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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BIG TOY CONDOS**

THIS DECLARATION is made and entered into this 19 day of June, 2024, by Big Toy Condos, LLC an Idaho limited liability company, hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of all that certain property subject to this Declaration, located in the County of Bonner, State of Idaho, hereinafter referred to as the "Property" and more particularly described as follows:

Lot 4 of Terraplane Place, a Short Plat, according to the official plat thereof, filed in Book 15 of Plats at Page(s) 99, records of Bonner County, Idaho.

WHEREAS, Declarant hereby declares that all of the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved, or transferred in whole or in part, subject to this Declaration ("Declaration") and any recorded amendments or modifications from time to time.

WHEREAS, Declarant may develop additional properties adjacent to the Property and Declarant reserves the right to amend this Declaration to annex said lands ("Annexation") for a period of thirty (30) years following the recording of this Declaration. Said Annexation shall be permissible even though such future developments may have different permitted uses and be known by different names or tract numbers.

WHEREAS, Declarant has determined that the initial project name covered by this Declaration shall be Big Toys Condos ("Big Toy Condos"). Declarant may establish different names for the Property, or any portion of the Property, all of which will continue to be considered Property and subject to this Declaration, and any recorded amendments. All literature and signage prepared for sale or lease of the storage units covered during the term of this Declaration are to promote the name established by the Declarant.

WHEREAS, Declarant desires to establish the nature, use and enjoyment of the Property, and any other property which hereafter shall be annexed thereto, in accordance with a uniform plan, and does hereby declare all of said Property subject to the following covenants, conditions, and restrictions as to the use and enjoyment thereof, all of which are to be construed as restrictive covenants running with the title to all of said Property and each and every part thereof and shall be binding upon each and every owner and shall run with the land.

**ARTICLE I
DEFINITIONS**

The following words, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit), shall have the following meaning:

- a. "Act" shall mean the Condominium Property Act, Sections 55-1501, et seq., of the Idaho Code, pertaining to Condominiums in the State of Idaho.
- b. "Allocated Interests" shall mean the Votes, the Percentage Ownership Interest in the Common Elements, and the Common Expense Assessment Liability, which are allocated to each of the Units in the Condominium Project. The formulas used to establish the Allocated Interests are as follows:

- (1) **Votes.** Association Votes shall be as set forth in Article V.5.2 below.
 - (2) **Interest in the Common Elements.** The undivided ownership interest in the Common Elements appurtenant to each particular Condominium Unit have been determined by the Declarant as one 1/101 interest per Unit.
 - (3) **Common Expense Assessment Liability.** All Common Expenses shall be assessed against Units on a pro-rata basis based upon the square footage of each Unit expressed as a percentage with the square footage of each individual Unit as the numerator and the total square footage of all Condominium Storage Units in the Project as the denominator.
- c. **"Association"** shall mean the Association of the Owners of the Units acting as the group pursuant to this Declaration, to the Bylaws for such Association and to the Act. The Association shall be called "Big Toy Condos Owners Association, Inc."
- d. **"Association Rules"** shall mean and refer to the rules and regulations adopted by the Association pursuant to this Declaration and in furtherance of the Bylaws and in accordance with the Act.
- e. **"Assessments"** shall mean the charges against Owners to defray the Common Expenses as well as miscellaneous special assessments, special assessments for capital improvements, and special assessments for the purpose of restoring and reconstructing the Property in the event of a casualty, as provided in this Declaration.
- f. **"Board"** shall mean the Board of Directors of the Association elected pursuant to the Bylaws and serving as the governing body of the Association.
- g. **"Building"** shall mean and refer to each of the principal structures containing Condominium Storage Units located on the Property, as shown on the Plat.
- h. **"Bylaws"** shall mean the Bylaws adopted by the Association pursuant to the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.
- i. **"Clubhouse"** shall mean the building identified as "Clubhouse" on the Plat which shall be a Common Area for use by Owners, Declarant and the Association and subject to Association Rules adopted from time to time.
- j. **"Common Expenses"** shall mean the actual and estimated costs for:
- (1) maintenance, management, operation, repair and replacement of the Common Elements which are maintained by the Association;
 - (2) deficiencies arising by reason of unpaid Assessments;
 - (3) management and administration of the Association, including but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
 - (4) utilities, including, but not necessarily limited to, electricity, internet/wifi service, trash pickup and disposal, water (if any), landscaping services and related services of the Common Elements;
 - (5) insurance and bonds required by this Declaration, or any additional insurance and bonds obtained by the Board in its discretion;

(6) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion; and

(7) other miscellaneous charges incurred by the Association or the Board pursuant to this Declaration, the Bylaws, or Association Rules, in furtherance of the purposes of the Association or in the discharge of the duties and powers of the Association.

k. **"Common Elements" or "Common Area(s)"** shall mean the entire Property other than the Condominium Storage Units, including but not limited to, the land on which Buildings are constructed, the foundations, floors, roofs and bearing walls of the Buildings, exterior and interior stairways and stairwells (excluding any stairways which are interior to a Unit), central air condition and heating systems (excluding any portion of such systems which exclusively serve a particular Unit), boilers, parking areas, driveways, landscaped areas, sidewalks, walkways, water and sewer piping (or septic systems and piping as applicable), stormwater system and electrical, phone, television and utility wiring and conduits (excluding any portion of such systems which exclusively serve one particular Unit) and all other portions of the Property, except Units. The building identified as the Clubhouse shall be a Common Element or Common Area. The percentage of interest in the common areas shall be stated on the Condo Plat. The undivided interest in the Common Area upon the recording of this Declaration shall be one/one hundred and one percent interest (1/101%). That interest may be reduced to a smaller percentage upon the recording of an amended Condominium Plat and/or Amendment to this Declaration.

l. **"Common Wall or Walls"** shall mean the wall(s) located between two (2) or more Condominium Storage Units.

m. **"Condominium Storage Unit" or "Unit"** shall mean a part of the property, designed, or intended for independent use as a storage unit, together with the pro-rata fractional interest in the Common Elements and any exclusive and non-exclusive easements appurtenant thereto. Each Condominium Storage Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat; provided, however, that no structural components of the Building in which each Condominium Storage Unit is located and no pipes, wires, conduits, ducts, flues, shafts, or utility, water, or sewer lines (if any) situated within such Condominium Storage Unit and forming part of any system serving one or more other Condominium Storage Units shall be a part of the Condominium Storage Units. The Clubhouse, which is technically not a storage unit, shall not be considered a Condominium Storage Unit for the purpose of rights and obligations of condominium units.

n. **"Declarant"** shall mean Big Toy Condos, LLC, an Idaho Limited Liability Company.

o. **"Declaration"** shall mean this entire document, as the same may from time to time be amended.

p. **"Lender"** shall mean (1) an institutional holder, or individual holder, of a first mortgage or first deed of trust on a Condominium Storage Unit.

q. **"Occupant"** shall mean a Person or Persons, other than an Owner, in possession of a Condominium Storage Unit.

r. **"Owner"** shall mean the Person or Persons who are vested with record title to a Condominium Storage Unit according to the records of the County Recorder of Bonner County, Idaho. However, the Owner shall not include a Person who holds an interest in a Condominium Storage Unit merely as security for the performance of an obligation. Declarant shall be considered the record Owner of any Condominium Storage Unit prior to its initial conveyance by Declarant.

s. **"Plat"** means the recorded final condominium plat of the Property and showing thereon the Condominium Storage Units, each of which is identified by a number. The original Plat is recorded in the records of the County Recorder of Bonner County, Idaho, and any amendments, supplements, or corrections thereto.

t. **"Period of Declaration Control"** means the time period commencing on the date this Declaration is recorded and ending on the earlier of five (5) years, or sooner, at the option of the Declarant, after the conveyance of ninety percent (90%) of the Condominium Storage Units, which may be created, to Owners other than the Declarant, or thirty (30) days after Declarant's notification to the Owner of each Condominium Storage Unit that the Declarant has resigned.

u. **"Person"** shall mean a natural individual, corporation, partnership, limited liability company trustee, or other legal entity capable of or holding title to real property.

v. **"Property"** shall mean the real property located in Bonner County, Idaho and more particularly described as Lot 4 of Terraplane Place, a Short Plat, according to the official plat thereof, filed in Book 15 of Plats at Page(s) 99, records of Bonner County, Idaho, together with the Buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

w. **"Restrictions"** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

x. **"Unoccupied"** with reference to any Condominium Storage Unit or Condominium Storage Units shall mean any Condominium Storage Unit that has been constructed but not yet conveyed by Declarant.

ARTICLE II DECLARATION OF CONDOMINIUM

a. **Property Subject to this Declaration.** Declarant is the owner of the Property, which is to be the subject of this Declaration and which is to be held, transferred, sold, conveyed and/or occupied subject to this Declaration. Notwithstanding any language herein to the contrary, Declarant expressly reserves the right to add additional real property, which would be subject to this Declaration, to the extent the same is permitted under applicable laws of the State of Idaho.

b. **Submission of Property.** Declarant hereby submits and subjects the Property to a condominium pursuant to the Act, and in furtherance thereof, makes and declares the restrictions contained in this Declaration and Declarant hereby declares and agrees that the Property and all of the Condominium Storage Units shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used, and improved subject to the restrictions, which restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of Declarant, the Association and each Owner, including their respective heirs, executors, administrators, personal representatives, successors and assigns.

c. **Description of the Project.**

(1) **Name.** The name of the condominium created by this Declaration is Big Toy Condos.

(2) **Boundaries of Condominium Storage Units.** Each Condominium Storage Unit is shown on the recorded Plat and identified numerically by unit numbers 101-112; 201-212; 301-323; 401-417; 501-517; 601-610; 701-710. The boundaries of Condominium Storage Units shall be the interior unfinished

surfaces of the perimeter walls, lowermost floors and uppermost ceilings shall mark the perimeter boundaries of a Unit as shown on the Plat, and all metal siding, wall liner panel, lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Units, and all other portions of the walls, floors, or ceilings are part of the Common Elements.

If any element, such as a chute, flue, duct, wire, conduit, bearing wall, bearing column, or any fixtures lie partially within and partially outside the designated boundaries of a Unit serving more than one Unit or any portion of the Common Elements such element is a part of the Common Elements. Subject to the above, all spaces, interior partitions, and other fixtures and improvements located within the boundaries of a Unit are a part of the Unit.

(3) **Description of Common Elements.** The Common Elements shall consist of the entire Property, excluding the Condominium Storage Units, as defined in Article I, paragraph (k), above.

(4) **Fractional Interest.** Each Condominium Storage Unit shall include an undivided fractional interest in the Common Elements. The undivided fractional interest in the Common Elements held by each Condominium Storage Unit Owner may vary as additional properties are annexed and developed. At any stage of the development of the Property, the Common Elements shall always be considered to be owned by each Condominium Storage Unit Owner in proportion to the number of units existing and completed at the time.

(5) **Maintenance by Owners.** Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Condominium Storage Unit, excluding any portion of the roof system, except as herein provided. Such obligation shall include, but not be limited to the maintenance of all finished flooring and any other materials constituting the finished surface of floors, interior finished surfaces of interior walls, repair and replacement of all doors, and shall also include the maintenance of all utility lines serving in each Owner's Condominium Storage Unit between the point at which the same enters the respective Condominium Storage Unit and the points where the same joins the utility line serving other Condominium Storage Units. An Owner may make non-structural alterations within his Condominium Storage Unit, but an Owner shall not make any structural or exterior alterations of the Common Elements without the prior, written permission of the Declarant or Association.

(6) **Utilities.** Any "Shell Unit" common utilities, including water, gas, electrical and sewer service (if any) for individual Condominium Storage Units, will be metered to the Association with such utility charges to be the responsibility of the Association. If any utilities are separately metered to a unit, then said utility shall be the responsibility of the unit owner.

