management Company, and the Association as the insured, with the Association 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 Buildings.

**14.3 Insurance Proceeds.** The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Section and as provided in Section 15 hereof. In the event: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees elect not to rebuild the Project, the insurance proceeds shall be distributed to the Owners based on the ownership percentage of each Owner at the time of the casualty.

**14.4 Owner's Own Insurance.** Each Owner shall obtain and maintain at its own expense, insurance providing coverage in the event of damage or destruction to the Owner's Unit, regardless of the cause of such damage or destruction, and covering such other risks as Owner may deem appropriate. The foregoing insurance shall be in such amounts as shall provide for full replacement of the Owner's Unit, including all betterments and improvements made to thereto), and all personal property located therein and the contents thereof. Each Owner shall also obtain and maintain liability insurance covering all occurrences commonly insured against death, bodily injury, and property damage, with a per limit occurrence of not less than \$500,000.00 and an annual aggregate limit of not less than \$1,000,000.00, arising out of or in connection with the use, ownership, or maintenance of the Owner's Unit. All policies carried by each Owner pursuant to this Section 14.4 shall: (a) name the Association and the Grantor as additional insureds with rights to enforce; (b) be without contribution with respect to any insurance maintained by the Association for the benefit of all Unit Owners; and (c) provide that the insurer waives any and all rights of subrogation as against the Association, the Grantor, each other Owner.

**14.5 Mutual Waiver of Subrogation Rights.** Whenever: (a) any loss, cost, damage, or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by either by the Grantor, Association, or Owner, or anyone claiming by, through, or under the Grantor, Association, or Owner in connection with the Project; and (b) the Grantor, Association, or such Owner is then covered or required to be covered under this Declaration to be so insured in whole or in part by insurance with respect to such loss, costs, damage, or expense, then the party so insured (or so required) hereby releases the other parties from any liability said other parties may have on account of such loss, costs, damage, or expense to the extent of any amount recovered by reason of such insurance (or which could have been recovered had such insurance been carried as so required) and waives any right of subrogation which might otherwise exist in or accrue to any Person on account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage. Grantor, the Association, and each Owner shall obtain and furnish evidence to the other Party of the waiver by its insurance carrier(s) of any right of subrogation.

## **SECTION 15 CASUALTY, DAMAGE OR DESTRUCTION**

**15.1 Affects Title** Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the Grantor and all subsequent Owners, whether or not it is expressed in the deed by which any Owner acquires a Condominium.

**15.2 Association As Agent.** All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with their Condominium upon the Condominium's damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Grantor or from any Owner shall constitute such appointment.

**15.3 General Authority of Association.** As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other

instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in succeeding Sections means restoring the Condominiums, including the site improvements, equipment and facilities therein, to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

**15.4 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 it deems reliable of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

**15.5 Repair or Reconstruction.** As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or construction 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 that in such latter event 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 without the written consent of all affected Owners, and the location of the Units shall be substantially the same as prior to damage or destruction.

**15.6 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 Section 10.4 hereof, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such Special Assessments shall be allocated and collected as provided in that Section. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

**15.7 Disbursement of Funds for Repair or Reconstruction.** The insurance proceeds held by the Association and the amounts received from the assessments provided in Section 15.6 constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for 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 requiring repair and/or reconstruction of such Owner's Unit in proportion to the contributions by such Owner pursuant to the assessments by the Association under Section 15.6 of this Declaration.

**15.8 Decision not to Rebuild.** If eighty percent (80%) or more of the Owners and more than fifty percent (50%) of the first priority Mortgagees agree not to rebuild, the Project shall be sold. All insurance proceeds and all sale proceeds shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D; and such apportioned proceeds shall be paid into separate accounts, each such 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 lienors in the order of priority of their Mortgages and other liens, and the balance remaining to each respective Owner.

## SECTION 16 CONDEMNATION

**16.1 Consequences of Condemnation.** If at any time or times during the continuance of the condominium ownership regime 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 of this Section shall apply.

**16.2 Proceeds.** All compensation, damages, and other proceeds therefrom, the sum of which is hereinafter called the “**Condemnation Award**,” shall be payable to the Association.

**16.3 Complete Taking.** In the event that all of the Units are taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D, provided that if a standard different from the value of the Condominiums 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 principle 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 and pay such amounts as soon as practicable.

**16.4 Partial Taking.** In the event that less than all of the Units are taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime 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:

16.4.1 Allocation to Common Area. The total amount allocated to taking of or injury to the Common Area shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D;

16.4.2 Allocation to Condominiums. The total amount allocated to severance damages shall be apportioned to those Condominiums which were taken or condemned as follows: (a) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within the Owner’s own Unit shall be apportioned to the particular Unit involved; and (b) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board, in its reasonable opinion, determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable.

**16.5 Reorganization.** In the event a partial taking results in the taking of a complete Unit, then, upon the distribution of such Owner’s apportioned proceeds, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall re-allocate 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 re-allocation to the remaining Owners for approval and amendment of this Declaration as provided in Section 21.1 hereof.

**16.6 Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 15 above.

## **SECTION 17 DISCLAIMERS, WAIVERS, AND ACKNOWLEDGMENTS**

**17.1 Disclaimer and Waiver of Warranties.** Without limiting any other provision in this Declaration, by acceptance of deed to a Condominium, each Owner shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

17.1.1 That Grantor hereby disclaims any and all warranties, express and implied, including without limitation the implied warranty of habitability and the implied warranty of fitness for a particular purpose, and by acceptance of a deed to a Condominium, each Owner waives and releases Grantor with respect to any such warranties;

17.1.2 That the Project is or may be located within or nearby certain airplane flight patterns, and/or subject to levels of airplane traffic noise; and that Grantor hereby specifically disclaims any and all representations and warranties, express and implied, arising from or relating to airplane flight patterns, and/or airplane traffic noise; and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to airplane flight patterns or airplane traffic noise;

17.1.3 That the Project is or may be located adjacent to or nearby roadways and subject to levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; that Grantor hereby specifically disclaims any and all representations and warranties, express and implied, arising from or related to such roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; and each Owner hereby waives and releases Grantor from any and all claims arising from or related to roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic;

17.1.4 That construction and installation of improvements by Grantor or other Owners, or third parties, may involve the operation of noisy equipment, generate dust, and may impair or eliminate the view, if any, of or from any Unit and/or Common Areas; and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to such construction and installation, view impairment or elimination including but not limited to, any claims for nuisance or health hazards;

17.1.5 That construction is an industry inherently subject to variations and imperfections, and items that do not materially affect safety or structural integrity shall be deemed "**Expected Minor Flaws**" (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects; and that and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to such Expected Minor Flaws; and

17.1.6 That creation of the Project shall not create any presumption, or duty whatsoever of Grantor with regard to security or protection of Person or property within or adjacent to the Project; and each Owner hereby waives and releases Grantor from any and all claims arising from or related to such security or protection, or lack thereof.

## SECTION 18 RESOLUTION OF DISPUTES

**18.1 Agreement to Avoid Litigation.** Grantor, the Association and the Owners agree that it is in their best interests to provide a fair, impartial, and expeditious procedure for the resolution of disputes related to the Condominium Documents instead of costly, lengthy, and unpredictable litigation. Accordingly, Grantor, the Association (including its Board, officers, and committee members), each Owner and any party claiming a right or interest under the Condominium Documents (each, a “**Bound Party**”) agree to encourage the efficient resolution of disputes within the Project without the emotional and financial costs of litigation. Each Bound Party therefore covenants and agrees that all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Condominium Documents or the rights, obligations, or duties of any Bound Party under the Condominium Documents (“**Claims**”) shall be subject to the provisions of Section 18.3 unless exempt under Section 18.2. All Claims shall be subject to resolution pursuant to this Section 18 as a condition precedent to the institution or continuation of any legal or equitable proceeding; provided, however, any Bound Party may proceed in accordance with applicable law to comply with any notice or filing deadlines prior to resolution of the Claim

**18.2 Exemptions.** None of the following Claims shall be subject to this Section 18 unless all Bound Parties thereto agree in writing to submit such Claim to the dispute resolution procedures set forth in this Section 18:

18.2.1 Any Claim by the Association against any Bound Party to enforce the obligation to pay any Assessment to the Association under the Condominium Documents;

18.2.2 Any Claim by Grantor or the Association to obtain injunction or equitable relief to enforce any provision of the Condominium Documents;

18.2.3 Any Claim between Owners where the Grantor or the Association are not a party thereto, which Claim would constitute a cause of action independent of the Condominium Documents;

18.2.4 Any Claim in which any indispensable party is not a Bound Party;

18.2.5 Any Claim against a Released Party that would be barred by Section 9.9;

18.2.6 Any Claim which otherwise would be barred by Applicable Law (such as, for example, the applicable statute of limitations); or

18.2.7 Any Claim arising out of or relating to the interpretation, application or enforcement of any purchase, sale or construction agreement with Grantor or any builder related to the construction of improvements within the Project, or the rights, obligations, or duties of any Bound Party under such agreements, it being understood that Applicable Law and the provisions of such agreements shall control the resolution of any claims or disputes related thereto.

