

ORIGINAL  
#308472

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR NORTHGATE

RECITALS

Grantor is owner of real property located in the City of Ketchum, County of Blaine, State of Idaho, described in Exhibit "A", attached hereto and by reference made a part hereof.

NOW THEREFORE, GRANTOR HEREBY DECLARES AND AGREES THAT:

I. DEFINITIONS.

Unless the context otherwise specifies or requires, the terms used herein shall have the following definitions and meanings:

1. Architectural Review Board. (ARB) shall mean the board created under Article IV of the Northgate Declaration of Covenants, Conditions and Restrictions.

2. Association. "Association" shall hereinafter mean and refer to the Northgate Association, an Idaho non-profit corporation, its successors and assigns. The Association shall act by and through its Board of Directors and its elected officers.

3. Declarant. "Declarant" shall hereinafter mean and refer to KANSHAR, an Idaho general partnership, its successors and assigns.

4. Improvements. Shall mean and include buildings, parking areas, loading areas, fences, walls, hedges, mass planting, poles, signs and any structures of any type or kind.

5. Light Industrial Space. Shall mean an independent building unit or condominium unit which may be sold or leased, one or more of which may be located on any given site, and which may be used for any LI-2 permitted use.

6. Lot. Shall mean and refer to any light industrial building lot created by the subdivision and platting of Northgate recorded in the Clerk and Recorder's Office of Blaine County, Idaho.

7. Setbacks from Street Corners. Shall be established as that point of intersection of the required setback lines from access streets, prolonged to point of intersections.

8. Side and Front of Corner Lots. For the purpose of this Declaration, the narrowest frontage of a lot facing the street is the front, and the longest frontage facing the intersecting street is the side, irrespective of the direction in which structures face. The rear property line is the property line opposite the front property line.

9. Site. Shall mean all contiguous land under one ownership.

10. Structure. Shall mean anything constructed which requires permanent or indefinite location or attachment on the ground, but not including fences, parking areas, hedges, mass plantings, poles or signs.

## II. PERMITTED USES AND RESTRICTIONS.

1. Site Requirements. Minimum site size for all properties shall be eight thousand (8,000) square feet.

2. Minimum Setback Lines. All setbacks including but not limited to front, rear and sideyard setbacks shall, at a minimum meet the setback requirement for the LI-2 Zone established by the City of Ketchum, Idaho.

3. Completion of Construction. After commencement of construction of any structure, the owner shall diligently pursue the work thereon, to the end that the structure shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.

4. Excavation. No excavation shall be made except in connection with construction of an improvement, and upon completion thereof exposed openings shall be backfilled and disturbed ground shall be graded and leveled.

### 5. Landscaping.

A. Every site on which a building shall have been placed shall be landscaped and irrigated with automatic underground irrigation system according to plans approved by the ARB and maintained thereafter in a sightly and well kept condition.

B. The property owner, lessee or occupant shall landscape and maintain unpaved areas between the property lines and the setback lines. The first ten (10) feet of the setback from street property lines shall be used exclusively for landscaping except for walks and driveways bisecting the required landscape area.

C. Landscaping as approved by the ARB shall be installed within ninety (90) days of occupancy or completion of the building, whichever occurs first. Should completion of landscaping be impossible due to winter conditions, the property owner must place in trust or bond to the extent of one hundred fifty percent (150%) of the cost of such landscaping improvements until completion of said landscaping or one hundred eighty (180) days at which time the Declarant may order the landscaping completed at the expense of the property owner.

6. Signs.

A. No billboard or advertising sign shall be permitted, other than the following:

(1) Those identifying the name, or business products of the person or firm occupying the premises; and

(2) Those offering the premises for sale or lease when specifically approved by ARB in writing.

7. Parking Areas. Adequate off-street parking shall be provided to accommodate all parking needs for employee, visitor and company vehicles on the site. The intent of this provision is to eliminate the need for any on-street parking.

8. Height of Fences and Walls.

A. No fence or wall in the industrial park shall exceed eight (8) feet in height without the written approval of ARB.

B. No walls greater than three (3) feet shall be located within the setback area paralleling a street right-of-way.

9. Building Regulations. Any building erected on a site shall conform to the following construction practices:

A. Exterior walls of sheet or corrugated iron, steel, aluminum or asbestos, or fences or sheet or corrugated iron, steel, aluminum or asbestos are prohibited. Security chain link will be permitted only upon specific written approval of ARB.