ARTICLE III OWNERS ASSOCIATION

a. **Establishment of Association.** The name of the Association is Big Toy Condos Owners Association, Inc., a non-profit corporation to be organized under and by virtue of the laws of the State of Idaho governing non-profit corporations, a copy of the Articles of Incorporation are attached hereto as Exhibit "A", and by this reference are hereby incorporated herein ("Articles"). The Association does hereby accept responsibility for and provide such necessary and appropriate action for the proper maintenance, repair, replacement, operation, management, beautification and improvement of that certain Property and improvements to be used in common by and for the benefit of the Owners of the Condominium Storage Units constructed on the property. The Association will be governed consistent with the nonprofit laws of the State of Idaho. The initial Bylaws of said Association are attached hereto as Exhibit "B," and by this

reference are hereby incorporated herein ("Bylaws"). The initial Association Rules are attached hereto as Exhibit "C" and may be amended from time to time.

b. Authority of Declarant During Period of Declarant Control. During the period of Declarant Control, as that phrase is defined herein, all rights, discretion, power, and authority herein granted to the Association and the Condominium Storage Unit Owners through said Association, including the right to collect assessments (excepting reserves for replacement), shall, at the option of Declarant, remain with Declarant directly or through the Association. Further, during the period of Declarant Control, as that phrase is defined herein, the Declarant shall have the right to appoint and remove members of the Board of Directors and the Officers of the Owners Association. Further, directors and officers during the period of Declarant control need not be Condominium Storage Unit Owners.

c. Responsibilities of Declarant During Period of Declarant Control. During the period of Declarant Control, Declarant shall not be liable for any assessment referred to herein for any Unoccupied Condominium Storage Unit. In lieu of payment of such assessment, Declarant will assume responsibility for any shortfall in monthly expenses incurred by the Association until the end of the Period of Declarant Control. In the event, Declarant shall not convey any Condominium Storage Unit but shall utilize any Condominium Storage Unit for rental use or any other beneficial use (except as a model), Declarant shall be liable for assessments referred to herein. For purposes of this paragraph, assumption of control of the Association is defined as having passed, conclusively, to the Owners, collectively, upon completion of the following requirements:

(1) Declarant shall notify the Owner of each Condominium Unit that the Declarant has resigned, in accordance with the terms set out in the definition of the phrase "Period of Declaration Control" as defined herein, and the Association shall assume control, effective thirty (30) days after the date of notice.

(2) Declarant shall deliver the Association corporate minutes, records, and seal to any one of the Owners of record receiving such notice or to a committee organized by the Owners of record for such purpose.

There shall be no outstanding or accrued debts against the Association at the time of assumption of control by the Owners beginning with the date of control of the Association by the Owners with the exception of ordinary office expense debt. Declarant or its successor shall at no time be responsible for any assessment against Condominium Storage Units or land not available for occupancy or available for occupancy but unsold, except as provided herein.

Except as provided by statute in case of condemnation or substantial loss to the Condominium Storage Units and/or Common Elements, the Association shall not be entitled to:

- i. by act or omission, seek to abandon or terminate the Condominium project;
- ii. change the pro rata interest or obligations of any individual Condominium Storage Unit for the purpose of:
 - a. levying assessments or charges or allocation distributions of hazard insurance proceeds or condemnation awards, or
 - b. determining the pro rata share of ownership of each Condominium Storage Unit in the Common Elements.
- iii. partition or subdivide any Condominium Storage Unit;

- iv. by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause);
- v. use hazard insurance proceeds for losses to any portion of the Property (whether to Condominium Storage Units or to Common Elements) for other than the repair, replacement, or reconstruction of such Property. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall apply only to the individual Condominium Storage Units and not the Property as a whole.

ARTICLE IV PROPERTY RIGHTS

a. **Owners' Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with title to every Condominium Storage Unit subject to the following provisions:

(1) The rights of the Association to suspend voting rights and the right to use the Common Elements by an Owner for any period during which any assessment against his Condominium Storage Unit remains unpaid and for a period not to exceed sixty (60) days for any infraction of this Declaration;

(2) The right of the Association to dedicate or transfer all of any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by Owners entitled to vote not less than seventy-five percent (75%) of the total voting power of the Association agreeing to such dedication or transfer;

(3) The right of Declarant (and his sales agents and representatives) to the non-exclusive use of the Common Area and the facilities thereof for display and exhibit purposes in connection with the sale of Condominium Storage Units, which right Declarant hereby reserves. No such use by Declarant or its sales agents or representatives shall otherwise restrict the Owners' use and enjoyment of the Common Areas;

(4) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Areas;

(5) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and facilities thereon;

b. **Delegation of Use.** Any Owner may delegate, in accordance with this Declaration, Owner's right of enjoyment to the Common Areas and facilities to the members of his family, guests or his tenants.

ARTICLE V ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

a. **Membership.** Every Owner of a Condominium Storage unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Condominium Storage Unit. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership to such Condominium Storage Unit, including transfer of ownership by Intestate succession, testamentary

disposition, foreclosure of a mortgage of record, or such other legal process that is now in effect or as may hereafter be established under or pursuant to the laws of the State of Idaho. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership shall operate to transfer said membership to the new Owner, and a reasonable charge may be assessed by the Association for each such transfer.

b. **Voting Rights.** All Owners shall be entitled to one vote for each Condominium Storage Unit owned. When more than one person holds an interest, all such persons shall become Members. The vote for such Condominium Storage Unit shall be exercised as they among themselves determine, but, in no event, shall more than one vote be cast with respect to any Condominium Storage Unit, and fractional votes shall not be allowed. In the event more than one vote is cast for a particular Condominium Storage Unit, none of the votes shall be counted and said votes shall be deemed void.

ARTICLE VI ASSESSMENTS

a. **Obligation.** Each Owner, by acceptance of a deed, therefore, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association (a) Common Expense Assessments, (b) Ad valorem taxes (to the extent they are levied against the Association) and Special Assessments related to the Property and Common Elements, (c) Fines, (d) Individual Assessments, and (e) Costs of Enforcement, which shall be a continuing lien upon the Unit against which each such Assessment is levied.

The obligation for such payments by each Owner to the Association is an independent personal covenant with all amounts due, from time to time, payable in full when due without notice or demand and without setoff or deduction. All Owners of each Unit shall be jointly and severally liable to the Association for the payment of all Assessments and Costs of Enforcement attributable to their Unit. The personal obligation for delinquent assessment shall not pass to such Owner's successors in title unless such obligation is expressly assumed by them, and such assumption is approved in writing by the Association.

No Owner may waive or otherwise escape liability for the Common Expense Assessment provided for herein by the non-use of the Common Elements or the abandonment of his or her Unit. The omission or failure of the Board of Directors to levy the Common Expense Assessment for any period shall not be deemed a waiver, modification, or a release of the Owners from their obligation to pay.

b. **Purpose of the Assessments.** The Common Expense Assessment shall be used exclusively for the purpose of promoting the welfare of the residents of the Condominium Project and the Members of the Association. Such purposes shall include but not be limited to ground rents, ad valorem taxes to the extent such taxes are not levied against the Association, special assessments related to the Common Elements and the parcel, the improvement, repair, maintenance, reconstruction and insuring of the Common Elements, any assessments, dues, fines, or other charges owed to the Big Toy Condos Owners Association, Inc., and any other purpose reasonable, necessary, or incidental to such purposes.

Such Assessments shall include the establishment and maintenance of a reserve fund for delinquent accounts, the improvement, maintenance, reconstruction, and repair of the Common Elements on a periodic basis, provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

c. **Date of Commencement of the Common Expense Assessment.** The Common Expense Assessment shall commence as to all Units no later than sixty (60) days after the first 1st Unit is conveyed to an Owner other than the Declarant. Until the commencement of the collection of the Common Expense Assessments: the Declarant shall pay all of the expenses incurred and paid for by the Association.

d. **Levy of Assessments and Fines.**

(1) **Common Expense Assessments.** Common Expense Assessments shall be levied on all Units based upon a budget of the Association's cash requirements. The Common Expense Assessment Liability shall be allocated among the Units in accordance with that Unit's Common Expense Assessment Liability as set forth in Article I(b)(3) hereof and shall commence in accordance with Paragraph 6.3 hereof.

To the extent that any Common Expenses or a portion thereof benefit fewer than all of the Unit Owners, such expenses may be assessed exclusively against the Units benefited to the greatest extent allowable by the Act.

The Board of Directors of the Association shall cause to be prepared from time to time, but no less frequently than annually, a budget to provide for the payment of all estimated expenses, costs, rents, and fees for the duties of the Association, including, but not limited to, all assessments, dues, expenses and fees of the Big Toy Condos Owners Association, Inc., and for other costs, fees, and expenses related to or connected with the administration, maintenance, ownership, repair, operation, addition, alteration, and improvements of the Project, the Common Elements, and any other obligations which may be undertaken by the Association. The amount of said advance budget may include, but shall not be limited to: expenses of management; premiums for insurance; expenses for landscaping and care of the Common Elements; expenses of any common lighting; expenses of maintenance, repair, or replacement and/or renovation of the Common Elements; wages; charges for utilities to the Project which are not separately metered; taxes; legal and accounting fees; costs, expenses, and liabilities incurred by the Association's Board of Directors on behalf of the Owners or otherwise arising under this Declaration, the Articles of Incorporation, or Bylaws of the Association; the creation of reasonable reserves, working capital, or sinking funds; reimbursement for, or payment of, any operating deficit, loss, or unbudgeted expenses incurred by the Association; and, any and all other costs and expenses relating to the Common Elements, and/or any other obligation undertaken by the Association.

Within thirty (30) days after the adoption of any proposed budget, the Board of Directors shall mail, by ordinary first class U.S. mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget, which meeting shall be not less than fourteen (14) days, nor more than sixty (60) days after mailing or other delivery of the summary budget report. Unless, at that meeting, a majority of all Owners reject the proposed budget, the budget shall be deemed ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. The failure of the Board of Directors to submit a proposed budget to the Owners shall not relieve the Owners of their respective obligations to pay Assessments. In such case, the periodic budget last ratified by the Owners will be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. Notwithstanding the foregoing, the budget for the initial year shall be prepared by the Declarant and approved by the Board of Directors without the approval of the Owners.

(2) **Individual Assessments.** The Board of Directors shall have the right to individually levy any Owner or Owners amounts as provided for by this Declaration. No Individual Assessment shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association. Individual Assessments shall be collected as part of the Cost of Enforcement. Individual Assessments may be levied at any time as required and are exempt from any voting requirements by the membership required or other assessments called for under the Declaration.

(3) **Fines.** The Board of Directors of the Association shall have the right to levy a Fine against an Owner or Owners for each violation of this Declaration, the Bylaws, the Articles and the Association Rules. No such Fine shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association. Fines may be levied in a reasonable amount as determined from time to time by the Board of Directors at its discretion and uniformly applied. Fines shall be collected as part of the Costs of Enforcement. Fines may be levied at any time as required and are exempt from any voting requirements by the membership required for other assessments called for under the Declaration.

(4) **Special Assessments.** In addition to the other Assessments authorized herein, the Board of Directors, subject to the limitations set forth below, may levy a Special Assessment for the purpose of defraying, in whole or in part, any unexpected expense to include but not be limited to, the cost of any construction, reconstruction, improvement, repair, or replacement of a capital improvement upon the Common Elements, including fixtures and personal property relating thereto, or for the funding of any operating deficit incurred by the Association provided that any such assessment shall have the approval of Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated, who are voting in person or by proxy at a meeting duly called for this purpose.

Any such Special Assessment shall be levied against each Unit in accordance with that Unit's Common Expense Assessment Liability determined in accordance with Article I(b)(3) hereof. Notwithstanding the foregoing, Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements. Written notice of any meeting called for the purpose of making a Special Assessment shall be sent to all Owners not less than fourteen (14) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies to whom at least sixty percent (60%) of the votes in the Association are allocated shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

e. **Due Date.** Fines and Individual Assessments shall be due and payable as established by the Board of Directors. Common Expense Assessments shall be levied on an annual basis and shall be due and payable in monthly or quarterly installments in advance, provided that the first Assessment levied shall be adjusted to reflect the time remaining in the Association's fiscal year. Any Owner purchasing a Unit between annual due dates shall pay a prorated share. Special Assessments shall be due and payable as established by the Board but may be payable on an installment basis as determined by the Board. Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due.

f. **Remedies for Nonpayment of Assessments.** If any Assessment (to include Costs of Enforcement) is not fully paid within ten days after the same becomes due and payable, then interest shall accrue at the default rate set by the Board of Directors on any amount of the Assessment in default accruing from the due date until the date of payment, and the Board may assess a Late Fee in an amount as determined in the Board's discretion. In addition, the Board may:

- (1) accelerate and declare immediately due and payable all unpaid installments of the Assessment payable for the balance of the fiscal year during which such default occurred;
- (2) bring an action at law against any Owner personally obligated to pay the Assessment and obtain a judgment for the amounts due; and,

(3) proceed to foreclose its lien against the Unit pursuant to the power of sale granted to the Association by this Declaration in the manner and form provided by Idaho law for foreclosure of real estate mortgages.

An action at law or in equity by the Association against an Owner to recover a judgment for unpaid Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments.

g. Assessment Lien. The Association is hereby granted an Assessment Lien against each Unit for any Assessment levied by the Board of Directors and for Costs of Enforcement when the Unit Owner fails to pay as required by the Declaration. All Costs of Enforcement incurred pursuant to this Declaration are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

The interest of any Unit Owner, to which the lien of the Association may attach, includes the Unit, and any Common Elements, together with an undivided leasehold interest in the Land pursuant to the Land Lease entered into for such Unit, but does not include any fee ownership to the Land. The Association's lien on a Unit for Assessments shall be superior to all other liens and encumbrances except the following:

- (1) liens and encumbrances recorded prior to the recording of this Declaration; and
- (2) real property ad valorem taxes and special assessment liens duly imposed by governmental entities, or any other liens made superior by statute.

Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. However, the Board of Directors may prepare and record in the Office of the County Clerk and Recorder a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Unit, and a description of the Unit. If a lien is filed, the cost thereof shall be considered a Cost of Enforcement.

The sale or transfer of any Unit shall not affect the lien for said Assessments except that sale or transfer of any Unit pursuant to foreclosure of any first deed of trust or mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall only extinguish the Assessment Lien only to the extent provided by Idaho law. No such sale or deed in lieu of foreclosure shall relieve any Owner from continuing personal liability for any Assessment thereafter becoming due, nor from the lien thereof.

Any First Mortgagee who acquires title to a Unit by virtue of foreclosing a first deed of trust or mortgage or by virtue of a deed in lieu of foreclosure will take the Unit free of any claims for unpaid Assessments and Costs of Enforcement against that Unit which have accrued prior to the time such First Mortgagee acquires title to the Unit, except to the extent the Act grants lien priority for Assessments of the Association.

In any action by the Association to collect Assessments and Costs of Enforcement or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Common Expense Assessments and Costs of Enforcement. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee of a Unit under any assignment of rents given in connection with a first deed of trust or mortgage.

The Assessment Lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Unit. Provided, however, the lien shall be subject and subordinate to the rights of any First Mortgagee of a Unit under any assignment of rents given in connection with a first deed of trust or mortgage. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payer of rents and profits, and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

h. Assignment of Assessments. The Board of Directors shall have the unrestricted right to assign its right to receive Common Expense Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved in writing by the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Units not owned by the Declarant.

i. Certificate of Assessment Status. The Association shall furnish to an Owner or such Owner's First Mortgagee or Declarant upon written request by certified mail, first-class postage prepaid, return receipt requested, to the Association's Registered Agent, a statement setting forth the amount of unpaid Assessments with respect to the subject Unit, the current assessment and the amount of any credits for advance payments or for prepaid items.

The statement shall be furnished within fourteen (14) business days after receipt of the request and is binding upon the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or First Mortgagee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid Assessments which were due as of the date of the request.

j. No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason, including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration. The Declarant is exempt from the provisions of this Paragraph 6.11.

ARTICLE VII COMMON WALLS- RIGHTS AND DUTIES OF OWNERS

a. Common Walls. The rights and duties of Owners with respect to Common Walls shall be as follows:

(1) The Owners of contiguous Condominium Storage Units who have a Common Wall or Walls shall both equally have the right to use such wall or walls provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.

(2) In the event that any Common Wall or Walls are damaged or destroyed through the act of an Owner or any of his agents or tenants (whether such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Common Wall or Walls without cost to the other adjoining Owner or Owners.

(3) In the event any such Common Wall or Walls are destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his agents, or tenants, it shall be the obligation of the Association to rebuild and repair such wall or walls.

(4) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Common Wall or Walls without the prior consent of the Board of Directors of the Association.

(5) In the event of a dispute between Owners with respect to the construction, repair, or rebuilding of a Common Wall or Walls, or with respect to the bearing of the cost thereof, the Owners shall submit the dispute to the Board of Directors, the decision of which shall be final and binding on all Owners.

ARTICLE VIII. REPAIR AND MAINTENANCE

a. **By Owner.** Each Owner shall keep his or her Condominium Storage Unit in good order, in good condition and repair, and in a clean and neat condition. Each Owner shall be responsible for all maintenance, repair, and replacement in their Condominium Storage Unit. In addition, each Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his or her failure or negligence to maintain, repair, or replace required by this Paragraph IX.a. Each Owner shall perform his or her responsibility in such manner as shall not unreasonably disturb or interfere with other Owners. Each owner shall promptly report to the Board of Directors any defect or need for repairs for which the Association is responsible.

b. **Additions or Alterations by Unit Owners (Architectural Control).** No Owner shall make any plumbing, electrical, or dividing walls/mezzanine additions or alterations to his or her Unit without obtaining the prior written consent of the Association sitting as Architectural Control. Upon completion of any approved addition or alteration, the Owner of said Condominium Storage Unit shall be responsible for all repairs, replacements and maintenance of the addition or alteration, including, but not limited to, proper winterization.

c. **By the Association.** The Association shall have full power and control, and it shall be its duty to maintain, repair, and make necessary improvements to and pay for out of the maintenance fund to be provided, all Common Areas and the improvements thereon, and all private roadways, streets, parking areas, walks and other means of ingress and egress within the Property. This shall include the exterior portions of the Condominium Storage Units, and the buildings (except for the Condominium Storage Units and doors), the land upon which the buildings are located, the airspace above the buildings, all bearing walls, columns, floors, roofs, slabs, foundations, storage spaces, all water pipes, ducts, conduits, wires, the bathrooms, the bulletin board, and the mechanical equipment and storage room adjacent to the office and all other utility installations of the building, wherever located, except the outlets thereof when located within the Condominium Storage Units. The Association shall also be responsible for all ongoing stormwater maintenance and repair on the Property. . The Association shall be responsible for repair and maintenance of public sidewalks adjacent to the Property along N. Boyer Road and Schweitzer Cutoff Road. The Association shall further be empowered with the right and duty to periodically inspect all Common Areas in order that minimum standards of repair, design, color, and landscaping shall be maintained for appearance, harmony, and conservation within the entire project. The Board of Directors shall be the sole judge as to the appropriate maintenance of the Common Areas.

d. **General Maintenance.** In the event that the Association determines that an improvement of the Common Area is in need of repair, restoration, or painting, or that the landscaping is in need of installation, repair, or restoration, the Association shall undertake to remedy such condition, and the cost thereof shall be charged to the Owners and shall be subject to levy, enforcement and collection by the Association in accordance with the assessment lien procedure provided for in this Declaration. The Association shall have a limited right of entry in and upon all Common Areas as defined above and the exterior of all Condominium Storage Units for the purpose of taking whatever corrective action may be deemed necessary or proper by

the Association. Nothing in this Article shall in any manner limit the right of the Owner to exclusive control over the interior of his Condominium Storage Unit. Provided, however, that the Owner shall grant the right of entry therein to the Association or any other person or other Owner or Owners, or their authorized representatives, (i) in case of any emergency originating in or threatening his Condominium Storage Unit whether the Owner is present or not, or (ii) when so required to enter his Condominium Storage Unit for the purpose of performing installation, alterations or repair to the mechanical or electrical services, including water and other utility services, provided that reasonable requests for entry are made and that such entry is at a time reasonably convenient to the Owner whose Condominium Storage Unit is to be entered. In case of an emergency, such right of entry shall be immediate without the necessity for a request having to be made.

e. **Repair Necessitated by Owner.** If the Association determines that the Common Areas need improvement, repair, restoration, or painting, or that the landscaping is in need of installation, repair, or restoration which has been caused by an Owner, or any person designated or authorized by the Owner, then the Association shall give written notice to the Owner of the conditions complained of. Unless the Board of Directors has approved in writing corrective plans proposed by the Owner to remedy the condition complained of within such reasonable period of time as may be determined by the Board after said written notice is first given, and such corrective work so approved is completed thereafter within the time allotted by the Board, the Association shall undertake to remedy such condition or violation complained of. The cost thereof shall be deemed to be an assessment to such Owner and his Condominium Storage Unit and subject to levy, enforcement and collection provided for herein or in the Association's Articles or Bylaws. The Association shall have the same right of entry in and upon all Common Areas and Condominium Storage Units as detailed above. The Board shall have the sole right to determine whether any such costs expended by the Association were related to general maintenance or were repairs necessitated by an Owner, and the determination of the same shall be binding and final as to an Owner.

ARTICLE IX EASEMENTS

a. **General Easements to Common Elements.** Subject to this Declaration and the Association Rules, non-exclusive reciprocal easements are hereby reserved and created for the purpose of support, ingress and egress, access, use and enjoyment in favor of each Owner, upon, across, over, under and through the Common Elements, including the use of all pipes, wires, ducts, cables, conduits, and public utility lines, which easements shall be appurtenant to each Condominium Storage Unit. The Association, acting through the Board or its authorized agent, and public utility companies providing service to the Property, shall have non-exclusive easements with the right of access to each Condominium Storage Unit to make inspections, to remove violations, to maintain, repair, replace, or effectuate the restoration of the Common Elements accessible in such Condominium Storage Unit provided; however, such rights shall be exercised in a reasonable manner and at reasonable times with prior notification unless emergency situations demand immediate access.

b. **Public Utilities.** Easements and rights over the Property or the installation and maintenance of electricity lines, telephone lines, water lines, drainage facilities, and such other public utilities needed to serve the Property are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use of the Common Elements and the Condominium Storage Units by the Owners or their tenants. The Association shall be responsible for repair and maintenance of public sidewalks adjacent to the Property along N. Boyer Road and Schweitzer Cutoff Road.

c. **Easements for Encroachments.** If any portion of the Common Elements encroaches upon any Condominium Storage Unit, or if any Condominium Storage Unit encroaches on the Common Elements,

or if any such encroachment shall occur hereafter as a result of the manner in which the Buildings have been constructed or due to settling, shifting, alteration, replacement, repair, or restoration by Declarant or the Association, a valid easement for encroachment shall exist so long as the Buildings stand.

d. **Development Easements for Declarant.** Until all phases of the project are constructed and all Condominium Storage Units have been sold by Declarant; there are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including Declarant's sales agents, representatives and assigns, easements and rights upon, across, over, under and through the Property for construction, display (including the use of the Condominium Storage Units as models), maintenance, sales and exhibit purposes, including the use of signs and other advertising devices, in connection with the erection and sale or lease of Condominium Storage Units within the Property: provided, however, that no such use by Declarant or its agents shall otherwise restrict Owners in the reasonable use of their Condominium Storage Units.

ARTICLE X USE RESTRICTIONS

a. **Use of Unit.** Each Owner shall be entitled to the exclusive possession of his, her, or its Unit, subject to the Declarant Rights reserved by the Declarant herein and the exemptions for the Declarant set forth herein. No Unit shall be lived in or otherwise used for residential purposes under any circumstances. The types of permitted uses that shall be allowed in Units within the Project shall be all those lawful, non-residential activities that may be conducted under the terms of all applicable zoning laws, rules, regulations and ordinances pertaining to the Project that are currently effective or may be adopted in the future by any governmental entity with authority over the Parcel, excluding those expressly forbidden herein. Provided, however, that gasoline, diesel fuel and propane will be permitted to be stored within the Project only in the fuel tanks of motor vehicles and no above-ground or underground gasoline, diesel, propane, heating fuel, or other flammable materials tanks will be permitted to be stored within the Project. Further provided that no Hazardous Materials (as defined below) shall be allowed within the Project except as stated immediately above.

For the purposes of this Declaration, "Hazardous Material" means any radioactive, hazardous, or toxic substance, material, waste, or similar term, the presence of which on the Parcel, or the discharge or emission of which from the Parcel, is prohibited or regulated by present or future federal, state, or local governmental laws, ordinances, rules or regulations ("Governmental Requirements") or which requires special handling in collection, storage, treatment, or disposal under any Governmental Requirements. The term Hazardous Material includes, but is not limited to, any material, substance, waste, or similar term which is:

(1) Defined as a hazardous material or material requiring special handling under the laws of the State of Idaho, as amended from time to time;

(2) Defined as a hazardous substance under Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1321) as amended from time to time;

(3) Defined as a hazardous waste under Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.) as amended from time to time;

(4) Defined as a hazardous waste substance under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), as amended from time to time;

(5) Defined as a radioactive, hazardous, or toxic substance, waste, material, or similar term in any rule or regulation, as amended from time to time, which is adopted by any administrative agency, including, but not limited to the Environmental Protection Agency, the Occupational Safety and Health Administration, or any such similar state or local agency having jurisdiction over the Parcel, whether or not such rule or regulation has the force of law;

(6) Determined to contain asbestos or polychlorinated biphenyls;

(7) Defined as a radioactive, hazardous, or toxic waste, substance, material, or similar term in any other statute, regulation, rule, or law presently in effect or enacted or adopted at any time after the date of this Declaration by local authorities, the State of Idaho, and/or the federal government; or

(8) Subject to regulation under the Toxic Substances Control Act ("TSCA") (15 U.S.C., Section 2601, et seq.).

b. **Use of Common Elements.** Each Owner and his or her Guests may use the appurtenant Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Board of Directors may adopt Rules and Regulations governing the use of the Common Elements, but such Rules and Regulations shall be uniform and nondiscriminatory. Each Owner, by the acceptance of his or her deed or other instrument of conveyance or assignment and such Owner's Guests occupying the Unit, agree to be bound by any such adopted Rules and Regulations. There shall be no obstruction of the Common Elements, nor shall anything be stored on any part of the Common Elements. Nothing shall be altered, constructed on, or removed from the Common Elements except upon the prior written consent of the Board of Directors.