### **18.3 Dispute Resolution.**

18.3.1 Direct Discussions. Any Bound Party having a Claim against any other Bound Party shall notify such party(ies) of the Claim in writing, stating plainly and concisely the following: (a) the nature of the Claim; (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (c) the basic facts supporting the allegations in the Claim; (d) the other Persons involved in the Claim or with personal knowledge of the facts alleged; and (e) the claimant’s proposed remedy, including the specific monetary amounts (if any) demanded. The Bound Parties to the Claim shall make reasonable efforts to meet in person to resolve the Claim by good faith discussions and negotiations – it being

understood that the best opportunity to achieve a fair and satisfactory resolution to a Claim is ordinarily through early discussions and negotiations held in good faith.

18.3.2 Dispute Resolution. If the Bound Parties to a Claim are unable to resolve the Claim through direct discussions within a reasonable time, either Bound Party may submit the Claim to the Board for assistance in resolving the Claim. In such event, the Board may, by notice to each Bound Party to the Claim within thirty (30) days of its receipt of a request for assistance:

18.3.2.1 Order the Bound Parties to continue direct discussions and negotiations for a period of up to thirty (30) days. If the Claim is not resolved in such period, any Bound Party may request the Board's further assistance to resolve the Claim;

18.3.2.2 Order the Bound Parties to mediate the Claim with an independent real estate attorney, real estate professional, or judge selected by the Board. The mediator shall set the rules of the mediation. Any party to the mediation can invite additional parties to the mediation if the presence of such additional party is required for a complete resolution of any Claim. The parties shall share the mediator's fee and any filing fees equally. Unless otherwise agreed, the mediation shall be held within thirty (30) days of the order for mediation and shall be held in a neutral location near the Project selected by the mediator. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the mediation does not resolve the Claim, the Bound Parties may proceed to litigation of the Claim in any court of competent jurisdiction;

18.3.2.3 Order the Bound Parties to settle the Claim through arbitration by a single arbitrator conducted in accordance with the Idaho Uniform Arbitration Act (Idaho Code Title 7, Chapter 9) except as otherwise provided herein. The arbitrator shall be any independent real estate attorney or judge appointed by the Board. The arbitrator shall set the rules of the arbitration. The arbitrator may, in its discretion, order parties to produce documents relevant to the dispute and may order written discovery and depositions (but with care to avoid burdensome discovery or depositions). The arbitrator shall endeavor to hold the arbitration at mutually convenient times and locations; provided, however, the arbitrator shall endeavor to complete the arbitration within forty-five (45) days after appointment of the arbitrator. The parties shall bear their own attorneys' fees (if any) and share the arbitrator's fees equally; provided, however, the arbitrator may award costs, arbitrator's fees and attorneys' fees to the substantially prevailing party. The arbitrator's award shall be final, and judgment may be entered upon it in accordance with Applicable Law in any court having jurisdiction thereof

18.3.2.4 If the Claim is within the jurisdiction of the Small Claims Department of the Magistrate Division (currently, monetary claims for \$5,000 or less), order a Bound Parties to file such Claim exclusively therein;

18.3.2.5 Elect to exempt the Claim from this Section 18, at which time the Bound Parties are free to exercise any right or remedy in accordance with Applicable Law.

If the Board fails to notify the Bound Parties within thirty (30) days of its receipt of a request for assistance, the Board shall be deemed to have elected to exempt the Claim from this Section 18.

18.3.3 Enforcing Resolutions. If the Bound Parties resolve any Claim through mediation or arbitration pursuant to this Section 18 and any Bound Party thereafter fails to abide by the terms of such resolution (i.e., settlement agreement or arbitrator's award), then any other Bound Party may take any legal or other action to enforce such settlement agreement or arbitrator's award without the need to comply again with the procedures set forth in this Section 18. In such event, the Bound Party taking

action to enforce the resolution shall be entitled to recover from any non-complying Bound Party all costs and attorneys' fees reasonably incurred in such enforcement.

## **SECTION 19 INITIAL DEVELOPMENT PERIOD**

**19.1 Project Management.** Each Owner recognizes that the Project will require a high level of knowledge, effort, judgment, diligence, and attention during the Initial Development Period, and that level is beyond what can reasonably be expected from Project volunteers. Accordingly, each Owner agrees that it is in the best interest of the Project for Grantor to have full management authority for the Project during the Initial Development Period, including the sole and exclusive right to appoint, remove, and replace directors of the Board, and to fill vacancies on the Board, at any time and from time-to-time in Grantor's sole discretion by virtue of its voting rights as the Class B Member.

**19.2 Grantor Exemptions.** Grantor may, from time-to-time in Grantor's discretion and without first seeking or obtaining the approval of Association:

19.2.1 Make modifications or improvements to the Common Area as Grantor deems appropriate, and may also make modifications or improvements to any Unit prior to the conveyance thereof as Grantor deems appropriate;

19.2.2 Place or authorize signs of such size, design, and number as Grantor deems appropriate for the initial development of the Project, including signs to identify the Project, display information pertaining to the Project, display information or instructions to builders, advertise Condominiums for sale (including sale events and open houses), and to advertise Project elements or events;

19.2.3 Use or allow any third party to use any Condominium as a model unit, sales office, or construction office;

19.2.4 Place or authorize portable or temporary structures upon the Common Area of the Project, and otherwise allow the Common Area to be used as a construction storage yard; and

19.2.5 Establish or reserve such additional covenants, conditions, restrictions, or easements on any Condominium prior to conveyance thereof as Grantor deems necessary or convenient for the development of the Condominium or Project.

**19.3 Water Rights Appurtenant to Project.** Grantor may own certain water rights which are appurtenant to the Project. Grantor hereby reserves unto itself any and all water rights appurtenant to the Project, and Owners of any and all Condominiums accordingly shall have no right, title, or interest in any of said water or water rights.

**19.4 Grantor's Exemption from Assessments.** Grantor shall not be assessed any Regular Assessments or Special Assessments for any Condominiums owned by Grantor. If Grantor owns at least one Condominium, Grantor shall pay the shortfall, if any, in the operating Expenses of the Association; provided, however, such obligation shall not exceed the amount that the Regular Assessments and Special Assessments that Grantor would otherwise be assessed as an Owner multiplied by the total number of Condominiums owned by Grantor on the date Regular Assessments or Special Assessments are assessed against the Owners of Condominiums. Following the Initial Development Period, Grantor shall be assessed Regular Assessments and Special Assessments for each Condominium owned by Grantor.

**19.5 Assignment of Grantor's Rights.** Grantor may assign any or all of its rights under the Condominium Documents to any Person in a written instrument(s) that contains the assignee's acceptance

of such assignment and agreement to assume any of Grantor's obligations pertaining to the rights assigned, which acceptance and assumption shall be effective upon the recordation of such written instrument(s) recorded in the real property records of Ada County, Idaho. Grantor shall promptly provide a copy of the recorded instrument to the Association and, thereupon, be released from Grantor's obligations pertaining to the rights assigned and the obligations assumed.

## **SECTION 20 TERM**

The easements created by this Declaration shall be perpetual, subject only to extinguishment by the holders of such easements as provided by Applicable Law. The remainder of this Declaration shall for a period of thirty (30) years commencing on the Effective Date, unless earlier amended or terminated in accordance with Section 21.1, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless earlier amended or terminated in accordance with Section 21.1.