B. All building sides must be faced with masonry, brick, stone, wood stucco or such other quality materials as may be approved in writing by the ARB. Unfinished or painted cinder block or masonry walls shall be prohibited unless

approved in writing by the ARB. Windows shall not be glazed or reglazed with mirrored or reflective glass without prior written approval of the ARB.

C. Construction must conform to plans and specifications approved in writing by the ARB. Normally, such approval will be limited to those plans which:

- (1) Provide adequate fire protection systems;
- (2) Provide for all underground utilities (public and private); and
- (3) Preserve the quality and atmosphere of the area and do not detract from adjacent property.

10. Utilities. All power, gas, telephone and electrical lines will be placed underground. Transformer or terminal equipment will be screened from view of adjacent streets and properties.

11. Storage and Refuse Collection Areas.

A. All outdoor storage areas for materials and all refuse collection areas shall be visually screened so that materials stored within these areas shall not be visible from access streets, highways and adjacent property. Such screening would normally include landscaping or permanent fences of solid materials and be located as far from property lines as reasonably possible.

B. Storage or refuse collection will not be permitted between a frontage street and a building line.

12. Maintenance.

A. All structures will be maintained in a neat and orderly manner.

B. All permitted signs will be maintained in a neat and orderly manner.

13. Snow Removal. It will be the responsibility of the property owner to keep driveways and sidewalks on or adjacent to owner's property clear from accumulations of snow and ice, thus providing clear passage for pedestrian and vehicular traffic. The removal or storage of snow from each property is to be the responsibility of the property owner and is not to be disposed of in any manner which impedes or obstructs the orderly flow of pedestrian or vehicular traffic or encroaches upon neighboring property.

14. Trailer/Boat Parking. No vehicle, trailer or boat shall be stored or repaired upon any property or street in such a manner as to be visible from neighboring property.

15. Lighting. The source of any exterior lighting shall not be visible from any other property and all reasonable effort shall be made to minimize the harshness or glare of any lighting. All lighting plans, whether for decoration or safety and security measures, must be approved in writing by the ARB.

16. Antennas. Antennas, satellite dishes and similar devices shall be installed only by specific approval of the ARB.

17. Operational Standards. Unless otherwise specifically prohibited herein, any light industrial operation and use will be permitted if it is performed or carried out entirely within a building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to adjacent sites such as, but not limited to, vibration, sound, electro-mechanical disturbance, radiation, air or water pollution, dust, emission of odorous, toxic or nontoxic matter.

### III. NORTHGATE PROPERTY OWNERS' ASSOCIATION.

1. Organization. The Northgate Association is a nonprofit Idaho corporation charged with the duties and invested with the powers prescribed by law and set forth in Articles, Bylaws and this Declaration.

2. Membership. Each owner (including Declarant) of a Lot virtue of being such an owner and for so long as he is such an owner, shall be deemed a member of the Association. The Association membership of each owner (including Declarant) shall be appurtenant to said Lot, and shall not be transferred, pledged, or alienated in any way except upon the transfer of title to said Lot, and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to said Lot, shall operate automatically to transfer said membership to the new owner thereof.

3. Voting. The Association shall have one class of voting membership.

A. Class. The voting members shall be all owners, including the Declarant and shall be entitled to one vote for each Lot owned. The right to vote may not be severed or separated from the ownership of the Lot to which it is

appurtenant, except that any owner may give a revocable proxy, or may assign his right to vote for the term of the lease or Deed of Trust; and any sale, transfer, or conveyance of such Lot to a new owner or owners shall operate automatically to transfer the appurtenant vote to the new owner, subject to any assignment of the right to vote to a lessee or beneficiary as provided herein.

B. Joint Owner Disputes. The vote for each such Lot, shall, if at all, be cast as a unit, and fractional votes shall not be allowed. In the event that joint owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other owners of the same Lot.

C. Voting for Board Members. In any election of the members of the Board, every owner, including the Declarant, entitled to vote at such an election, shall have the right to cast one vote of each Lot owned. The candidates receiving the highest number of votes, up to the number of Board Members to be elected, shall be deemed elected.