c. **No Unlawful Use.** No unlawful, offensive, or improper use shall be permitted or made within the Project or any part thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

d. **Signs.** No signs shall be placed or permitted within the Project except those identifying the Project, the selection and location of which is reserved to the Board of Directors until all of the Units have been sold. For sale and for lease signs for Units are allowed with the written approval of the Board of Directors and must comply with all existing zoning regulations.

e. **Pets Within the Project.** No animals, reptiles, or birds shall be kept or housed in any part of the Condominium Project.

f. **Rules.** Rules may be adopted by the Board of Directors concerning and governing the use of the Common Elements provided, however, that such Rules shall be uniform and nondiscriminatory. Copies of all such Rules shall be furnished to Owners prior to the time that they become effective. No Owner or any Guest, licensee, customers, or invitees of an Owner shall violate the Rules and Regulations adopted from time to time by the Board of Directors, whether relating to the use of Units, the use of Common Elements, or otherwise. The Board may impose a Fine in an amount as may be determined from time to time on any Owner for each violation of such Rules and Regulations by such Owner or his or her Guests.

g. **Exterior Modifications or Installations.** No Owner shall modify, alter, repair, decorate, redecorate, or improve the exterior of any Unit or any of the Common Elements without the express written approval of the Board of Directors. No clotheslines, television antennas or satellite dishes, wiring, patio furniture, patio covers, barbecues, mini-split heating or cooling systems or other machines or equipment shall be installed on the exterior of a Unit or Building or be allowed to protrude through the walls, windows or roof of a Unit or Building without the prior written approval of the Association, which approval may be

withheld or conditioned in the sole discretion of the Association. If the Association approves an exterior modification or installation to a Unit, the Owner, and any successor in interest, shall solely be responsible for the cost of the installation, repair, and maintenance thereof.

h. Vehicle Parking, Storage and Maintenance. Automobile and/or truck parking will be subject to regulations and restrictions imposed by the Board of Directors. No partially dismantled, wrecked, or inoperable vehicles be stored within the Common Elements.

i. Owner Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property within the Project, such Owner shall be liable and responsible for the payment of same. The amount of such loss or damage, together with costs of collection and reasonable attorneys' fees and costs, if necessary, may be collected by the Board of Directors after Notice and Hearing from such Owner as an Individual Assessment levied against such Owner.

j. Rental of a Unit. Except for a First Mortgagee who has acquired title to a Unit by virtue of foreclosing a first deed of trust or mortgage or by virtue of a lease assignment in lieu of foreclosure, an Owner shall have the right to rent his or her Unit upon such terms and conditions as the Owner may deem advisable, subject to the following:

(1) any such rental agreement shall be in compliance with all applicable local, state and federal laws;

(2) any rental agreement shall be in writing and shall provide that the rental agreement is subject to the terms of this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations of the Association;

(3) such rental agreement shall state that the failure of the renter to comply with the terms of the Declaration, Articles of Incorporation, Bylaws of the Association, and/or the Rules and Regulations of the Association shall constitute a default and such default shall be enforceable by either the Board of Directors or the Declarant, or by both of them to include, but not be limited to, eviction of the renter from the Unit; and,

(4) the Board of Directors shall be furnished with a copy of the rental agreement within ten (10) days of execution, or upon its request.

k. Prohibition of Certain Activities. Nothing may be done which may become an annoyance or nuisance to Owners or Occupants. Activities which are deemed annoying or nuisance-causing and are prohibited including, but are not limited to, any activity involving the use of firearms, air rifles, pellet guns, bows and arrows or other similar weapons, projectiles, or devices. Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof which would result in the cancellation of the insurance on the Property. The use of any Unit as a retail storefront is forbidden.

l. Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Parcel, or used therein unless the same and its proposed use are approved by the Board. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities with the Property.

m. Water and Sewer Services. Condominium Storage Unit Numbers 101-212, within the Project, have access to water and sewer utility services ("Water and Sewer Units"). Condominium Storage Unit Numbers 101-112 will share one water meter. Condominium Storage Unit Numbers 201-212 will share

one water meter. All Owners and Occupants of Water and Sewer Units shall use water for reasonable and customary domestic water use to include personal hygiene, drinking, flushing toilets, car/equipment washing and related uses. Commercial water use is prohibited. The Board shall have the authority to monitor any excess water usage in Water and Sewer Units and either assess or fine an Owner for excessive water usage in accordance with Article VI, above. If an Owner installs a toilet or shower in a Water and Sewer Unit, the Owner shall be responsible for the costs of installation, repairing and maintaining these utility services in the Unit including, but not limited to, winterizing service lines and repairing pipes, leaks, or floods. Owners and Occupants of Water and Sewer Units shall be liable for all property damage in their Unit, or any neighboring Units caused by their failure to properly repair or maintain the water and sewer utility services, including, but not limited to, damages caused by frozen pipes.

n. **External Laundering.** Unless otherwise permitted by the Board, external laundering and drying of clothing and other items is prohibited.

o. **Outside Speakers and Amplifiers.** No radio, stereo, broadcast, or loudspeaker units and no amplifiers of any kind shall be placed upon or outside or be directed to the outside of any Building without the prior written approval of the Board.

p. **Construction Liens.** Labor performed and materials furnished incorporated into a Unit with the consent of or at the request of a Unit Owner, his agent, his contractor, subcontractor may be the basis for the filing of a lien against the Unit or the Unit Owner consenting to or requesting the same. Each Unit Owner shall indemnify and hold harmless each of the other Owners, and Association, and the Declarant from any and against all liability arising from the claim or any lien against the Unit or against the Common Elements for construction performed or for labor, materials, services, or other products incorporated into the Owner's Unit at such Owner's request.

q. **Exemptions for the Declarant.** So long as the Declarant owns a Unit within the Condominium Project, the Declarant shall be exempt from the provisions of this ARTICLE XI to the extent that it impedes Declarant's development, construction, marketing, sales, or leasing activities. The Association, acting through its Board of Directors, shall have the standing and power to enforce all of the above land use and other restrictions.

r. **Stormwater System.** The Association or its authorized representative shall be responsible for ongoing repair and maintenance of the stormwater system on the Property. The Association may make any rules or regulations regarding Owners' use of the stormwater system, including, but not limited to, dumping Hazardous Materials or other toxic materials. In addition, the Association shall not materially alter the stormwater system without the prior written approval of all local, state, or federal governmental entities.

ARTICLE XI INSURANCE

a. **Authority to Purchase.** Commencing not later than the date a Condominium Storage Unit is conveyed to a Person other than Declarant, the board shall have the authority to and shall cause the Association to obtain the insurance provided for in this Article.

b. **Hazard Insurance.** The Board shall cause the Association to obtain a master or blanket policy of property insurance on the entire Property, including the Condominium Storage Units and the Common Elements, Insuring the Property against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and against loss or damage by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage. Such master policy of property

insurance shall be in a total amount of insurance equal to 100% of the current replacement cost, exclusive of land, excavations, foundations, and other items normally excluded from such property policies.

c. **Comprehensive Public Liability Insurance.** The Board shall cause the Association to obtain comprehensive general liability insurance insuring the Association, the Declarant, the agents and employees of the Association and the Declarant, the Owners and Occupants and the respective family members, guests, and invitees of the Owners and Occupants, against liability incident to the ownership or use of the Common Elements. The limits of such insurance shall not be less than \$1,000,000.00 covering all claims for death of or injury to any one person and/or property damage in any single occurrence. Such insurance shall also include protection against water damage liability, liability of non-owned and hired automobiles, and liability for the property of others. Such insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the approval of the Association. The Board shall adjust the amount of the insurance carried under this Section from time to time.

d. **Worker's Compensation Insurance.** The Board shall cause the Association to purchase and maintain in effect Worker's Compensation Insurance for all employees of the Association to the extent that such insurance is required by law.

e. **Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as part of the Common Expenses.

f. **Policy Provisions.** To the extent reasonably possible, the insurance policies bought by the Association shall provide:

(1) Any insurer that has issued an insurance policy to the Association under this Article shall also issue a certificate or memoranda of insurance to the Association and, upon request, to any Owner or Lender.

(2) The named insured under any policy of insurance shall be the Association for the use and benefit of the Owners.

(3) Insurance coverage provided by the policy shall be primary and shall not be brought into contribution with insurance purchased by the Owners.

(4) Coverage must not be limited by (i) any act of neglect by Owners or Occupants which is not within control of the Association or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

(5) Coverage may not be canceled or substantially modified including cancellation for nonpayment or premiums without at least thirty (30) days prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued.

(6) All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, Owners, Occupants and their respective agents and employees, and any defenses based on coinsurance or on invalidity arising from acts of the insured.

g. **Supplemental Insurance.** The Association may obtain such other policies of insurance as the Board deems appropriate to protect the Association, its officers and directors, and the Owners, including, without limitation, errors, omissions, and insurance for the officers and directors of the Association.

h. Insurance Obtained by Owners.

(1) All Owners and Occupants shall carry public liability insurance in the amount of at least Five Hundred Thousand Dollars (\$500,000.00) per occurrence covering their individual liability for injury or damage to persons or property occurring inside the Condominium Storage Unit, other units in the Project and Common Elements. The Association shall be named as an additional insured, and evidence of insurance coverage shall be a condition precedent to any closing of a sale of a Condo unit. Thereafter, the Association may request, from time to time, a certificate of insurance evidencing such coverage.

(2) An Owner and Occupant shall insure all personal property located in Condominium Storage Unit against loss by fire or other casualty.

**ARTICLE XII
DESTRUCTION OF IMPROVEMENTS**

a. Automatic Reconstruction. In the event of partial or total destruction of a Building or Buildings or any portion of the Common Elements within the Property, the Board shall promptly take the following action:

(1) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation, performance and lien payment bonds.

(2) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said Building.

(3) If the Board determines (i) that insurance proceeds will cover eighty-five percent (85%) or more of the estimated cost of reconstruction, or (ii) that available insurance proceeds together with available reserves and/or a special Assessment equal to twenty-five percent (25%) or less of the then aggregate regular Assessments for all Condominium Storage Units will completely cover the estimated cost of reconstruction, then the Board shall cause notice to be sent to all Owners setting forth such findings and informing said Owners and Lenders that the Board intends to commence reconstruction pursuant to this Declaration. If at least twenty-five percent (25%) of the Owners based on one (1) vote for each Condominium Storage Unit, object in writing to such reconstruction as indicated in such notice, the Board shall call a special meeting of the Owners. In the event that the foregoing requirements are satisfied, and the requisite number of Owners do not object in writing to such reconstruction; the Board shall cause reconstruction to take place as promptly as practicable thereafter. In connection with such reconstruction, the Board shall levy a uniform Special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

(4) If the Board, in good faith, determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days after the date of such destruction because of the unavailability or unacceptability of an insurance estimate, or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the Owners.

(5) If the Board determines that any Condominium Storage Unit has become unusable by reason of its total or partial destruction, Assessments may abate against the Owner thereof until the Board determines that usability has been restored. However, if the Board determines that such abatement would adversely and substantially affect the management, maintenance, and operation of the property, it may elect to disallow such abatement.

b. **Reconstruction by Vote.** If reconstruction is not to take place pursuant to Section 13.1, as soon as practicable after same has been determined, the Board shall call a special meeting of the Owners by mailing a notice of such meeting to each such Owner. Such meeting shall be held not less than Fourteen (14) days and not more than twenty-one (21) days after the date of such notice. Unless the Owners, by a vote at such meeting or by the written consent of not less than sixty percent (60%) of the Owners based on One (1) vote for each Condominium Storage Unit, determine not to proceed with such reconstruction, reconstruction must take place and the Board shall levy a uniform Special Assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

c. **Procedure for Minor Reconstruction.** If the cost of reconstruction is equal to or less than ten percent (10%) of the face amount of insurance, then carried under the Association's hazard insurance policy then the Board shall contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Property in conformance with the original plans and specifications. Or if the Board determines that adherence to such original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes, or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements but conforming to the aforementioned governmental requirements.

d. **Procedures for Major Reconstruction.** If the cost of reconstruction is greater than ten percent (10%) of the face amount of insurance then carried under the Association's hazard insurance policy, all insurance proceeds, together with such amounts from available reserves or special Assessments as are needed to complete the cost of reconstruction shall be paid directly to a bank or savings and loan association located in Idaho, whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or the successor to either agency, as designated by the Board, as trustee (hereinafter called the "Insurance Trustee") for all Owners and Lenders. Such proceeds shall be received, held and administered consistent with the provisions of this Declaration. Disbursement of such funds shall be made only upon the signatures of two members of the Board. As soon as practicable after notification of the receipt of insurance proceeds, the Board shall enter into a contract with a licensed contractor or contractors for the repair or rebuilding of all of the damaged or destroyed Condominium Storage Units and Common Elements according to the original plans and specifications of said improvements or if the Board determines that adherence to such original plans and specifications is impracticable or not in conformity with applicable statutes, ordinances, building codes, or other governmental rules and regulations then in effect, then of a quality and kind substantially equivalent to the original construction of such improvements but in conformance with the above-mentioned governmental requirements. The contract with such licensed contractor or contractors shall be for a specified sum for performance and execution of the work therein described, and shall have provisions for periodic disbursement of funds, which shall be consistent with procedures then followed by prudent lending institutions doing business in Idaho. The Board may employ a licensed architect to supervise the repair and rebuilding to ensure that all work, services, and supplies are in conformity with the requirements of the construction contract.

e. **Termination.** If sixty percent (60%) or more of the Owners elect not to proceed with the reconstruction at the special meeting held pursuant to Section 2., the Board shall divide the insurance proceeds and then available reserves into as many shares as there are then Condominium Storage Units,

said shares to be in the same proportions as the Owners' respective percentage interest in the Common Elements. If there are mortgages, deeds, trust, or other encumbrances remaining against any of the Condominium Storage Units after the disbursement by the Board of the proportionate share of insurance proceeds and available reserves, and such deficiencies are not paid by the respective Owner or Owners, the holders of any such mortgage, deed of trust, or other encumbrance must also execute and acknowledge such Declaration in order to lawfully withdraw the Property from the condominium pursuant to the Act.

f. **Negotiations with Insurer.** The Board shall have full authority to negotiate in good faith with representative of the insurer of a totally or partially destroyed Building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such Building or any other portion of the Common Elements. Any settlement made by the Board in good faith shall be binding upon all Owners.

g. **Repair of Condominium Storage Units.** Installation or improvements to and repair of any damage to the interior of a Condominium Storage Unit shall be made by and at the individual expense of the Owner of that Condominium Storage Unit and, in the event of a determination to reconstruct after partial or total destruction shall be completed as promptly as practicable and in a lawful and workmanlike manner.

h. **Priority.** Nothing contained in this Article shall entitle an Owner to priority over any Lender under lien encumbering his Condominium Storage Unit as to any portion of insurance proceeds allocated to such Condominium Storage Unit.