## **SECTION 21 MISCELLANEOUS**

### **21.1 Amendment.**

21.1.1 By Whom. From and after the Effective Date until the expiration or earlier termination of the Initial Development Period, Grantor shall have the exclusive right to amend, or terminate, this Declaration by executing a written instrument setting forth such amendment, or termination, and the same shall be effective upon the recordation thereof in the real property records of Ada County, Idaho. After the expiration or earlier termination of the Initial Development Period, any amendment to this Declaration, or termination hereof, shall be by a written instrument setting forth such amendment or termination, signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment or termination has been approved by the vote or written consent of members representing more than sixty-five percent (65%) of the total voting power in the Association, and the same shall be effective upon the recordation thereof in the real property records of Ada County, Idaho.

21.1.2 Effect of Amendment. Any amendment or termination of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners notwithstanding that such Owners may not have voted for or consented to such amendment or termination. Any amendment may add to and increase the covenants, conditions, restrictions, and easements applicable to the Project but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's Condominium which existed prior to the said amendment.

**21.2 Mortgage Protection.** Upon written request to the Association from any holder, insurer, or guarantor of any first Mortgage stating its name, address and the Unit number or address of the Unit on which it has its first Mortgage, said holder, insurer, or guarantor of a first Mortgage encumbering a Unit shall be entitled to notice of the following:

21.2.1 Any condemnation or casualty loss that affects either a material portion of a Building or a Unit encumbered by such first Mortgage;

21.2.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a first Mortgage;

21.2.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

21.2.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

**21.3 Enforcement and Non-Waiver.**

21.3.1 Right of Enforcement. Except as otherwise provided herein, any Owner, the Association, and Grantor shall each have the right to enforce any or all of the provisions of this Declaration against any Condominium or any part or portion of the Project and against the Owners thereof. The failure of any Owner or Lessee to comply with Applicable Law pertaining to the ownership, use, or occupancy of any Condominium or other portion of the Project, or to comply with any provision of the Condominium Documents, is hereby declared a nuisance and gives rise to a cause of action (subject to Section 18) in Grantor, the Association (on its own and/or on behalf of any consenting Owners) and any affected Owner for recovery of damages or for negative or affirmative injunctive relief or both enforce the provisions hereof only as set forth in this Declaration. Each remedy provided herein is cumulative and not exclusive. If any party initiates or defends any legal action or proceeding to interpret or enforce any of the terms of this Declaration, the substantially prevailing party shall be entitled to recover any costs and attorneys' fees reasonably incurred therein

21.3.2 Non-Waiver. Failure of the Grantor or the Board to insist upon strict compliance with this Declaration or other Condominium Documents, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment of the right to insist on compliance in the future with any term, covenant, condition or restriction. The receipt by the Board of payment of an Assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for by the Board.

**21.4 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Project. This Declaration shall be construed and governed under the laws of the State of Idaho without regard to its conflicts of law principles, and the following:

21.4.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Project as set forth in the recitals to this Declaration.

21.4.2 Restrictions Severable. Notwithstanding the provisions of the foregoing Section 21.4.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

21.4.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. As used herein, the word "including" shall be deemed to be followed by "but not limited to" unless otherwise indicated.

21.4.4 Captions. All captions, titles and the table of contents used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

21.4.5 **Board Interpretation.** In the event that any provision of this Declaration is deemed ambiguous on any matter, the Board's interpretation such provision shall be given deference so long as the interpretation is not arbitrary or capricious.

**21.5 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, rented or entered a contract of sale of his interest as provided herein, but the Owner of a Condominium shall have no obligation for Assessments or other obligations accruing after the Owner conveys such Condominium.

**21.6 Exhibits.** All exhibits attached hereto are incorporated herein as if set forth in full herein. However, in the event of any conflict between such exhibits and the text of the Declaration, the Declaration shall control.

**21.7 Acknowledgement and Waivers.** All Owners expressly acknowledge that there are no understandings, representations, warranties or promises of any kind that have been made to induce the Owners from owning Units in the Project except as set forth in this Declaration or any other written valid and binding agreement between the Grantor and the Owners, that this Declaration or any other written valid and binding agreement (including without limitation the other Condominium Documents) between the Grantor and the Owners sets forth in full the entire agreement between the parties and governing the Project, and the Owners have not relied on any verbal agreement, statement, representation, warranty or other promises that is not expressed in writing in this Declaration or any other written valid and binding agreement between the Grantor and the Owners. Except as may be set forth in any written agreement between Owner and Grantor, each Owner has acquired and accepted its Condominium Unit "as is, where is" with all faults.

**21.8 Notices; Time.** All notices, approvals, consents, requests, elections and other communications required or permitted to be given under this Declaration (each a "notice") shall be in writing and shall be given by: (a) hand delivery, in which event such notice shall be deemed duly given and received upon the earlier of delivery or refusal to accept delivery thereof; (b) U.S. Certified Mail, return receipt requested, with postage prepaid, in which event such notice shall be deemed duly given and received upon the earlier of the date of actual receipt, the date of delivery as shown on the return receipt, or the third day after deposit in the mail; (c) a nationally-recognized overnight delivery service (e.g., FedEx), in which event such notice shall be deemed duly given and received upon the earlier of the actual date of receipt or the day after deposit with the nationally-recognized overnight delivery service; or (d) email transmission, in which event such notice shall be deemed duly given and received on the date sent if sent before 5:00 PM in the local time zone where the Project is physically located, or on the next day, if sent after 5:00 PM in the local time zone where the Project is physically located. Notwithstanding the foregoing, actual receipt of a notice, however given and from whomever received shall always be effective. All such notices shall be addressed to the appropriate party at the party's address on file with the Association. Each Owner will be responsible for ensuring that the Association has such Owner's then current mailing address, physical address, and email address.

All time periods in this Declaration shall be deemed to refer to calendar days. If the last date on which to perform any act, give any notice, or be deemed to have received any notice under these Declaration shall fall on a Saturday, Sunday, or holiday observed by the state courts sitting in the county in which the Project is physically located, such act or notice shall be deemed timely if performed or given, or notice shall be deemed received, on the next succeeding day that is not a Saturday, Sunday, or holiday observed by the state courts sitting in county in which the Project is physically located. Time is of the essence.

[END OF TEXT]

This Declaration is executed effective this 26 day of October 2023.

**GRANTOR:**

Falcon One Saturn, LLC,  
an Idaho limited liability company

By: FSCS Manager LLC,  
an Idaho limited liability company  
Its: Manager

By: \_\_\_\_\_

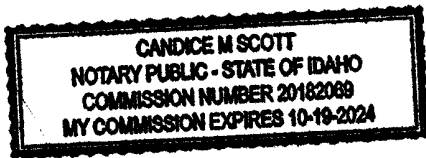
Name: Josh Kantor

Its: as authorized by FSCS  
Manager

STATE OF Idaho )  
County of Blaine ) ss.

On this 26 day of October, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Josh Kantor, known or identified to me to be to be the authorized representative of FSCS Manager LLC, the manager of Falcon One Saturn, LLC, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such company executed the same.

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



Candice M Scott  
Notary Public for Idaho  
Residing at: Blaine County, Harley  
My commission expires: 10/19/24



The undersigned holder of a recorded security interest in the Property hereby consents to the recordation of the Plat and this Declaration.

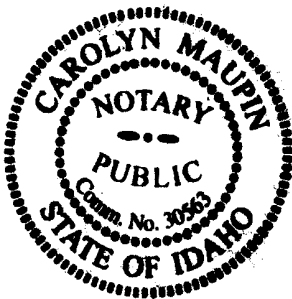
Idaho First Bank Bank,  
a national banking association

By: [Signature]  
Name: DAVE DICKEY  
Its: Senior Vice president

STATE OF Idaho )  
County of Ada ) ss.

On this 27<sup>th</sup> day of October, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Dave Dickey, known or identified to me to be the Senior Vice President of Idaho First Bank, the national banking association that executed the instrument or the person who executed the instrument on behalf of such national banking association, and acknowledged to me that such person executed the same.