4. Duties of the Association. The Association shall have the obligation, subject to and in accordance with the Northgate Restrictions, to perform each of the following duties for the benefit of the owners of each Lot within Northgate.

A. Association Property. To accept and exercise jurisdiction over all property, real and personal, conveyed free and clear of all liens and encumbrances to the Association by Declarant, including Northgate, easements for operation and maintenance purposes and easements for the benefit of Association members. For purposes of this section, a nonexclusive easement, license or other contractual right to use in favor of the owner(s) not be deemed a lien or encumbrance.

B. Payment of Taxes. To pay all real property taxes and assessments levied upon any property conveyed, leased, or otherwise transferred to the Association.

C. Insurance. To obtain and maintain, in force, the following policies of insurance:

(1) Fire and extended coverage insurance on all improvements under the control of the Association, the amount of such insurance to be not less than ninety

percent (90%) of the aggregate full insurable value, meaning actual replacement value exclusive of the costs of excavations, foundations, and footings. As to each such policy, which will not be voided or impaired thereby the Association hereby waives and releases all claims against the Board, the Manager, the Declarant, and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

(2) Broad form public liability policy covering all damage or injury in an amount of not less than \$500,000 dollars for each occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured.

(3) Workmen's compensation insurance to the extent necessary to comply with any applicable laws.

(4) A fidelity bond in the penal amount of Twenty-Five Thousand Dollars (\$25,000) or more, naming the members of the Board and the Manager, and such other persons as may be designated by the Board, as principals and the Association as obligee.

(5) Such other insurance, including indemnity and other bonds as the board shall deem necessary or expedient to carry out the Association functions as set forth in the Northgate Restrictions, the Articles and the By-Laws.

The liability insurance referred to above shall name as separately protected insures Declarant, Declarant's Project Manager, the Association, the Board, the Architectural Review Board, and their representative, member, and employees, with respect to any liability arising out of the maintenance or use of any Association Property. Every policy of insurance obtained by the Association shall contain an express waiver, if available, of any and all rights of subrogation against Declarant, Declarant's Project Manager, the Board, the Architectural Review Board, and their representatives, members and employees.

Said fire and liability insurance policies may be blanket policies covering the Association properties and property of Declarant, in which case the Association and Declarant shall each pay their proportionate shares of the premium. With respect to

insurance proceeds from the Association Property only, the Association shall be deemed trustee of the interests of all owners in any insurance process paid to it under any such policies and shall have full power to receive and to receipt for their interests in such proceeds and to deal therewith.

D. Rule Making. To make, establish, promulgate, amend, and repeal the Northgate Rules as provided by the Board of Directors.

E. Architectural Review Board. To appoint and remove members of the Architectural Review Board as provided in Article IV hereof, and to insure that at all reasonable times there is available a duly constituted and appointed Architectural Review Board.

F. Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by these Northgate Restrictions, as may be reasonably necessary to enforce any of the provisions of the Northgate Restrictions and the Architectural Review Board.

G. Other. To carry out the duties of the Association set forth in these Northgate Restrictions, the Articles, and the By-Laws.

H. Contracts. Neither Declarant nor any agent of Declarant shall enter into any contract with would bind the Association or the Board thereof for a period of excess of one (1) year, unless reasonable cancellation provisions are included in such contract.

I. Audit. The Board shall provide for an annual, independent audit of the accounts of the Manager and Association and for delivery of a copy of such audit to each owner within thirty (30) days after completion thereof. Any owner may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Manager or the Association by a certified public accountant; provided that such audit or inspection is made insuring normal working hours and without unnecessary interference with the operations of the Manager or the Association.

5. Powers and Authority of the Association. The Association shall have all of the powers of an Idaho nonprofit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws, or these Northgate Restrictions. It shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of the Restrictions, the

Articles, and the Bylaws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association. Without in any way limited the generality of any of the foregoing provision, the Association shall have the power and authority at any time to perform the following:

A. Assessments. To levy assessments on the owners of Lots, within Northgate and to enforce payment of such assessments in accordance with the provisions of Article V hereof.