ARTICLE XIII GENERAL PROVISIONS

a. **Enforcement.** Owners agree that the only method for settling disagreements under the terms of this Agreement and the only way to resolve questions not specifically answered by the terms of this Agreement shall first be by mediation, and should mediation be unsuccessful, then by compulsory and binding arbitration in accordance with the following paragraphs.

b. **Waiver of Right to Litigate.** The Parties hereby irrevocably waive any and all rights to resolve a dispute in a manner that is contrary to the provisions of this section. The Parties shall at all times conduct themselves in strict, full, complete, and timely accordance with the terms of this section and all attempts to circumvent the terms of this section shall be absolutely null and void and of no force or effect whatsoever. By waiving the right to litigate, the Parties agree that an arbitrator shall have the same jurisdiction as a judge trying a case without jury.

c. **Mediation as Precondition to Arbitration.** A minimum of two (2) hours of mediation shall precede any arbitration. Either party may call for the mediation of any disagreement in regard to the Boards determination of a violation of this Declaration or the assessment of fine. The mediation shall occur in accordance with Rule 37.1 of the Idaho Rules of Civil Procedure or successor rule, to the extent applicable, and the rules of the individual mediator. The particular mediator shall be nominated by the party requesting mediation, if the Parties agree on the mediator the mediation should be held as soon as practical. If the Parties do not agree on the mediator, then the corporate attorney for the Association shall name the mediator from the list of mediators approved by the Bonner County District Court with jurisdiction over the Project. Each Party shall enter into mediation in good faith to resolve any disagreement. The Parties shall each deposit with the mediator prior to the session an equal share of the cost of two hours of mediation. The Parties may agree in writing to employ the process known as an "Arbitration-Mediation" as a single procedure if agreed to in writing prior to the event.

d. **Selection of Arbitrator.** In the event any disagreement remains unresolved following mediation, then either party may call for arbitration by appointing an arbitrator who is reasonably qualified for the

issue on which there is a disagreement. Within ten (10) days of the appointment of said arbitrator, the other party shall agree to the single arbitrator or shall appoint a similarly qualified arbitrator. If the two arbitrators are selected, within ten (10) days, the two shall select a third arbitrator. The rules and the procedures for the arbitration shall be determined by the arbitrator or arbitrators; however, in the event of any disagreement, the commercial rules of the American Arbitration Association shall apply. If either party shall fail to act as required, then the action to be taken or the choice arbitrator in question shall be decided or appointed by the Administrative District Court Judge of the First Judicial District of the State of Idaho. Upon the request of either party or upon the request of any arbitrator, as the case may be, the judge shall promptly, by oral statement instruct, decide, or appoint to assure rapid arbitration of the matter. The board of arbitrators, by majority rule or the arbitrator in the arbitrator's sole discretion, shall settle all disagreements, and the ruling of the arbitrators shall be the final binding resolution. The decision of the arbitrators shall be given the same weight as a judgment and may be converted to a judgment by either party. All costs and expenses of the arbitration shall be borne equally by the Parties, except attorney, judge, or court fees shall be borne solely by the procuring party or as may be awarded through the arbitration.

e. **Pre-Decision Arbitration Procedures.** The arbitrator shall schedule a pre-hearing conference to resolve procedural matters, arrange for the exchange of information, obtain stipulations, and narrow the issues. The Parties will submit proposed discovery schedules to the arbitrator at the pre-hearing conference. The scope and duration of discovery will be within the sole discretion of the arbitrator. The arbitrator shall have the discretion to order a pre-hearing exchange of information by the Parties, including without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of Parties and third-party witnesses. This discretion shall be exercised to limit the scope of discovery to the amount of discovery which the arbitrator determines to be reasonable under the circumstances.

f. **Arbitration Hearing.** The arbitration shall be conducted in the county where the real property involved in the matter is located. Counsel or other authorized representatives may represent any party. The Parties may offer such evidence as is relevant and material to the dispute. The arbitrator shall be the judge of relevance and materiality.

g. **Governing Law.** In rendering a decision, the arbitrator shall determine the rights and obligations of the parties according to the terms and provisions of this Declaration and the substantive and procedural laws of where the arbitration is to take place.

h. **Arbitration Award.** The arbitrator shall issue the award as soon as reasonably possible following the conclusion of the arbitration hearing, but in no event any later than ten (10) days after the conclusion of the arbitration hearing. The arbitrator's award shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences that may be drawn therefrom. The arbitrator may make any determination and/or grant any remedy or relief that is just and equitable, provided, however, in no event may the arbitrator award punitive damages. The award must be based on and accompanied by a written statement of decision explaining the factual and legal basis for the award as to each of the principal controverted issues. The award shall be conclusive and binding, and the appropriate court with jurisdiction, in accordance with the Idaho Uniform Arbitration Act, may thereafter confirm it as a judgment. The validity and enforceability of the arbitrator's decision is to be determined exclusively by the Idaho courts pursuant to the provisions of this Declaration.

i. **Attorneys' Fees and Costs.** The cost of the mediator shall be split equally by the Parties. No attorneys' fees, expert and witness costs shall be awarded for mediation unless specified otherwise in the Appeal procedure. The arbitrator(s), for the arbitration, shall award costs, including, without limitation, arbitrator's fees and costs, attorneys' fees, and expert and witness costs, to the Association, if Association is the prevailing party. If the Association does not prevail, then each party shall pay their respective costs,

including, without limitation, arbitrator's fees and costs, attorneys' fees, and expert and witness costs, if any, as determined by the arbitrator in the arbitrator's discretion. A party shall be determined by the arbitrator(s) to be the prevailing party if its proposal for the resolution of the dispute is closer to that adopted by the arbitrator(s).

j. Payment of Fine, Costs, or Elimination of Violation. If the decision of the arbitrator(s) is in favor of the Association and an Owner(s) must pay a fine, costs or eliminate a violation of the Declaration and/or Rules and Regulations, then the Owner shall fulfill the order of the arbitrator(s) within ten (10) days of the issuing of the Arbitration decision. If the Owner fails to voluntarily comply with the arbitration award, then in addition to the award, Owner shall pay interest on any monetary award at the statutory rate set forth in Idaho Code 28-22-104 (2) or successor statute. In addition, and not in substitute for any other remedy set forth herein, a non-prevailing Owner shall pay all attorney's fees and costs, when billed to the Association, related to the reducing of the arbitration award to judgment and for collection of monetary reward and enforcement of non-monetary reward.

k. Notice of Alleged Violation. Notice of the alleged violation of the Rules and Regulations and/or Declaration may be made in the form of a signed letter from an Owner or a statement of a Board member in the minutes of a regular or special Board meeting. Said documentation should contain the approximate time and date of the alleged violation and a general description of the violation. If the Board determines that a violation does appear to exist, the President, or designated Board member, shall notify, by letter, the alleged violator of the complaint received. The letter should request that no further violations occur and should state that if further violations do occur, an assessment fine shall be established and levied against the violator by the Board as provided in this Declaration, the Bylaws, and the Rules and Regulations.

l. No Contest. If the alleged violator does not contest the allegation, then the Board shall adjudge the existence of a violation. If the alleged violator contested the determination, then the procedure set forth above shall be the sole method of determining whether a violation has occurred.

m. Reservation of Other Remedies. In addition to the remedies set forth above, the Association and the Declarant reserve the right to enforce any restrictions contained herein by any other appropriate action at their option, including but not limited to the following:

n. General Requirements. Broad enforcement is intended in order to protect the value of the Condominium Units and the Property and to allow efficient assurance of compliance.

o. Right of Entry. During reasonable hours, upon reasonable notice, and subject to reasonable security requirements, the Declarant or Association, or their agents, shall have the right to enter upon and inspect any Condominium Unit covered by this Declaration for the purpose of ascertaining compliance with this Declaration. Such right of entry shall not include entrance inside any structure. Entry upon any Condominium Unit shall not be a trespass or other wrongful act.

p. Enforcing Methods and Parties. The following options specify the manner in which the Declaration may be enforced:

(1) Manner of Enforcement. The Declarant and the Association shall have the right to enforce by the mediation arbitration procedure set forth herein all covenants, conditions and restrictions contained in this document. Prior to taking any action of enforcement. against any violating Owner, the Association shall deliver to the violating Owner written notice of the nature of the violation, a suggested remedy, and reference to relevant portions of this Declaration or the Rules and Regulations. The violating Property Owner shall be allowed thirty (30) days to correct the violation. At the end of the thirty (30) days

if the violation remains, enforcement may be commenced. No one shall be liable for failure to enforce the requirements of the Declaration since all Owners may also protect their respective rights.

(2) **Correction Lien.** In addition to the mediation arbitration procedure set forth herein, the Association may correct any violation and lien the violating Property for sums owed for correction (sums shall include attorney's fees and interest at the highest rate allowed by law) if the violating Owner fails, within sixty (60) days after mailing of the notice to correct the violation or violations or fails to give adequate security to assure compliance within one (1) year from mailing the notice of violation. The sums owed shall constitute a lien upon said Condominium Unit as follows:

- i. The work performed to correct said violation shall be deemed to be at the instance of the Owner or Owners of the violating Condominium Unit upon which such work is performed, as evidenced by the acceptance of these covenants through the purchase of Property In the development, or in the alternative, shall be a correction assessment as allowed under the Articles of Incorporation of Owners' Association and Idaho Code;
- ii. A claim of lien must be filed with the Bonner County Recorder within ninety (90) days after completion of said corrective work as provided in Idaho Code Section 45-507, or successor statute;
- iii. The duration of the lien shall be as provided in Idaho Code Section 45-510 or successor statutes, and
- iv. A lien shall be foreclosed as provided in the Idaho Code.

(3) **Reservation of other Remedies.** In addition to the remedies set forth above, Owners' Association and Declarant reserve the right to enforce any covenants, conditions or restrictions contained herein by any other appropriate action at their option.

(4) **Additional Enforcement of Attorney's Fees.** The failure of any Owner to comply with the provisions of the Development documents shall give rise to a cause of action in favor of any aggrieved Owner for the recovery of damages, or for injunctive relief, or both. The Board shall have the power to enforce the provisions of this Declaration, the Articles, the Bylaws, and the Rules and Regulations of the Association and shall have the authority to enforce through Mediation and Arbitration procedure contained herein; however, an aggrieved Owner may separately take legal action to enforce this declaration. If legal action is brought to interpret or enforce compliance with the provisions of this Declaration, the Articles, Bylaws or the Rules and Regulations of the Association, then the prevailing party shall be awarded reasonable expenses, court costs and attorney's fees. However, no suit may be maintained against the Declarant and or Association. A claim against the Declarant and/or Association shall only be in accordance with the Mediation and Arbitration procedure set forth herein.

(5) **Failure to Enforce is Not a Waiver.** The failure to enforce any requirements contained in this Declaration shall in no event be deemed to be a waiver of the right to enforce that requirement or any other provision, thereafter, including provisions relating to architectural control.