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



[Signature]  
Notary Public for Boise, Idaho  
Residing at: Boise  
My commission expires: 6/23/27

## EXHIBIT A

### Legal Description of the Property

Lots 4, 5, 6, and 7, Block 1 of Entertainment View Subdivision as filed in Book 88 of Plats at Pages 10,142 through 10,144, situated in the southwest quarter of the northeast quarter of Section 24, Township 3 North, Range 1 East, Boise Meridian, City of Boise, Ada County, Idaho, and being more particularly described as follows:

Commencing at the center quarter-section corner of Section 24, Township 3 North, Range 1 East, Boise Meridian;  
Thence N00°26'29"E, 2651.25 feet, along the north-south centerline of Section 24 to the north quarter-section corner;  
Thence S89°29'03"E, 696.90 feet along the north line of Section 24;  
Thence S00°26'52"W, 1604.14 feet to the northwest corner of Lot 4, Block 1 of Entertainment View Subdivision, the POINT OF BEGINNING:

Thence S89°32'54"E, 387.95 feet along the boundary of Lot 4, Block 1, to the northwest corner of Lot 4, Block 1;

Thence S00°34'44"W, 180.35 feet along the boundary of Lot 4, Block 1 to the northwest corner of Lot 7 Block 1;

Thence S89°41'54"E, 211.27 feet along the boundary of Lot 7, Block 1 to northeast corner of Lot 7, Block 1;

Thence S00°18'06"W, 303.25 feet along the boundary of Lot 7, Block 1;

Thence 36.21 feet on a tangent curve to the right having a radius of 148.00 feet, a central angle of 14°01'10", a chord bearing of S07°18'41"W, and a chord length of 36.12 feet, along the boundary of Lot 7, Block 1;

Thence S14°19'16"W, 71.00 feet along the boundary of Lots 6 and 7, Block 1 to the southeast corner of Lot 6, Block 1;

Thence N89°26'48"W, 578.28 feet along the boundary of Lot 6, Block 1 to the southwest corner of Lot 5, Block 1;

Thence N00°27'06"E, 586.80 feet along the boundary of Lots 5 and 4, Block 1 to the POINT OF BEGINNING.

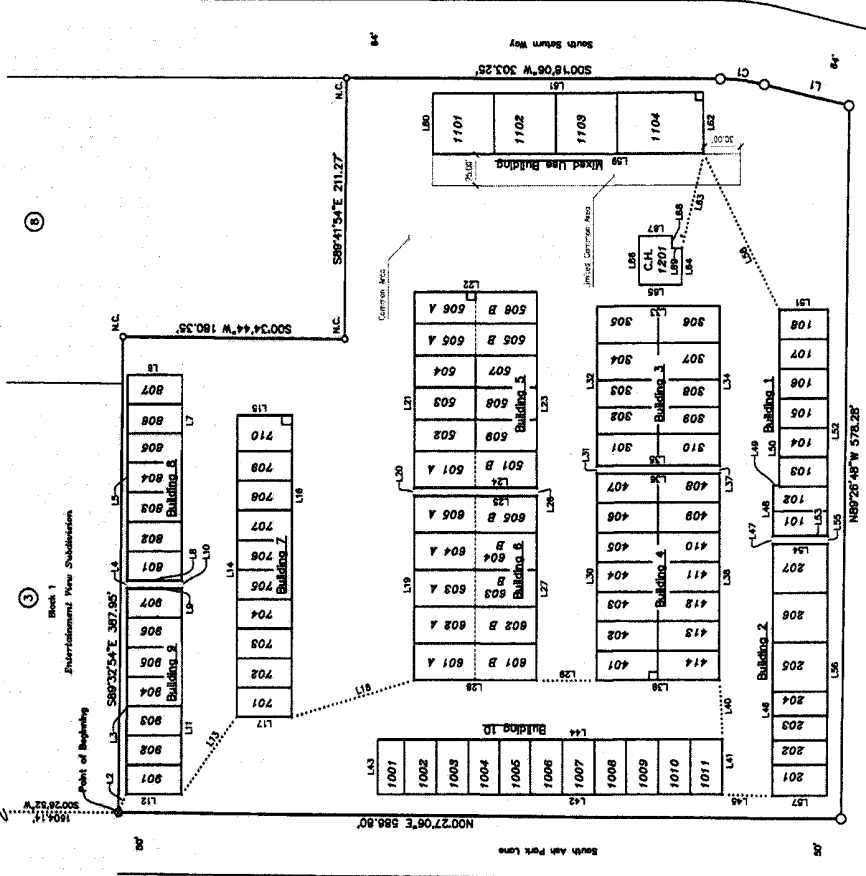
The above-described parcel contains 7.18 acres, more or less.

**EXHIBIT B**

**Plat of Leighton's Glen Condominiums**

# Leightons Glen Condominiums

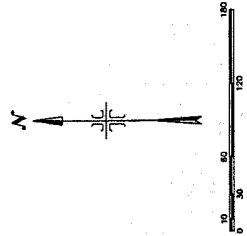
Plat Showing  
 Lots 4-7, Block 1 Entertainment View Subdivision, Situated in  
 the Southwest Quarter of the Northeast Quarter of Section 24,  
 Township 3 North, Range 1 East, Boise Meridian,  
 City of Boise, Ada County, Idaho.  
 2023



Line	Bearing	Length	Curve Table
L1	S 1/4° 18' 18" W	71.00'	
L2	N 89° 00' 00" E	100.00'	
L3	S 87° 14' 25" E	18.25'	
L4	N 89° 00' 00" E	188.31'	
L5	N 90° 00' 00" E	5.58'	
L6	N 90° 00' 00" E	100.00'	
L7	S 89° 00' 00" E	41.82'	
L8	S 89° 00' 00" E	41.82'	
L9	N 90° 00' 00" E	41.82'	
L10	S 89° 00' 00" E	41.82'	
L11	N 90° 00' 00" E	41.82'	
L12	S 89° 00' 00" E	41.82'	
L13	S 89° 00' 00" E	41.82'	
L14	N 90° 00' 00" E	41.82'	
L15	S 89° 00' 00" E	41.82'	
L16	N 90° 00' 00" E	41.82'	
L17	S 89° 00' 00" E	41.82'	
L18	N 90° 00' 00" E	41.82'	
L19	S 89° 00' 00" E	41.82'	
L20	N 90° 00' 00" E	41.82'	
L21	S 89° 00' 00" E	41.82'	
L22	N 90° 00' 00" E	41.82'	
L23	S 89° 00' 00" E	41.82'	
L24	N 90° 00' 00" E	41.82'	
L25	S 89° 00' 00" E	41.82'	
L26	N 90° 00' 00" E	41.82'	
L27	S 89° 00' 00" E	41.82'	
L28	N 90° 00' 00" E	41.82'	
L29	S 89° 00' 00" E	41.82'	
L30	N 90° 00' 00" E	41.82'	
L31	S 89° 00' 00" E	41.82'	
L32	N 90° 00' 00" E	41.82'	
L33	S 89° 00' 00" E	41.82'	
L34	N 90° 00' 00" E	41.82'	
L35	S 89° 00' 00" E	41.82'	
L36	N 90° 00' 00" E	41.82'	
L37	S 89° 00' 00" E	41.82'	
L38	N 90° 00' 00" E	41.82'	

Curve	Length	Radius	Delta	Chord Bearing	Chord Length
C1	38.21'	148.00'	149° 01' 10"	S 67° 14' 41" W	38.12'



- Legend**
- Found 1/2" Iron Pin, Reset with 5/8" x 24" Iron Pin with Cap Top PLS 11324# or on Hold
  - Found 3/8" Iron Pin, PLS 4889 or on Hold
  - Found Copper Disk Monument PLS 11324#
  - Found Brass Cap Monument
  - Found Aluminum Cap Monument
  - △ Calculated Point, Holding Found or Set
  - Lot Number
  - N.C. No Cap
  - C.L. Club House
  - Condominium Project Boundary Line
  - Right-of-Way Line
  - Limited Common Area Line
  - The Line
  - Section Line
  - Non Wall Division Line
  - Building Walls



See Sheet 3 for Notes.