B. Right of Entry and Enforcement. After twenty-four (24) hours written notice to enter, without being liable to any owner or subassociation, upon any Lot, for the purpose of enforcing by peaceful means the Northgate Restrictions, or for the purpose of maintaining or repairing any such area, if for any reason whatsoever the owner thereof fails to maintain or repair any such area as required by said Restrictions. The Association shall also have the power and authority from time to time in its own name on its own behalf or on behalf of any owner or owners who consent thereto, to commence and maintain actions and suits to retain and enjoin any breach or threatened breach of the Northgate Restrictions and to enforce by mandatory injunctions, or other, all of the provisions of said Restrictions.

C. Easements and Rights-of-Way. To grant and convey to any person easements, rights-of-way, parcels, or strips of land in, on, over, or under any Association Property for the purpose of constructing, erecting, operating, or maintaining thereon, therein, and thereunder, (1) roads, streets, walks, and driveways, (2) underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes, (3) sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and (4) any similar public or quasi-public improvements or facilities.

D. Repair and Maintenance of Association Property. To paint, maintain, provide snow removal service for, and repair the Association Property and all improvements thereto.

E. Manager. To retain and pay for the services of a person or firm to manage the Association Properties (the "Manager") to the extent deemed advisable by the Board, as well as such other personnel as the Board shall determine shall be necessary or proper for the operation of the Association or the conduct of the business of the Association, whether such personnel are employed directly by the

Association or are furnished by the Manager. The Association and the Board may delegate any of their duties, powers or functions to the Manager, provided that any such delegation shall be revocable upon notice by the Association or Board. The owners release the members of the Board from liability for any omission or improper exercise by the Manager of such duty, power, or function as delegated.

F. Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association, enforcement of the Northgate Restrictions, or in performing any of the other duties or rights of the Association.

G. Association Property Services. To pay for water, sewer, garbage, electrical, telephone, gas, maintenance, snow removal, and gardening service, and other necessary utility or other services for the Association, as necessary.

H. Other Areas. To maintain (including snow removal) and repair slope easements, ponds, roads, roadways, roadway rights-of-way, parkways, and highway median strips, entry details, or other areas of Northgate not maintained by governmental entities, to the extent deemed advisable by the Board.

6. Liability of Board Members and Manager. Neither any member of the Board nor the Manager shall be personally liable to any owner, or to any other party, for any damage, loss, or prejudice suffered or claimed on account of any act of omission of the Association, the Board, the Manager, or any other representatives or employees of the Association, or the Architectural Review Board, provided that such Board member, or the Manager has, upon the basis of such information as may be possessed by him, acted in good faith.

7. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date of this Declaration's recording, after which time they shall be automatically extended for successive periods of ten (10) years. Amendment to this Declaration shall be in writing, signed by not less than sixty-six and two-thirds percent (66 2/3%) of all Northgate owners for the first twenty (20) years and thereafter by an instrument signed by not less than fifty-one percent (51%) of all Northgate owners.

8. Taxes. Each owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Lot. If any taxes or assessments may, in the opinion of

the Association, nevertheless be a lien on more than one (1) Lot, not under common ownership, or any part thereof, they may be paid by the Association, and each owner shall be obligated to pay or to reimburse the Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against his own Lot.

IV. ARCHITECTURAL REVIEW BOARD.

1. Members of Architectural Review Board. The Architectural Review Board, sometimes referred to as ARB, shall consist of three (3) members. The following persons are hereby designated as the initial members of the ARB:

Ronald J. Sharp  
Steven Job, ASLA  
Darryl C. McMillen, AIA

Each of said persons shall hold office until such time as he has resigned, has been removed, or his successor has been appointed, as provided herein. Members of the ARB may be removed at any time without cause.

2. Declarant's Rights of Appointment. At any time until the Declarant sells seventy-five percent (75%) of the total gross acreage available for sale within Northgate, the Developer shall have the right to appoint and remove all members of the ARB. At all other times, the Board of Directors shall have the right.