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

r. **Covenants to Run with the Land: Term: Amendment.** The covenants and restrictions of this Declaration, as amended from time to time, shall run with and bind the Condominium Storage Units and

Common Areas, in perpetuity, unless the Condominium created herein is terminated by the unanimous consent of the Owners of all of the Condominium Storage Units.

Except in cases of amendments that may be executed by a Declarant in the exercise of its development rights or under Section 55-1505 of the Idaho Code, or amendments by the Association or certain Owners expressly authorized by the Act, the Declaration, including the Plat, may be amended only by a vote of the Condominium Storage Unit Owners to which at least a majority of the votes in the Association are allocated, subject to the following:

(1) An amendment to the Declaration shall not terminate or decrease any unexpired Development Right as defined in the Act, Special Declarant Right or Period of Declarant Control unless the Declarant approves the amendment in writing.

(2) During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to (i) comply with the Act or any other applicable law if the amendment does not adversely affect the rights of any Condominium Storage Unit Owner, (ii) correct any error or inconsistency in the declaration if the amendment does not adversely affect the rights of any Condominium Storage Unit Owner, or (iii) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments.

(3) Any amendment adopted by the Condominium Storage Unit Owners shall be signed by the President or vice president of the Association and shall be recorded. Any such amendment shall certify that the amendment has been approved as required by this Section 3. Any amendment made by the Declaration, or the Act shall be executed by the Declarant and shall be recorded.

s. **Violation of the Law.** Any violation of any state, municipal, or local law, ordinance, or regulation, pertaining to the ownership, occupation, or use of any property is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.

t. **Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a Condominium storage facility and for the maintenance of the Property. The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

u. **Gender and Number.** Whenever the context of this Declaration requires, the singular shall include the plural, in addition, vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

v. **Nuisance.** The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

w. **Attorney's Fees.** In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Bylaws, or Association Rules, Declarant and/or Association shall be entitled to recover from the other party thereto as part of the judgment reasonable attorney's fees and costs of suit.

x. **Notices.** Any notice to be given to an Owner or the Association under the provisions of this Declaration shall be in writing. Notices to the Association shall be sent to the most recent address on file with the Idaho Secretary of State. Any notice to an Owner shall be mailed to the most current address of the Owner on file with the county assessor's office unless Owner has provided the Association with a different address in writing.

y. **Effect of Declaration.** This Declaration is made for the purpose set forth in the recitals of this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations, and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the Bylaws, or Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

z. **Personal Covenant.** To the extent the acceptance of a conveyance of a Condominium Storage Unit creates a personal covenant between the Owner of such Condominium Storage Unit and Declarant, other Owners, or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a Person ceases to be an Owner except to the extent this Declaration provides for personal liability with respect to the Assessments incurred during the period a Person is an Owner.

aa. **Non-liability of Officials.** To the fullest extent permitted by law, neither the Board nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission error, or negligence if such Board member or officer acted in good faith within the scope of his duties.

bb. **Unsegregated Real Property Taxes.** Until such time as real property taxes have been segregated by the County Assessor of Bonner County for the Condominium Storage Units, the taxes shall be paid by the Association on behalf of the Owners. In connection with such payment, the proportionate share of such tax or installment thereof for a particular Condominium Storage Unit shall be determined by multiplying the tax or installments in question by the respective percentage interest of such Condominium Storage Unit in the Common Elements. The Association may levy a special Assessment against any Owner who fails to pay his share of any real property taxes pursuant to this Section. In the event such special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof.

cc. **Use of Funds Collected by the Association.** All funds collected by the Association, including Assessments and contributions to the Association paid by Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for non-profit purposes of the Association in managing, maintaining, caring for, and preserving the Common Elements and for other pertinent purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner other than as a result of the Association managing, maintaining, caring for, and preserving the Common Elements and other than as a result of expenditures made for the other permitted purposes as set forth in the Declaration.

dd. **Notification of Sale and Transfer Fee.** Concurrently with the consummation of the sale or other transfer of any Condominium Storage Unit and concurrent with the close of escrow by any escrow company handling transfer of title of any Condominium Storage Unit, or within fourteen (14) days after the date of such transfer, if such transfer is not performed by an escrow company, any transferee shall notify the Association in writing of such transfer and shall accompany such written notice with a non-refundable transfer fee to cover Association documentation and processing. The transfer fee shall be \$500.00. The written notice shall set forth the name of the transferee and his transferor, the Condominium Storage Unit number of the Condominium Storage Unit purchased or acquired by the transferee, the transferee's mailing

address, the date of the sale or transfer, and the name and address of the transferee's Lender, if any. Prior to the receipt of such written notice, all notices required or permitted to be given by the Association to the Owner shall be deemed to be duly made or given to the transferee if duly and timely made and given to the transferee's predecessor in interest. The transfer fee shall be the personal obligation of the new Owner and shall be secured by the lien provided for herein. Notwithstanding the other provisions hereof this section shall not apply to a Lender who becomes an Owner by foreclosure proceeding or any deed of assignment in lieu of foreclosure.

ee. **Emergency Vehicles and Personnel.** Emergency vehicles and/or personnel shall have the right to access all Common Areas herein described when on the premises in response to any emergency or in the abatement of a public nuisance.

ff. **Annexation/Addition of Phases of Project.** Phases may be annexed to this declaration and become part of this Condominium and subject to this Declaration by either of the following methods:

gg. **Unilateral Addition.** Declarant may add an additional phase to the Condominium by constructing the new building(s) on the common area described as the Property herein, without the assent of the Owners on condition that:

(1) Any addition pursuant to this subparagraph shall be made within thirty (30) years from the date of recordation of this Declaration; and

(2) An amendment of this Declaration and the Condominium plat is recorded prior to any sales of any of the condominium units in the new phase.

hh. **Annexation By Approval.** Upon the vote or written assent of Declarant (while Declarant owns any lot in Development) and Fifty Percent (50%) of the Owners other than Declarant, the Owner of the property outside of the Development who desires to add it to the scheme of this Declaration may record an amended Declaration in the manner described in the preceding subparagraph. Upon the vote or written assent of Declarant (while Declarant owns any lot in Development) and Fifty Percent (50%) of the Owners other than Declarant, the real estate outside of the Development may be made subject to the jurisdiction of this Declaration.

ARTICLE XIV MISCELLANEOUS

a. **Severability.** The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof if the remainder complies with the Act or as covenants affect the common plan.

b. **Effective Date.** This Declaration shall take effect upon recording.

c. **Reference to Survey Map and Plans.** The Survey Map and Plans of the Condominium referred to herein were filed with the Bonner County Recorder simultaneously with the recording of this Declaration, and by this reference is incorporated herein.

d. **Variance.** It is the intent of the drafters of the Declaration and Rules and Regulations to create a flexible system for the protection of the Owners of Condominium Units. It is anticipated that there may be situations which arise in which the characteristics of a Condominium Unit, the existence of alternatives or the unfairness of the strict technical rule or regulation may demonstrate a need to vary the restrictions. In

those types of circumstances, the Board may allow alternative methods to be submitted and approved in accordance with the process set forth herein to vary the restrictions of the Declaration and the Rules and Regulations. If the Board determines that a variance is appropriate, given the criteria set forth herein, the Board may grant a variance from any rule or regulation set forth herein.

e. **Variance Procedure and Standard for Granting Variance.** The procedure for granting a variance shall be the same as an original submittal and approval as set forth in this Declaration or the adopted Rules and Regulations. The request for the variance may be made with the original submittal or may be made subsequent following a conditional approval or denial of an original submittal. A variance may be granted only when the applicant has demonstrated that all of the following conditions are present:

- (1) that there is undue hardship used to the party requesting the variance,
- (2) that the variance is not in conflict with the general community interest of Project.
- (3) that the granting of the variance will not be materially detrimental to the neighboring property Owners, and
- (4) that the granting of the variance does not appear to be contrary to the general goals and policies of the Declaration and the Rules and Regulations.

f. **Variance - Not a Waiver.** The granting of a variance to an Owner is not to be construed as a waiver for other Owners.

g. **Guide for Common Interpretations.** The Board shall attempt to Interpret the Declaration, Bylaws and Rules and Regulations consistently giving the words their definitions appended but strictly interpreting the words to enforce the purpose of the Declaration. The Board may, in a separate minute book, tabulate and summarize interpretations and decisions as to approvals to encourage consistency. Future Boards should review prior determinations in an attempt to keep interpretations consistent in the application of the Declaration.

SUBSCRIBED AND SWORN to the date set forth above.

BIG TOY CONDOS, LLC

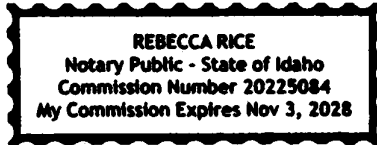


Print Name: Derick Driggs
Authorized Agent and Manager

STATE OF IDAHO)
)
) :SS.
COUNTY OF Bonner)

On this 19th day of June, 2024, before me the undersigned notary public in and for the State of Idaho, personally appeared Derick Driggs, known or identified to me to be authorized agent and manager of Big Toy Condos, LLC, that he executed the within behalf of said entity and acknowledged to me that such company executed the same.

(SEAL)





Notary Public for Idaho
Residing at: 301 Cedar St. Suite 206 Sandpoint, ID 83864
Commission Expires: Nov. 3rd 2028

EXHIBIT "A"



0005749834



STATE OF IDAHO
 Office of the secretary of state, Phil McGrane
ARTICLES OF AMENDMENT (NONPROFIT CORP)
 Idaho Secretary of State
 PO Box 83720
 Boise, ID 83720-0080
 (208) 334-2301
 Filing Fee: \$30.00

For Office Use Only
-FILED-
 File #: 0005749834
 Date Filed: 5/29/2024 11:38:22 AM

Instrument # 1034839
 06/25/2024 09:51:36 AM Page 33 of 53

30912-6660 05/29/2024 11:38 AM Received by Office of the Idaho Secretary of State

Articles of Amendment (Nonprofit Corporation)
 Select one: Standard, Expedited or Same Day Service (see descriptions below) Same Day Service (+\$100; filing fee \$130)

The current name of the nonprofit corporation is: BIG TOY CONDO OWNERS ASSOCIATION, INC.
 The file number of this entity on the records of the Idaho Secretary of State is: 0005439091

Article 1: Corporation Name
 Change Corporation Name? I want to change the name of the corporation
 Entity name BIG TOY CONDOS OWNERS ASSOCIATION, INC.

Article 2: Adoption
 Date of Adoption: 05/29/2024
 Select the manner of adoption: Each amendment consists exclusively of matters which do not require member approval pursuant to section 30-30-705, Idaho Code, and was, therefore, adopted by the incorporators, or by the board of directors.
 The number of directors entitled to vote was: 3
 The number of directors that voted for each amendment was: 3
 The number of directors that voted against each amendment was: 0

Article 3: Purpose
 Select the purpose of this non-profit Homeowner's Association

Article 4: Voting Members
 The corporation does have voting members.

Article 5: Upon dissolution the assets shall be distributed:
 the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.

Article 6: IRS Designation
 Is this nonprofit a 501(c)3? No

Article 7: Mailing Address
 PO BOX 1544
 SANDPOINT, ID 83864-0868

Article 8: Director Name(s) and Address(es)

Name	Title	Director Address
Todd Kaufman	Director	3110 N. GOVERNMENT WAY COEUR D'ALENE, ID 83815
DERICK DRIGGS	Director	3110 N. GOVERNMENT WAY COEUR D'ALENE, ID 83815
Craig Cozad	Director	3110 N. GOVERNMENT WAY COEUR D'ALENE, ID 83815

The articles of amendment must be signed by the presiding officer of the board of directors or by an officer of the corporation.

30912-6661 05/29/2024 11:38 AM Received by Office of the Idaho Secretary of State



Derrick Driggs

05/29/2024

Sign Here

Date

Job Title Director

EXHIBIT "B"

**BYLAWS
OF
BIG TOY CONDOS
OWNERS ASSOCIATION, INC.
A NON-PROFIT CORPORATION**

ARTICLE I. NAME AND OFFICE

- 1.01** **NAME.** The name of this corporation is: BIG TOY CONDOS OWNERS ASSOCIATION, INC.
- 1.02** **OFFICE/AGENT:** The registered address of this Corporation shall be located at 330 Huron, Sandpoint, ID 83864. The initial registered agent at such address shall be Tom Curtiss. The Association may change the office and/or agent from time to time.
- 1.03** **DURATION:** This corporation shall have perpetual existence.
- 1.04** **FISCAL YEAR:** The fiscal year shall end on December 31 of every year.

ARTICLE II. PURPOSE AND POWERS

- 2.01** **PURPOSE:** The corporation is formed for the purpose of maintaining the common areas of the Big Toy Condos storage unit development and generally to manage the storage unit in accordance with the provisions of the Declaration of Covenants, Conditions and Restrictions appurtenant thereto. The Big Toy Condos development is located in Bonner County, State of Idaho and more particularly described as follows:

Lot 4 of Terraplane Place, a Short Plat, according to the official plat thereof, filed in Book 15 of Plats at Page(s) 99, records of Bonner County, Idaho.