Book \_\_\_\_\_ Page \_\_\_\_\_

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Job No. 22-168  
 Sheet 1 of 6

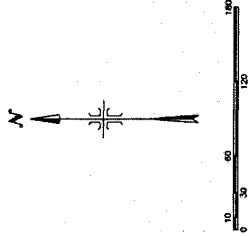
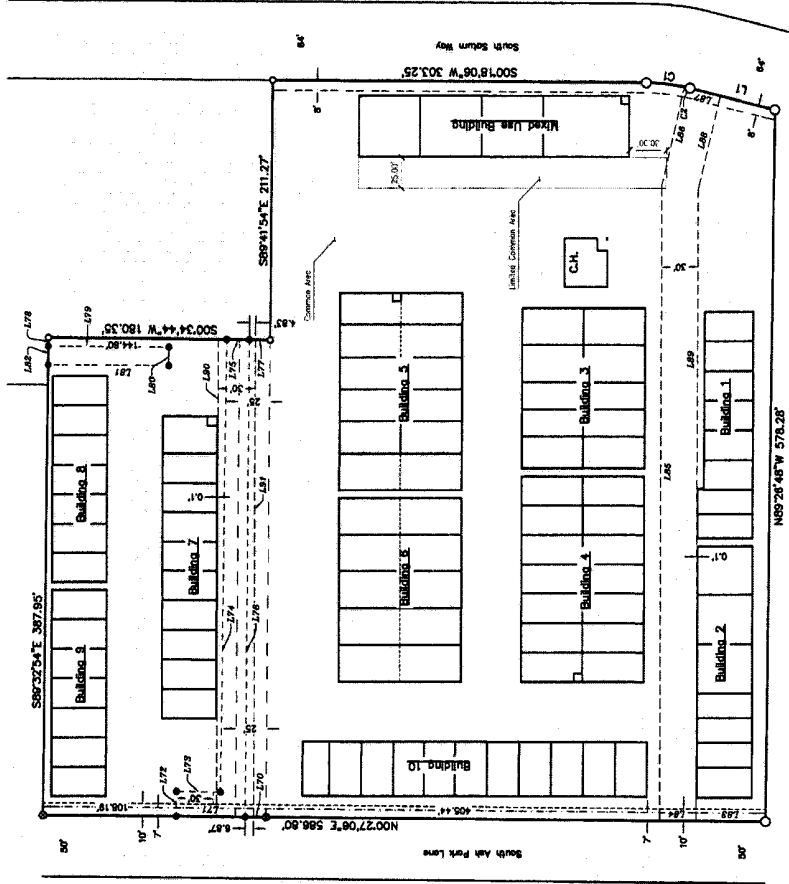
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Plotted by: Isaac, George Date: 22-11-2023 11:47:37 AM

# Leightons Glen Condominiums

Easement Curve Table			
Curve	Length	Radius	Delta
C1	4.84'	146.00'	60°15'21"
C2	4.84'	146.00'	60°15'21"

Easement Line Table			
Line	Bearing	Length	Chord Length
L70	N00°27'00"E	17.00'	17.00'
L71	N00°27'00"E	68.00'	68.00'
L72	S00°25'10"W	26.00'	26.00'
L73	S00°27'00"W	36.75'	36.75'
L74	S00°25'10"W	38.75'	38.75'
L75	S00°24'44"W	16.48'	16.48'
L76	N00°24'54"E	38.75'	38.75'
L77	N00°24'54"E	17.00'	17.00'
L78	N00°24'54"E	8.93'	8.93'
L79	S00°27'00"W	67.87'	67.87'
L80	N00°24'54"E	16.00'	16.00'
L81	N00°27'00"E	37.87'	37.87'
L82	S00°25'10"W	66.10'	66.10'
L83	N00°27'00"E	36.00'	36.00'
L84	N00°27'00"E	67.16'	67.16'
L85	N00°27'00"E	81.16'	81.16'
L86	S77°02'45"E	26.17'	26.17'
L87	S1°13'18"W	75.18'	75.18'
L88	N77°02'45"E	26.17'	26.17'
L89	S00°27'00"E	63.18'	63.18'
L90	N00°27'00"E	38.75'	38.75'
L91	N00°27'00"E	38.75'	38.75'



## LEGEND

- Set 1/77 = 24" Iron Pin with Plastic Cap.
- Found 1/22" Iron Pin, Read with 5/16" = 24"
- Found 1/22" Iron Pin with Cap "355 PLS 11334"
- Found 5/8" Iron Pin
- Found Copper Disk Monument PLS 11334
- Club House
- Condominium Project Boundary Line
- Limited Common Area Line
- The Line
- Building Walls
- Non-Wall Division Line
- Existing Quiet Easement Instrument No. 101078045, and Public Utilities, Drainage, and Irrigation Easement per Encumbrance New Subdivision
- Existing Home Sewer Easement Instrument No. 100100546 (Copy of Easement for Public Utilities, Sewer, Drainage, and Irrigation Easement, per Encumbrance New Subdivision)
- Existing Drainage Easement
- Existing Ada County Highway District Sewer Easement Instrument No. 2022-07780A, Encumbrance, Drainage, and Irrigation Easement, per Encumbrance New Subdivision
- Existing Water Use Easements, Instrument No. 2022-07780A, re-replicated on Instrument No. 2022-081826
- Utility and Boise City Street Light Easement. See Note 17



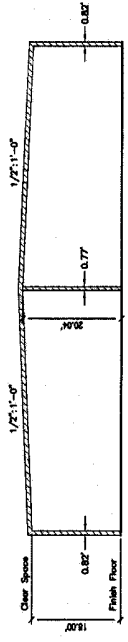
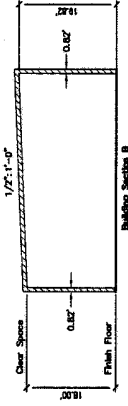
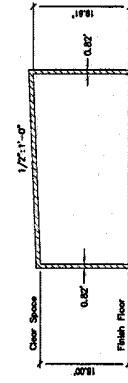
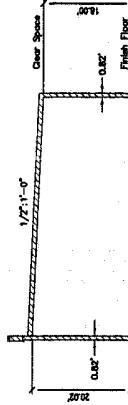
See Sheet 3 for Notes.  
See Sheet 1 for Line & Curve Tables.

Book \_\_\_\_\_ Page \_\_\_\_\_

**IDAHO SURVEY GROUP, LLC**  
8645 W. EMERALD ST  
BOISE, IDAHO 83704  
WWW.IDAHOSURVEY.COM

Job No. 22-166  
Sheet 2 of 6

# Leightons Glen Condominiums



**SUCCESSOR JURISDICTION.**  
 The purpose of this survey is to produce a condominium project of the property shown herein. The property is as conveyed by a Warranty Deed from the State of Idaho to the State of Idaho, County of Blaine, Idaho. The monuments found on a subdivision agreement with the City of Entertainment Venue Subdivision and were held in compliance with the provisions of the Idaho Condominium Act, Title 55, Chapter 1, and were based on design drawings and accurately represents the information shown on the design drawings and accurately represents the information shown on the design drawings with the State of Idaho and local requirements relating to a condominium project.  
 See Record of Survey 13775 for boundary information.  
 The survey was conducted by the State of Idaho, County of Blaine, Subdivision, N89°25'03"W between the east abutment-section corner and the north quarter-section corner.  
 The survey was not a projection. It is based on a one-strip transformation of WGS84 to fit the block shown above.  
 The convergence angle of the north quarter-section corner is -072'17".