3. Review of Proposed Construction. The ARB shall consider and act upon any and all proposals or plans and specifications submitted for its approval and perform such other duties as from time to time shall be assigned to it by the Board of Directors, including the inspection of construction in progress to assure its conformance with plans approved by the ARB. The ARB shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or Northgate as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The ARB may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications of other information prior to approving or disapproving material submitted. The ARB may also issue rules or guidelines for the submission of plans for approval, or additional factors which it will take into consideration in reviewing submissions. The ARB may require such detail in

plans and specifications submitted for its review as it deems proper, including without limitation floor plans, site plans, drainage plans, elevation drawings, and description or samples of exterior material and colors. Until receipt by the ARB of any required plans and specifications, the ARB may postpone review of any plan submitted for approval.

4. Meetings of the Architectural Review Board. The ARB shall meet from time to time as necessary to perform its duties hereunder. The ARB may from time to time, by resolution unanimously adopted in writing, designate one of its members to take any action or perform any duties for and on behalf of the ARB, except the granting of variances. In the absence of such designation, the vote of any two (2) members of the ARB, or the written consent of any two (2) members of the ARB taken without a meeting, shall constitute an act of the ARB.

5. No Waiver of Future Approvals. The approval of ARB to any proposals or plans and specifications or drawings for any work done, proposed, or in connection with any other matter requiring the approval and consent of the ARB shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

6. Compensation of Members. The members of the ARB shall be entitled to reasonable compensation from the association for services rendered, together with reimbursement for expenses incurred by them in the performance of their duties hereunder. Such compensation shall be determined by the Board of Directors.

7. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

A. Upon completion of any work for which approved plans are required, the owner shall give written notice of completion to the ARB.

B. Within thirty (30) days thereafter the ARB or its duly authorized representative may inspect such improvement. If the ARB finds a noncompliance with approved plans, it shall notify the owner in writing of such noncompliance within such thirty-day period, specifying the particulars of noncompliance and shall require the owner to remedy the same.

C. If, upon the expiration of thirty (30) days from the date of such notification, the owner shall have failed to remedy such noncompliance, the ARB shall notify the Board of

Directors in writing of such failure. Upon Notice and Hearing, the Board of Directors shall determine whether there is an noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the owner does not comply with the Board ruling within such period, the Board of Directors, at its option, may either remove the noncomplying improvement or remedy the noncompliance, and the owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the owner to the Association, the Board of Directors shall levy an assessment against such owner for reimbursement pursuant to Article V, hereof. The owner may also be fined an amount fixed by the Board of Directors for such violation.

D. If for any reason, the ARB fails to notify the owner of any noncompliance within sixty (60) days after receipt of said written notice of completion from the owner, the improvement shall be deemed to be in accordance with said approved plans.

8. Non-liability Architectural Review Board Members. Neither the ARB nor any member thereof shall be liable to the Association, or in anyway connected with the performance of the ARB's duties hereunder, unless due to the willful misconduct or bad faith of the ARB. The ARB shall review and approve or disapprove all plans submitted to it for any proposed improvement, alternation, or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and Northgate generally. The ARB shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

9. Variances. The ARB may authorize variance from compliance with any of the architectural provisions of this Declaration or any supplemental declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by at least two (2) members of the ARB. If such variances are granted, no

violations of the covenants, conditions and restrictions contained in this Declaration or any supplemental declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any supplemental declaration for any purpose except as to the particular property and particular provision hereof covered by the variance.

V. FUNDS AND ASSESSMENTS.

1. Northgate Operation Fund. The Board shall establish a fund (the "Northgate Operation Fund") into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under the Northgate Restrictions. Funds of the Association must be used solely for purposes related to these areas and improvements owned by the Association or subject by this Declaration to maintenance and assessment or for purposes authorized by this Declaration as it may from time to time be amended.

2. Yearly Estimates of Assessments. At least thirty (30) days prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration (including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund). A sum sufficient to pay such estimated net charges will be assessed to the owner of each Lot, or Light Industrial Space in Northgate in an equal amount. If said sum estimated proves inadequate for any reason, including nonpayment of any owner's assessment, the association may, at any time, levy a further assessment which shall be assessed equally upon the owner of each Lot, or Light Industrial Space.

3. Payment of Assessments. All assessments shall be due and payable to the Association by the assessed owners (including Developer) during the fiscal year in equal monthly installments, on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

4. Late Charges. If any assessment, whether regular or special, assess to any owner is not paid within thirty (30) days after it is due, the owner may be required by the Board to pay a late charge of eighteen percent (18%) of the amount

of the assessment or such other amount as the Board may designate from time to time as set forth in the Northgate Rules.