- 2.02** **NON PROFIT:** The corporation is formed exclusively for purposes for which a corporation may be formed under the provisions of Chapter 30, Title 30, Idaho Code and not for pecuniary profit or financial gain. No part of the assets, income, or profit of the corporation shall be distributable to or inure to the benefit of its members, directors or officers, except to the extent permitted by law, and it will not engage in any activities which would constitute a regular business of a kind ordinarily carried on for profit.

ARTICLE III. MEMBERSHIP

- 3.01** **MEMBERSHIP.** Ownership of a Unit is required in order to qualify for Membership in the Association. When more than one person or entity own a Unit together all such persons will be Members.

- 3.02 REPRESENTATION ON BOARD OF DIRECTORS.** If title to a Unit is held by a firm, corporation, partnership, association, trust, other legal entity or any combination thereof, or if any individual or entity holds title to more than one Unit, then in either case that individual or entity may appoint, by a writing furnished to the Association, a delegate to represent each such Unit as a candidate for, and if elected as a Member of, the Board of Directors. Such delegate will not vote as a Member of the Association unless such person is appointed by a proxy executed in conformance with these Bylaws to cast the voting interest of the Unit which he represents.
- 3.03 PROOF OF MEMBERSHIP.** Any person or entity, on becoming an Owner, will furnish to the manager or the Secretary of the Association a photocopy or a certified copy of the recorded instrument vesting that person or entity with an ownership interest, which instrument will remain in the files of the Association. An Owner will not be deemed a Member in good standing in the Association, and thus will not be entitled to vote at Annual or Special Meetings of the Board, unless this requirement is first met. However, all Owners, irrespective of their standing in the Association, are bound by these Bylaws and any other Big Toy Condos documents.
- 3.04. RESPONSIBILITIES OF MEMBERS.** Any person, upon becoming an Owner of a Unit, will automatically become a Member of the Association and be subject to these Bylaws and any other Big Toy Condos documents. Such Membership will terminate without any formal Association action whenever such person ceases to own any Unit, but such termination will not relieve or release any such former Owner from any liability or obligation incurred under the Declaration or in any way connected with the Association during the period of such ownership, or impair any rights or remedies which the Board of Directors or others may have against such former Owner arising out of ownership of the Unit and Membership in the Association and the covenants and obligations incident thereto.
- 3.05. VOTING PRIVILEGES.** All Members will be entitled to vote on Association matters on the basis of one vote for each Unit owned. However, the total vote for such Members together owning an interest in a Unit is limited to one vote. When more than one person holds an interest in any Unit, all such persons will be Members. The vote of such Unit will be exercised by one person or alternative persons as the Owners among themselves determine. If more than one of the multiple Owners are present at a meeting in person or by proxy, the one vote allocated to their Unit may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the multiple Owners casts the vote allocated to his Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit.

**ARTICLE IV. ASSOCIATION: MEETINGS, QUORUM,
VOTING, AND PROXIES**

- 4.01 PLACE AND FREQUENCY OF MEETINGS.** Meetings of the Members will be held at least once each year at such place, within the State of Idaho, as the Board of Directors may determine.
- 4.02 ANNUAL MEETINGS.** Until determined otherwise by resolution of the Board of Directors, the Annual Meeting will take place on the third Sunday in July at a time and location in Bonner County chosen by the Board. The purpose of the Annual meetings is to elect the Board and transact such other business of the Association as may properly come before the meeting. At the annual meeting, the President and/or Treasurer shall report on the activities and financial condition of the corporation and the members shall consider and act upon such other matters as may be raised consistent with notice requirements.
- 4.03 SPECIAL MEETINGS.** Special meetings of the Members shall be called at any time by the President of the Association, or by a majority of the Board of Directors, or upon written request of Members who are collectively entitled to vote at least 10% of all of the votes in the Association, which such written notice shall describe the purpose(s) of the special meeting.
- 4.04 NOTICE OF MEETINGS.** Written notice stating the place, day, and hour of the meeting and the agenda for the meeting will be delivered to all Unit owners at least thirty (30) days before the date of the meeting, personally or by mail or e-mail, by or at the direction of the President, or the Secretary, or the persons calling the meeting, as provided in these Bylaws, to the registered mailing address or email address for notice (as provided in the Declaration) of each Member entitled to vote at such meeting.
- 4.05 QUORUM.** A quorum is deemed present throughout any meeting of the Association if Members entitled to cast (or proxies entitled to cast) one-half (1/2) of the votes of the Association are present at the beginning of the meeting. If, however, such quorum is not present or represented at the meeting, the Members entitled to vote at the meeting will have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented by proxy.
- 4.06 ACTIONS BINDING ON MEMBERS.** A majority of votes cast by Members constituting a quorum in person or by proxy will be sufficient to make decisions binding on all Owners, unless a different number or method of voting is expressly required by statute or by the Declaration, the Articles, or these Bylaws.

4.07 MAJORITY OF OWNERS. As used in these Bylaws, the term “majority” will mean those votes totaling more than fifty percent (50%) of the total number. A majority vote, or any other vote, is tallied on the basis of the undivided fractional interest in the Common Elements allocated to each Unit.

4.08 VOTING BY MAIL. Voting by mail or email is permitted for election of the Board of Directors, amendment of the Articles, as amended from time to time, or other questions that come before the Association. In the case of a vote by mail or email, the Secretary will give written notice to all Members, which notice will include (i) a proposed written resolution setting forth a description of the proposed action, (ii) a statement that the Members are entitled to vote by mail or email for or against such proposal, (iii) a statement of a date not less than twenty (20) days after the date of such notice will have been given by which all votes must be received, and (iv) the specified address or email address of the office to which all votes must be sent. Votes received after that date will not be effective.

4.09 PROXIES. Any Member may cast such Member’s vote in person or by proxy, but no proxy will be valid if it is not dated or if it purports to be revocable without notice. Further, no proxy will be valid after eleven months from the stated date of its execution unless otherwise provided in the proxy or unless voluntarily revoked upon notice, amended, or sooner terminated by operation of law. Finally, no proxy will be valid unless filed with the Secretary of the Association at or before the appointed time of the meeting at which the proxy will be voted.

The Board of Directors shall have the power and authority to approve the form of proxy used and, at a minimum, such form shall include the following: (i) identification of the Unit to which the proxy relates; (ii) the name of the holder of the proxy (which must be only one individual); (iii) the scope of the power granted by the proxy; and, (iv) the signature of all Owners of record of the Unit.

4.10. DESIGNATION OF VOTING REPRESENTATIVE BY NON-INDIVIDUAL OWNERS – REQUIREMENT FOR PROXY. If title to a Unit is held in whole or in part by a firm, corporation, partnership, Association, trust, other legal entity, the voting privilege appurtenant to that ownership may be exercised only by a proxy executed on behalf of such party or parties, filed with the Secretary of the Association, and appointing and authorizing one person or alternate persons to attend all Annual and special meetings of the Members and to cast the vote allocated to that Unit at the meeting.

4.11. DESIGNATION OF VOTING REPRESENTATIVE BY MULTIPLE OWNERS – USE OF PROXY. If title to a Unit is held by more than one Owner, each Owner may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association.

4.12. WAIVER OF NOTICE. Waiver of notice of a meeting of the Members will be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, will be deemed waiver by such Member of notice of the time, date and place of the meeting unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting will also be deemed waiver of notice of all business transacted at the meeting unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

4.13. ACTION WITHOUT A MEETING. Any action which may be taken by the vote of the Members at a regular or special meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by at least eighty percent (80%) of the Members and delivered to the corporation for inclusion in the minutes.

ARTICLE V-BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE

5.01. NUMBER, QUALIFICATION, AND INITIAL BOARD. The affairs of this Association will be managed by a Board of not less than three and not more than five Directors. Directors will be Members of the Association or the delegates of Members appointed by proxy under Article IV above. The initial number of Directors will be three (3).

5.02. ELECTION OF DIRECTORS. Directors will be elected by the Members at each Annual meeting of the Members. At the first general election of the Board by Members and at subsequent elections, the Members may cast as many votes as they are entitled to exercise under the provisions of Section 3.05 above. Voting for Directors will be by secret written ballot.

5.03. TERM OF OFFICE OF DIRECTORS. One initial Director shall serve an initial term of one (1) year, a second initial Director shall serve an initial two (2) year term and the third initial director shall serve an initial term of three (3) years. Thereafter, the term of office for Directors shall be one year. Each Director will hold office until such Director's successor is elected by the Members and qualified to take over the office.

5.04. REMOVAL OF DIRECTORS. Any Director may be removed, with or without cause, at any regular or special meeting of the Members by 75% of the votes of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any Director removed may be elected at such meeting to fill the vacancy created by removal of the Director. A Director whose removal is proposed by the Members will be given notice of the proposed removal at least 30 days prior

to the date of such meeting and will be given an opportunity to be heard at such meeting.

- 5.05. VACANCIES.** Any vacancy occurring on the Board may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum of the Board of Directors. The term of the Director so elected will be coincident with the term of the replaced Director.
- 5.06. COMPENSATION.** No Director will receive compensation for any service rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties as a Director.

ARTICLE VI. MEETINGS OF DIRECTORS

- 6.01. REGULAR MEETINGS.** Regular meetings of the Board of Directors will be held at such regular times as set by the Board of Directors, at such place and hour as may be fixed from time to time by resolution of the Board. Should a regularly scheduled meeting fall on a legal holiday, then that meeting will be held at the same time on the next day that is not a legal holiday.
- 6.02. SPECIAL MEETINGS.** Special meetings of the Board of Directors will be held when called by the President of the Association, or by any Director after not less than three (3) days' notice to each Director. Provided, any meeting to impose a fine for a violation of any covenant, restriction or rule shall comply with the notice requirements of the Idaho statutes.
- 6.03. QUORUM.** A quorum is deemed present throughout any meeting of the Board of Directors if Directors entitled to cast fifty percent (50%) of the votes on the Board are present at the beginning of the meeting.
- 6.04. ACTIONS BINDING ON DIRECTORS.** Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present will be regarded as the act of the Board.
- 6.05. WAIVER OF NOTICE.** Attendance of a Director at any meeting will constitute a waiver of notice of such meeting, except when a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Before, at, or after any meeting of the Board of Directors, any Director may waive in writing notice of such meeting, and such waiver will be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the waiver of notice of such meeting.
- 6.06. ACTION TAKEN WITHOUT A MEETING.** The Directors will have the right to take any action which they could take at a meeting in the absence of a meeting

by obtaining the written approval of all Directors. Any action so approved will have the same effect as though taken at a meeting of the Directors.

6.07. TELEPHONIC OR VIDEOCONFERENCING ATTENDANCE AT MEETINGS. It is acceptable that a Board Member attend a meeting telephonically or by videoconferencing and such attendance shall be considered the same as if that Board Member is personally present. Arrangements for telephonic or videoconferencing attendance shall be made by the Member, and the cost of such shall be paid by the Member.

ARTICLE VII--POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.01. GENERAL. The Board of Directors will have the powers and duties necessary for full administration of the affairs of the Association. Except as provided in these Bylaws or the Declaration, the Board of Directors may do all acts and things which are not specifically required to be done by the Members and may otherwise act in all instances on behalf of the Association.

7.02. SPECIFIC POWERS AND DUTIES. Without limiting the generality of powers and duties set forth in Section 7.01 above, the Board of Directors will have the following powers and duties, in each case subject only to applicable requirements of the Idaho Nonprofit Corporation Act:

(a) To administer and enforce the covenants, conditions, restrictions, uses, limitations, obligations, and all other provisions set forth in the Declaration.

(b) To establish, make, amend from time to time, and enforce compliance with such reasonable Rules and Regulations as may be necessary for the operation, maintenance and use of the Common Elements, subject to the provisions of the Declaration. A copy of such rules and regulations will be delivered, mailed, or emailed to each Member promptly after adoption.

(c) To keep in good order, condition, and repair the Common Elements. No approval of the Members is required for expenditures for these purposes, except as otherwise required by the Declaration or these Bylaws.

(d) To fix, determine, levy, and collect the prorated Annual Assessments to be paid by each of the Members towards the gross expenses of the Association, and to adjust, decrease, or increase the amount of the Assessments, and to credit any excess of Assessments over expenses and cash reserves to the Members against the next succeeding assessment period.

(e) Upon approval of fifty percent (50%) of the Unit votes in favor thereof, to levy and collect Special Assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies. All Special

Assessments will be in statement form and will set forth in detail the various expenses for which the Special Assessments are being made.

(f) To levy and collect Default Assessments for violation of the Big Toy Condos Documents or because the Association has incurred an expense on behalf of a Member under the Big Toy Condos Documents.