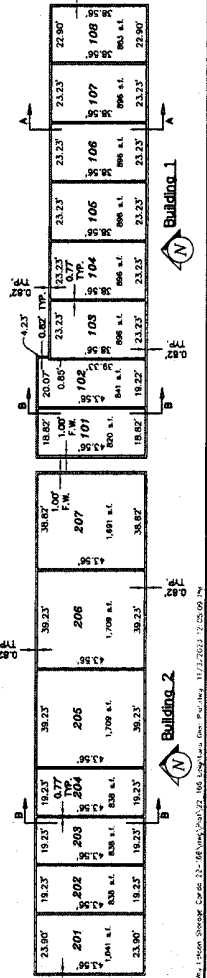
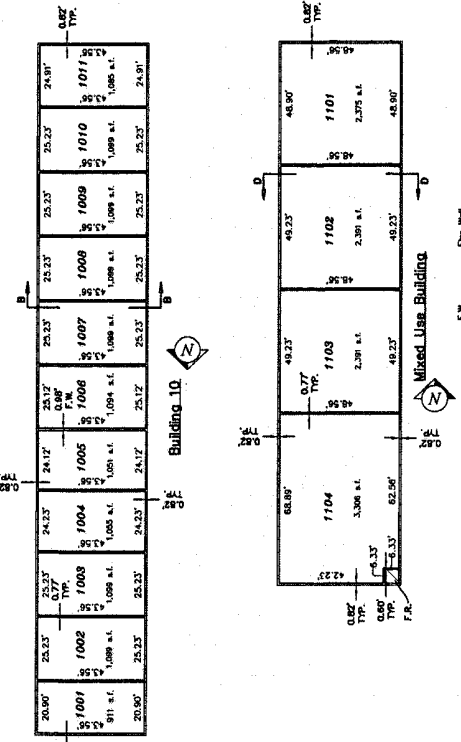
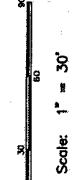
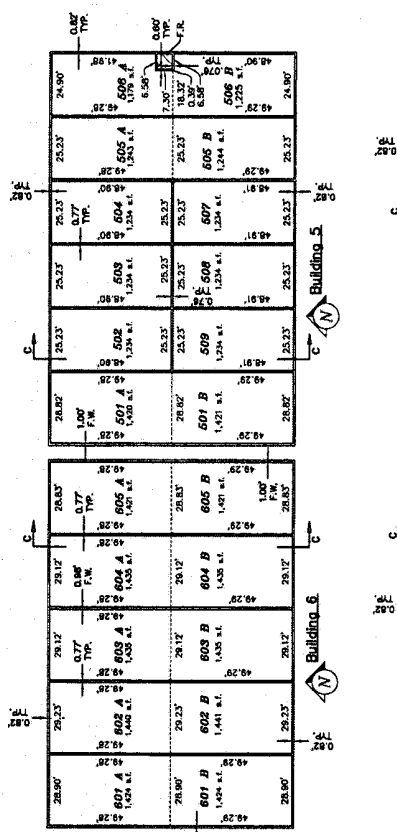
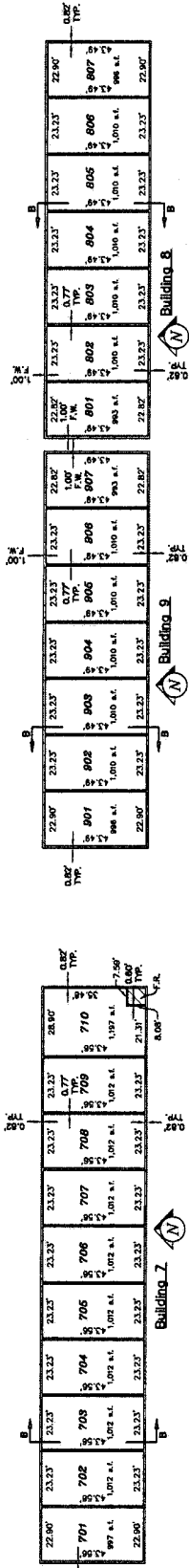
### NOTES:

1. Any amendments to this condominium shall conform to the provisions of Boise City Code and the Condominium Declaration.
2. The Condominium Project is within the New York Irrigation District and complies with the Idaho Code 31-3800(Y)(6), and Idaho Code 43-1117. The land included in this plot has been recorded in the New York Irrigation District, and said location was recorded in the records of the Ada County Register at Instrument Number 103250411.
3. Utilities shall be provided in accordance with the applicable zoning and subdivision regulations at the time of issuance of the building permit, or as specifically approved and/or required.
4. The physical boundaries of each unit, the categorization of common areas and the ingress and egress shall be as shown on the Declaration of Condominium for Leightons Glen Condominiums, see Instrument Number \_\_\_\_\_.
5. The plot is subject to Idaho Code Title 55, Chapter 15 "The Condominium Property Act."
6. The building line are measured from the exterior face of foundation wall.
7. No unit shall be divided, adjusted, or reconfigured without complying with Boise City Code and the Condominium Declaration for Leightons Glen Condominiums.
8. The subdivision project shall be subject to the 032845 for Entertainment Venue Subdivision, Instrument Numbers 10320777 & 10-0801154, and as may be amended from time to time.
9. For uses, responsibilities, maintenance, relationships of units & common areas, definition of units, see Condominium Declaration for Leightons Glen Condominiums.
10. All landscapes, drive decks, parking, loading, the club house, fire riser rooms, etc. are common areas.
11. The development recognizes Idaho Code, Title 22, Chapter 45 Right to Farm Act, Section 22-2523, which states "no agricultural operation, agricultural facility or operation thereof shall be considered to be a nuisance if it has been in operation for more than one (1) year when the operation, facility or operation was not a nuisance at the time it was established and if the operation, facility or operation is a bona fide agricultural operation, facility or operation thereof."
12. Other than the access specifically approved with the development application, street list, permit, or unit access to S. Saturn Way is prohibited.
13. Blanket Adoption Easement Instrument Numbers 10320454 & 99080372.
14. Permanent Operation and Maintenance Agreement Instrument Number 2017-17836, Instrument Number 2022-02016, and Instrument Number 2022-02016. Additional easements may be recorded in the future.
15. Other Easement Agreement Instrument Numbers 98326317, 10026582, & 10426248.
16. Any future wells between units with "non-well division lines" will not be common areas, and shall not be subject to the provisions of the Declaration of Condominium. Any easements regarding their nature of ownership, use, maintenance, etc.
17. The Utility and Boise City Street Light Easement is hereby reserved for the installation, maintenance, and repair of utility lines. The easement does not preclude the construction and maintenance of foot-surfaced driveways, landscaping (except trees), parking, and other such non-permanent improvements.
18. All easements are parallel (or coincident) to the lines (or area) that they are dimensioned from, unless otherwise stated.

Common Area

Survey Reference:  
 O&M Book No. 1846088, 45006472, 2018-019889.  
 Deed Book No. 2021-060205.  
 Easement Inst. No. 101047828, 100100546, 101078045, 103212732, 103207777, & 104001184.  
 ROS No. 3575, 4681, 4619, 4682, 5133, 5621, 3037, 12258, & 13475.  
 Subdivision: Entertainment Venue.

# Leightons Glen Condominiums



See Sheet 3 for Notes

Book Page

IDAHO SURVEY GROUP, LLC

8655 W. EMERALD ST.  
SUNDERLAND, IDAHO  
(208) 946-8570  
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Job No. 22-166  
Sheet 4 of 6

12/26/2022 12:25:09 PM

# Leighton's Glen Condominiums

Certificate of Owners

Know all men by these presents: that Falcon One Solum, LLC an Idaho limited liability company is the Owner of the Property described as follows:

Lots 4, 5, 6, and 7, Block 1 of Entertainment View Subdivision as filed in Book 88 of Plats of Pages 10,142 through 10,144, situated in the southeast quarter of the northeast quarter of Section 24, Township 3 North, Range 1 East, Boise Meridian, City of Boise, Ada County, Idaho, and being more particularly described as follows:

Commencing at the north quarter-section corner of Section 24, Township 3 North, Range 1 East, Boise Meridian, which bears N89°29'03"W, 1320.47 feet from the east sixteenth-section corner of Section 24;

Thence S89°29'03"E, 696.90 feet along the north line of Section 24;

Thence S00°26'52"W, 1604.14 feet to the northwest corner of Lot 4, Block 1 of Entertainment View Subdivision, the POINT OF BEGINNING

- Thence S89°32'54"E, 387.85 feet along the boundary of Lot 4, Block 1, to the northwest corner of Lot 4, Block 1;
- Thence S00°34'44"W, 180.35 feet along the boundary of Lot 4, Block 1 to the northwest corner of Lot 7, Block 1;
- Thence S89°41'54"E, 211.27 feet along the boundary of Lot 7, Block 1 to northeast corner of Lot 7, Block 1;
- Thence S00°18'06"W, 303.25 feet along the boundary of Lot 7, Block 1;
- Thence 36.21 feet on a tangent curve to the right having a radius of 148.00 feet, a central angle of 14°07'10", a chord bearing of S07°18'41"W, and a chord length of 3612 feet, along the boundary of Lot 7, Block 1;
- Thence S14°19'16"W, 71.00 feet along the boundary of Lots 6 and 7, Block 1 to the southeast corner of Lot 6, Block 1;
- Thence N89°26'48"W, 578.28 feet along the boundary of Lot 6, Block 1 to the southwest corner of Lot 5, Block 1;
- Thence N00°27'06"E, 568.80 feet along the boundary of Lots 5 and 4, Block 1 to the POINT OF BEGINNING.