5. Unpaid Assessments as Liens. The amount of any assessment, whether regular or special, assessed to any owner and any late payment charge attributable thereto, plus interest on such assessment and charge at a rate of eighteen percent (18%) per annum simple interest (or such other rate as the Board may designate from time to time as set forth in the Northgate Rules), and costs, including reasonable attorney's fees, shall become a lien upon such Lot, or Light Industrial Space upon recordation of a notice of assessment stating the amount of the claim of delinquency, the interest and costs which have accrued thereon, the legal description and street address of the Lot, or Light Industrial Space against which it has been assessed, and the name of the record owner thereof. Such notice shall be signed and acknowledged by an officer of the Association. Upon recordation, it shall create a lien upon the Lot, or Light Industrial Space described in the amount set forth. Such assessment lien shall be prior to any declaration of homestead recorded after the recording of this Declaration. The lien shall continue until fully paid or otherwise satisfied. When the lien has been fully paid or satisfied, a further notice releasing the lien shall be recorded. Such lien may be foreclosed in the same manner as is provided in the laws of the State of Idaho.

6. Mortgage Protection. Notwithstanding all other provisions hereof, no lien created under this Article V nor any breach of the Northgate Restrictions, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the beneficiary under any recorded Deed of Trust upon a Lot, or Light Industrial Space made in good faith and for value, provided that after the foreclosure of any such Deed of Trust or conveyance of any Lot, or Light Industrial Space to such beneficiary be deed in lieu of foreclosure, such Lot, or Light Industrial Space shall remain subject to the Northgate Restrictions and the amount of all regular assessments and all special assessments to the extent they relate to expenses incurred subsequent to such foreclosure shall be assessed hereunder to the purchaser at such foreclosure sale.

VI. MISCELLANEOUS PROVISIONS.

1. Construction. All of the provisions of this Declaration shall be liberally construed to promote and effectuate the fundamental concepts of Northgate.

2. Gender. Unless context requires a contrary construction, the singular shall include the plural and the plural the singular and all gender shall include all gender.

3. Captions. All captions or titles used in the Declaration are intended solely for convenience or reference and shall not affect that which is set forth in any of the terms or provisions thereof.

4. Enforcement. The Association or any owner shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

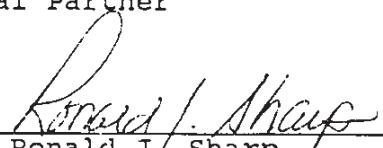
5. Violation. Any violation of any provision or article of the Declaration may result in a fine as set forth in the Declaration.

6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

IN WITNESS WHEREOF, Grantor has executed this Declaration of Covenants, Conditions and Restrictions the day and year first above-written.

KANSHAR, a general partnership

BY: RONALD J. SHARP, INC.,  
General Partner

  
By: Ronald J. Sharp  
Its: President

BY: ROKAN, INC.,  
General Partner

  
By: Robert A. Kantor  
Its: President

STATE OF IDAHO )  
ss.  
County of Blaine )

On this 9th day of August, 1989, before me, the undersigned Notary Public in and for said State, personally appeared RONALD J. SHARP, known to me to be the President of Ronald J. Sharp, Inc., who signed the above instrument as a partner of KANSHAR, a general partnership, and acknowledged to me that he executed the same. 10

*Kell in Rockwood 1737*  
NOTARY PUBLIC FOR IDAHO  
Residing at: Blaine County  
Commission Expires: Life

STATE OF IDAHO )  
ss.  
County of Blaine )

On this 9th day of August, 1989, before me, the undersigned Notary Public in and for said State, personally appeared ROBERT A. KANTOR, known to me to be the President of ROKAN, INC., who signed the above instrument as a partner of KANSHAR, a general partnership, and acknowledged to me that he executed the same. 10

*Kell in Rockwood 1737*  
NOTARY PUBLIC FOR IDAHO  
Residing at: Blaine County  
Commission Expires: Life

ks\northgat.ccr

308472

BLAINE CO. REQUEST  
O.F. *Johns, E. S. Price*  
89 AUG 10 PM 2 07  
MARY GREEN, CLERK  
FEES \$5.50