The above-described parcel contains 7.18 acres, more or less.

It is the intention of the undersigned to create a Condominium Project subject to the "Condominium Property Act" Idaho Code Title 55, Chapter 15, and to include the above described property in this plot. The owners also hereby certify that they consent to the recording of documents pursuant to Title 55, Chapter 15 of Idaho Code and that this plot complies with Idaho Code 50-134(2). The easements as shown on this plot are not dedicated to the public. However, it is right to use such easements as they are hereby perpetually reserved for use as designated herein, and no permanent easement shall be created with respect to the above described property other than for such uses. The Condominium Project receives water service from Vadic Water Idaho, Inc.

In witness whereof:  
Falcon One Solum, LLC, an Idaho limited liability company  
By: FSCS Manager LLC, an Idaho limited liability company

Its: Manager  
By: Falcon One, Inc. an Idaho corporation  
Its: Manager

  
By: Shane Jimenez  
Its: President

Certificate of Surveyor

I, Michael S. Byrns, do hereby certify that I am a Professional Land Surveyor, licensed by the State of Idaho, and find that this plot of Leighton's Glen Condominiums, as described in the Certificate of Owners and as shown on the attached plat is correct and was surveyed in accordance with Idaho Code relating to plats, surveys, and condominiums.



  
Michael S. Byrns

10/17/22

P.L.S. No. 11334

Acknowledgment

State of Idaho }  
County of Ada }

On this 20 day of October, 2022, before me, the undersigned, a notary public in and for said state, personally appeared Shane Jimenez, known or identified to me to be the President of Falcon One Inc., Manager of FSCS Manager LLC, Manager of Entertainment View Subdivision, and the undersigned, in the presence of Shane Jimenez, the undersigned instrument on behalf of FSCS Manager LLC, on behalf of Falcon One Solum LLC.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

  
Notary Public, State Of Idaho



7/31/2025  
My Commission Expires



# Leighton's Glen Condominiums

### Health Certificate

Sanitary restrictions as required by Idaho Code, Title 50, Chapter 13 have been satisfied according to the letter to be filed with the County Recorder or his agent listing the conditions of approval. Sanitary restrictions may be re-imposed, in accordance with Section 50-1326, Idaho Code, by the issuance of a certificate of disapproval.



Alan Paul PEHS 12-7-2022  
Central District Health Date

### Certificate Of County Surveyor

I, the undersigned, Professional Land Surveyor in and for Ada County, Idaho, do hereby certify that I have checked this plat and that it complies with the State of Idaho Code relating to plats, surveys, and condominiums.



Jerry L. Heston  
County Surveyor  
PLS 3359  
11-6-2023

### Approval of Ada County Highway District

The foregoing plat was accepted and approved by the Board of Ada County Highway District Commissioners on the 11<sup>th</sup> day of April, 2022.



Dave Polina  
Commissioner President

### Approval of City Engineer

I, the undersigned, City Engineer in and for the City of Boise, Ada County, Idaho, hereby approve this plat.

Paul Fong 10/19/2023  
City Engineer Date  
PE# 11805

### Approval of City Council

I, the undersigned, City Clerk in and for the City of Boise, Ada County, Idaho do hereby certify that at a regular meeting of the City Council held on the 18<sup>th</sup> day of October, 2022, this plat was duly accepted and approved.



Teddy  
City Clerk, Boise, Idaho



### Certificate of County Treasurer

I, the undersigned, County Treasurer in and for the County of Ada, State of Idaho, per the requirements of I.C. 50-1308 do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.



Elizabeth Mahan 11-7-23  
County Treasurer  
Signed by Elizabeth Mahan

### County Recorder's Certificate

State of Idaho } Instrument No. \_\_\_\_\_  
County of Ada }

I hereby certify that this instrument was filed at the request of \_\_\_\_\_ at \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock \_\_\_\_\_ M., this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ in Book \_\_\_\_\_ of Plats at Pages \_\_\_\_\_ through \_\_\_\_\_ Fee \$ \_\_\_\_\_

Deputy \_\_\_\_\_ Ex-Officio Recorder \_\_\_\_\_

**EXHIBIT C**

**Certified Copy of Articles of Incorporation**

B0732-0787 08/25/2022 4:00 PM Received by ID Secretary of State Lawrence Denney

ARTICLES OF INCORPORATION  
OF  
LEIGHTON'S GLEN CONDOMINIUM OWNERS ASSOCIATION, INC.

For Office Use Only  
**-FILED-**  
File #: 0004870243  
Date Filed: 8/25/2022 4:00:00 PM

The undersigned, for the purpose of forming a nonprofit corporation under Idaho in compliance with the Idaho Nonprofit Corporations Act (Title 30, Chapter 30, Idaho Code), does hereby certify, declare, and adopt the following Articles of Incorporation of Leighton's Glen Condominium Owners Association, Inc. (the "Articles"):

ARTICLE I  
NAME

The name of the corporation is Leighton's Glen Condominium Owners Association, Inc. (the "Association").

ARTICLE II  
TERM

The period of existence and duration of the life of the Association is perpetual.

ARTICLE III  
NONPROFIT

The Association is a nonprofit, membership corporation.

ARTICLE IV  
REGISTERED AGENT

The name of the Association's initial registered agent is Michael Page, whose street and mailing address is 460 E. Sun Valley Road, Suite 203, Ketchum, Idaho 83340.

ARTICLE V  
PURPOSE AND POWERS OF THE ASSOCIATION

The Association is formed to exercise all powers and privileges, and to perform all of the duties and obligations, of the Association as set forth in the Condominium Declaration for Leighton's Glen Condominiums, to be hereinafter recorded in the real property records of Ada County, Idaho, as the same may be amended and supplemented from time-to-time according to its terms (the "Declaration"). The Declaration is incorporated by this reference as if fully set forth herein. Capitalized terms used and not defined in these Articles have the meanings set forth in the Declaration. The Association does not contemplate pecuniary gain or profit to the Members. The Association is formed for the purpose of acting as the "association of unit owners" in accordance with the Condominium Act.

ARTICLE VI  
MEMBERSHIP & VOTING RIGHTS

"Member" means each Person holding a membership in the Association, including Grantor. Every Owner of a Unit is a Member of the Association and has one (1) membership for each Unit in the Project owned by such Owner. If the Owner of a Unit shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association

attributable to that Unit may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Unit. To this end, only one (1) vote is allocated to each Unit, regardless of the number of Persons that hold an ownership interest in such Unit. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

(a) Class A Members. "Class A Members" shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Prior to the Class B Member Termination Date, Class A Members are not entitled to vote. At all meetings of the Association after the Class B Member Termination Date, each Member will be entitled to one (1) vote for each Unit owned by such Member.

(b) Class B Member. The "Class B Member" is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the "Initial Development Period"). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) the date on which Grantor has conveyed one-hundred percent (100%) of the Units to third parties; or (b) the date on which Grantor terminates its rights by delivery of notice to the Association and records a copy of the same in the real property records of Ada County, Idaho (as applicable, the "Class B Member Termination Date").

ARTICLE VII  
BOARD OF DIRECTORS

The business and affairs of the Association will be managed and controlled by the Board of Directors (the "Board"). The Board will consist of three (3) directors or five (5) directors, and will initially consist of three (3) directors. Upon the vote or written consent of Members representing more than fifty percent (50%) of the total voting power in the Association, the number of directors may be increased to five (5), or decreased back three (3), as applicable under the circumstances. Directors need not be Owners. The names and addresses of the persons who are to act in the capacity of initial directors until the selection of their successors are as follows:

Michael Page	460 E. Sun Valley Road, Suite 203 Ketchum, Idaho 83340
Tony St. George	460 E. Sun Valley Road, Suite 203 Ketchum, Idaho 83340
Shane Jimenez	5460 N. Bogus Basin Road Boise, Idaho 83702

**ARTICLE VIII  
ASSESSMENTS**

Each Owner is liable for the payment of Assessments pursuant to the Declaration and as set forth in the Bylaws of the Association.

**ARTICLE IX  
DISSOLUTION**

The Association will only be dissolved at an annual meeting, or a special meeting of the Association called for that purpose, by the affirmative votes of at least eighty-five percent (85%) of the total voting power of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, the real and personal property of the Association will be distributed as follows: (a) dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created; or (b) granted, conveyed, and assigned to a nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes. Notwithstanding any other provisions of these Articles, the Association will not carry on any other activities not permitted by any organization exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States internal revenue law).

**ARTICLE X  
AMENDMENTS**

These Articles may be amended at any annual meeting, or any special meeting of the Association called for that purpose, by the affirmative vote of sixty-five percent (65%) or more of the total voting power of the Association. No amendment that is inconsistent with the provisions of the Declaration will be valid.

**ARTICLE XI  
INCORPORATOR**

The name and address of the incorporator of the Association is:

Michael Page  
460 E. Sun Valley Road, Suite 203  
Ketchum, Idaho 83340

EXECUTED as of this 23rd day of August, 2022.

DocuSigned by:  
  
Michael Page, Incorporator

**EXHIBIT D**

**Leighton's Glen Condominiums  
PERCENTAGE OWNERSHIP INTEREST IN COMMON AREAS**

UNIT NUMBER	SQUARE FOOTAGE	OWNERSHIP PERCENTAGE
101	820	0.68%
102	841	0.70%
103	896	0.74%
104	896	0.74%
105	896	0.74%
106	896	0.74%
107	896	0.74%
108	883	0.73%
201	1041	0.86%
202	838	0.69%
203	838	0.69%
204	838	0.69%
205	1709	1.41%
206	1709	1.41%
207	1691	1.40%
301	1214	1.00%
302	1038	0.86%
303	1033	0.85%
304	1424	1.18%
305	1409	1.17%
306	1409	1.17%
307	1424	1.18%
308	1033	0.85%
309	1038	0.86%
310	1214	1.00%
401	1074	0.89%
402	1136	0.94%
403	1136	0.94%
404	1136	0.94%
405	1136	0.94%
406	1136	0.94%
407	1116	0.92%
408	1116	0.92%
409	1136	0.94%
410	1136	0.94%
411	1136	0.94%
412	1136	0.94%

413	1136	0.94%
414	1120	0.93%
501	2841	2.35%
502	1234	1.02%
503	1234	1.02%
504	1234	1.02%
505	2487	2.06%
506	2403	1.99%
507	1234	1.02%
508	1234	1.02%
509	1234	1.02%
601	2848	2.36%
602	2881	2.38%
603	2871	2.38%
604	2871	2.38%
605	2841	2.35%
701	997	0.83%
702	1012	0.84%
703	1012	0.84%
704	1012	0.84%
705	1012	0.84%
706	1012	0.84%
707	1012	0.84%
708	1012	0.84%
709	1012	0.84%
710	1197	0.99%
801	993	0.82%
802	1010	0.84%
803	1010	0.84%
804	1010	0.84%
805	1010	0.84%
806	1010	0.84%
807	996	0.82%
901	996	0.82%
902	1010	0.84%
903	1010	0.84%
904	1010	0.84%
905	1010	0.84%
906	1010	0.84%
907	993	0.82%
1001	910	0.75%
1002	1099	0.91%
1003	1099	0.91%

1004	1055	0.87%
1005	1055	0.87%
1006	1051	0.87%
1007	1095	0.91%
1008	1099	0.91%
1009	1099	0.91%
1010	1099	0.91%
1011	1099	0.91%
1012	1085	0.90%
1101	2375	1.97%
1102	2391	1.98%
1103	2391	1.98%
1104	3306	2.74%
<b>TOTALS</b>	<b>120,833</b>	<b>100.00%</b>

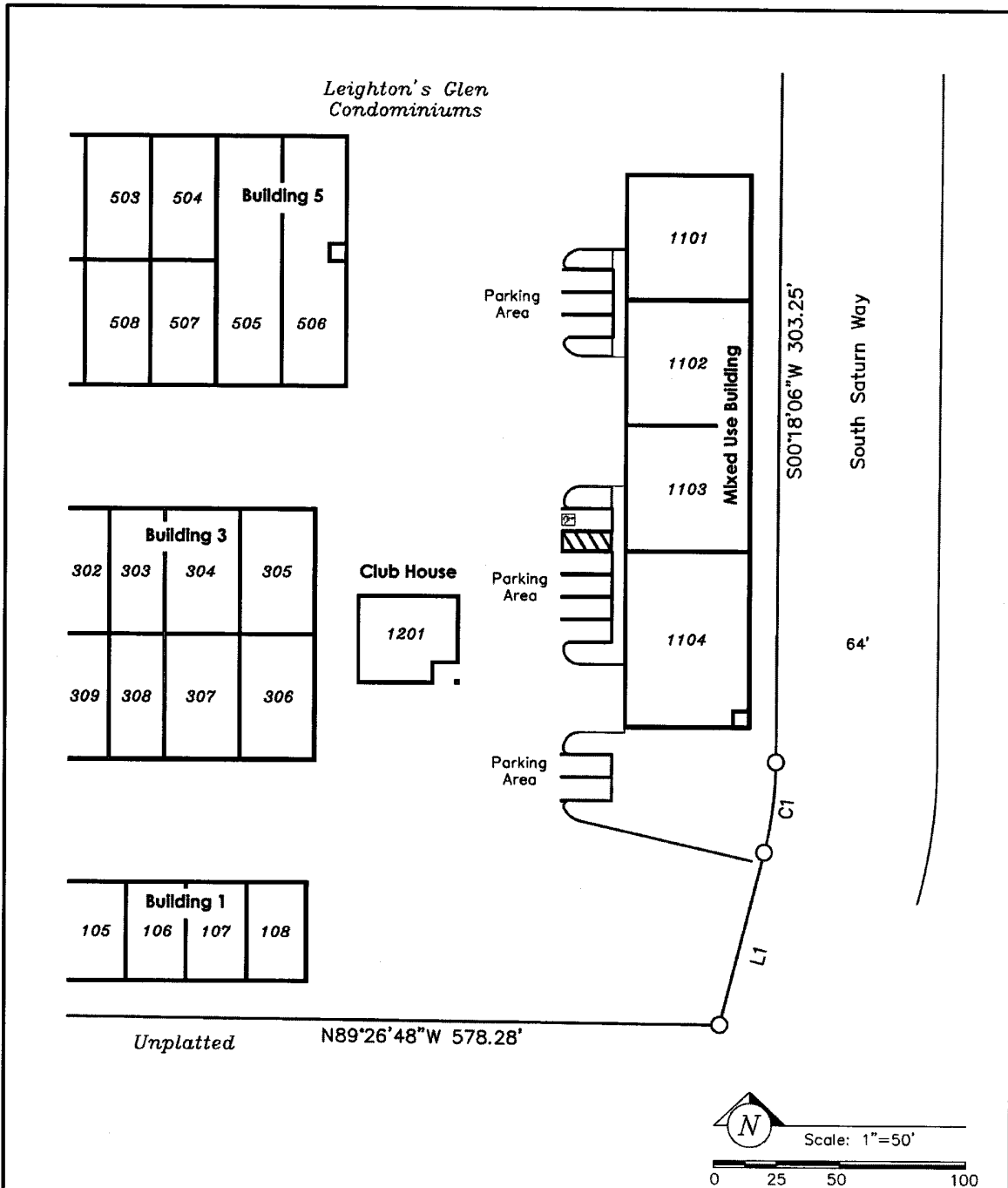


**EXHIBIT E**

**Graphic Depiction of Mixed Use Parking Areas**

**EXHIBIT E**

**Graphic Depiction of Mixed Use Parking Areas**



P:\Saturn Way Falcon Storage Condo 22-166\dwg\22-166 Exhibit E\_Mixed Use Parking.dwg 8/29/2022 5:06:35 PM

 <b>IDAHO SURVEY GROUP, LLC</b> 9855 W. EMERALD ST. BOISE, IDAHO 83704 (208) 848-8570	<b>Exhibit E Drawing for Leighton's Glen Condominiums</b>	Job No. 22-166
	Situated in the SW1/4 of the NE1/4 of Section 24, T.3N., R.R1., B.M., City of Boise, Ada County, Idaho.	Sheet No. 1 of 1
		Dwg. Date 8/29/2022