(g) To collect delinquent Assessments by a lien placed on title to the delinquent Unit, by suit, or otherwise at the Board's discretion and to enjoin or seek damages from an Owner as provided in Declaration and these Bylaws; and to exercise other remedies for delinquent Assessments as set forth in the Declaration.

(h) To monitor, investigate, determine, levy and collect all amounts for excess water usage or failure to install, maintain, and repair utility lines in Water and Sewer Units as defined in the Declarations.

(i) To borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Bylaws and to authorize the appropriate officers to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary; provided, however, that the Board will not borrow more than \$4,000 or cause the Association to be indebted for more than \$6,000 at any one time without the prior approval of a majority of votes of Members present and voting in person or by proxy on the issue.

(j) To enter into contracts within the scope of their duties and powers, including, without limitation, contracts with any district or entities to provide services for the benefit of Members and their families, guest, tenants, and/or invitees.

(k) To establish a bank account for the operating account of the Association and for all separate funds as required or deemed advisable by the Board of Directors.

(l) To cause to be kept and maintained full and accurate books and records showing all of the receipts, expenses, or disbursements and to permit examination thereof by Members or their mortgagees at convenient weekday business hours.

(m) Suspend the right of a Member to vote during any period when such Member may be in default in the payment of any assessment levied by the Association.

(n) After notice and opportunity to be heard, impose reasonable monetary penalties on Owners and Occupants for violations of the Declaration or any of the other Big Toy Condos Documents.

(o) To delegate to a manager or any other person or entity such of the Associations duties or responsibilities as may be more conveniently or efficiently performed by someone other than by the Association, and to agree to assess to the Members a

reasonable fee for such services, except that the duties set forth in subparagraphs (d), (e), (f), (h), (l), and (m) of this Section 7.02 and duties reserved to the Board by law will not be so delegated.

(p) In general, to perform all other acts permitted under applicable law, to carry on the administration of the Association and to perform those duties as are necessary and responsible to carry out the proper governance and operation of the Association and the Common Elements, all in accordance with the Declaration and other Big Toy Condos Documents.

7.03. ACCOUNTS AND REPORTS. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) A segregation of accounting duties should be maintained. All checks, drafts, notes, acceptances, contracts, and other instruments shall be signed on behalf of the Association by a Board member. However, disbursements by check in any amount greater than \$1,000 will require the signatures of two Board members.

(b) Cash accounts of the Association will not be commingled with any other accounts.

(c) Any financial or other interest that the manager or a Member of the Board of Directors may have in any firm (other than Declarant) providing goods or services to the Association will be disclosed promptly to the Board of Directors.

(d) On an annual basis for submittal to the Members at the Annual Meeting, financial reports will be prepared for the Board of Directors containing the following:

(i) An income statement reflecting all income and expense activity for the preceding six months;

(ii) A balance sheet as of the last day of the quarter;

(iii) A delinquency report listing all Owners who have been delinquent in paying Assessments and who remain delinquent at the time of the report, and describing the status of any action to collect such installments which remain delinquent.

(e) A reconciled financial statement will be distributed to the Members within sixty (60) days of the close of the fiscal year.

(f) An account status report reflecting the status of all accounts in an "actual" versus "approved" budget format with a budget report reflecting any actual or pending obligations that are in excess of budgeted amounts.

(g) A statement of a Member's account must be provided to said Member within five (5) business days of a written request. An up-to-date financial disclosure must be provided to a Member no more than ten (10) business days of a written request.

(h) On or before January 1 of every year, the Association must provide the members with a disclosure of all fees which will be charged in connection with a transfer of ownership of a Unit for the following year.

7.04. HEARING PROCEDURE. The Board will not impose a monetary penalty or suspend voting rights of a Member or other occupant for violations of the Declaration or the provisions of any other of the Big Toy Condos Documents unless and until the procedures set forth in Idaho Code Section 55-3206 are followed.

(a) **Hearing.** The hearing will be held pursuant to the notice, affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction under these Bylaws, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement will be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. Written and oral evidence may be presented. The presenting party will provide copies of any written evidence to the other party or parties. The decision of the Board will be final. These procedures will not be necessary in order to impose any sanction or penalty for nonpayment of a delinquent Assessment.

ARTICLE VIII. OFFICERS AND THEIR DUTIES

8.01. ENUMERATION OF OFFICERS. The officers of the Association will be a President, Vice-President/Secretary, and Treasurer, and such other officers as the Board may from time to time create by resolution. The officers may be members of the Board of Directors.

8.02. ELECTION OF OFFICERS AND TERM. The election of officers will take place at the first meeting of the Board of Directors following each Annual meeting of the Members, and each will hold office for one year or until a successor is duly elected and qualified, unless the officer sooner resigns, or is removed, or is otherwise disqualified to serve.

8.03. RESIGNATION AND REMOVAL. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Vice President-Secretary. Such resignation will take effect on the date of receipt of such notice or at any later time specified in the notice, and unless otherwise specified in the notice, the acceptance of such resignation will not be necessary to make it effective.

8.04. VACANCIES. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer replaced.

8.05. MULTIPLE OFFICES. Any two or more offices may be held by the same person except the offices of President and Vice-President/Secretary.

8.06. DUTIES. The duties of the officers are as follows:

(a) **President.** The President will preside at all meetings of the Association and the Board of Directors; will see that orders and resolutions of the Board are carried out; will sign all leases, mortgages, deeds, and other written instruments; will co-sign all promissory notes; cause to be prepared and will execute, certify and record amendments to the Declaration on behalf of the Association; and will exercise and discharge such other duties as may be required of the President by the Board.

(b) **Vice-President/Secretary.** The Vice-President/Secretary will act in the place and stead of the President in the event of his absence, inability, or refusal to act, and will exercise and discharge such other duties as may be required by the Board. The Vice-President/Secretary will also record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association, if any; serve notice of meetings of the Board and Members; keep appropriate current records listing the Members together with their addresses; and perform such other duties as required by the Board.

(c) **Treasurer.** The Treasurer will receive and deposit in appropriate bank accounts all monies of the Association and will disburse such funds as directed by resolution of the Board of Directors; sign all checks of the Association unless the Board specifically directs otherwise, and co-sign all promissory notes of the Association; keep proper books of account; at the direction of the Board, cause an Annual audit of the Association books to be made by a public accountant at least once in every three fiscal years; and prepare an Annual budget and a statement of income and expenditures to be presented to the Members at their regular Annual meeting, and deliver or make copies available to each of the Members.

ARTICLE IX. INDEMNIFICATION

To the extent permitted by law and consistent with the Articles of Incorporation, the Association will indemnify every member of the Board of Directors and every Officer

of the Association against liability asserted against or incurred by such person in such capacity or arising out of that person's capacity as such. In the event of a settlement, indemnification will be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that indemnification is permitted by applicable law. The foregoing rights will not be exclusive of other rights to which such Member of the Board of Directors or officer or other person may be entitled. All liability, loss, damage, cost and expense arising out of or in connection with the foregoing indemnification provisions will be treated and handled by the Association as a common expense.

ARTICLE X. AMENDMENTS

Subject to provisions of the Declaration and the Articles of Incorporation to the contrary, these Bylaws may be amended or altered by a majority vote of the Board of Directors or by a vote of a majority of the membership of the Association. However, amendments to Articles V and this Article XI, or any portion of those Articles, and Section 2.02 will require the unanimous approval of all Directors. However, in no event shall an amendment of the Bylaws be contrary to or inconsistent with any provision of the Declaration unless the Declaration too is amended as provided for in the Declaration.

ARTICLE XI. BOOKS AND RECORDS INSPECTION

The books, records and papers of Association shall at all times, during reasonable business hours, be subjected to inspection by any Member, with the exception of those records which the Association is entitled to withhold from disclosure pursuant to Idaho law. The Declaration, the Articles and the Bylaws shall be available for inspection by any Member at the principal office of the Association, and copies thereof may be purchased at a reasonable cost from the Association.

DATED this 19th day of June, 2024.

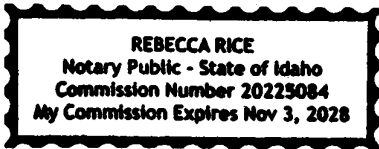


Derick Driggs, Secretary

STATE OF IDAHO)
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) :ss.
County of Bonner)

On this 19th day of June, 2024, before me the undersigned notary public in and for the State of Idaho, personally appeared Derick Driggs, Secretary of Big Toy Condos Owners Association, Inc., and that he executed the within on behalf of said entity and acknowledged to me that such company executed the same.

(SEAL)



[Signature]
Notary Public for Idaho
Residing at: 301 Cedar St. Suite 206 Sandpoint, ID
Commission Expires: Nov. 3rd 2028 83864

EXHIBIT "C"

Initial Rules

June, 2024

The purpose of Rules is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Reviewer as Declarant and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances, the same thing may be disapproved for another Unit under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement of rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to those portions of the project made subject to the CCRs, until such time as they are modified by the Board.

1. **General:** The property subject (Unit) shall be used only as described in the governing documents.
 - a) Maximum speed limit of 15 MPH on site.
 - b) Any 3-party lessee must be a minimum of 18 years old.
 - c) Owners must keep their current mailing address on file with the HOA manager and notify them of any changes within 30 days.
 - d) No smoking; cigars, or vaping allowed on the premises.
 - e) No alcohol use outside of the unit.
 - f) Temporary parking in front of your unit is allowed as long as the vehicle is in front of the unit and you are available to move if necessary for others to access their unit.

2. **Restricted Activities:** Unless expressly authorized by, and then subject to such conditions as may be imposed by The Board, the following activities are prohibited:

(a) Parking any vehicles on public or private streets of thoroughfares, established fire lanes, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, ski mobiles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than in units; provided, construction, service and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals except that a reasonable number of dogs, cats, or other unusual and common household pets may be permitted in a Unit. However, those pets permitted to roam free, or in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such a request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity that emits foul or obnoxious odors outside the Unit or creates noise as other conditions that tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity that violated local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures of the Unit;

(f) Any noxious or offensive activity which, in the reasonable determination of the Board, tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pickups, and then only in approved containers;

(k) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(l) On-site storage of fuel, except that a reasonable amount of fuel may be stored in each Unit for emergency purposes and operation of lawnmowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(m) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the project, or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(n) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval;

(o) Any modification of anything, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of the CCRS. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; aboveground swimming pools, docks, piers, and similar

structures; hedges, walls, dog runs, animal pens, or fences of any kind; and satellite dishes and antennas, except that:

(p) No dumping of any kind in any ponds or stormwater control areas. No entry into any pond on project.

(q) No exterior graffiti, signage, or stickers placed on buildings.

(r) Water usage shall be for reasonable and customary domestic water use including personal hygiene, drinking, flushing toilets, car/equipment washing and related uses. Commercial water usage is prohibited. No excessive water usage is allowed.

3. Prohibited Conditions: The following shall be prohibited:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the project;

(b) Structures, equipment, or other items on the exterior portions of a Unit that have become rusty, dilapidated, or otherwise fallen into disrepair; and

(c) Alteration of the drainage plan as originally implemented by the Declarant or Owner's Builder. In the event a Unit Owner alters or modifies their Unit Drainage, the Owner assumes absolute liability for any damages resulting from the alteration or modification.

4. Clubhouse Rules:

a) The Clubhouse and its facilities will be available for use by all Big Toy Condos owners and lessees and their invited guests.

b) The Clubhouse is open 24/7.

c) Advance reservation through the HOA is required for booking meetings, group functions, and private parties.

d) Appropriate noise levels should be maintained around discussions and sharing space during peak hours.

e) All guests are to be accompanied at all times by an owner or lessee within the Clubhouse.

f) After Clubhouse use:

1. Clean up and check that nothing is left behind.

2. Empty trash cans in the common area and kitchen if needed.

3. Wipe down counters as needed.

5. Clubhouse Restrictions:

a) Smoking is strictly prohibited within or around the Clubhouse premises.

b) Use of abusive or obscene language, or any form of profanity; fighting, intimidation, assault, battery, or any form of threatening behavior; vandalism or willful damage to property in the

Clubhouse by anyone will not be tolerated. Offenders will be subject to disciplinary action by the firm or prosecution by law.

- c) No immoral, offensive, or unlawful acts shall be committed within the Clubhouse.**
- d) No illegal substances will be allowed at any time in the Clubhouse.**
- e) There will be no conducting of political and religious activities within the Clubhouse.**
- f) No animals are allowed into the Clubhouse.**
- g) The use of the Clubhouse for fundraising activities is prohibited, except when expressly authorized by HOA Management.**

Kind Reminders:

- a) Big Toy Condos shall not be liable for any loss of or damage to any article or property brought into the Clubhouse premises.**
- b) Big Toy Condos is not responsible for any items left in the Clubhouse. Do not leave any valuables unattended in the Clubhouse.**
- c) Big Toy Condos shall not be liable for any injury whatsoever or howsoever caused to any person whilst on the Clubhouse premises.**
- d) Anyone that breaks, damages, defaces, or abuses the property of the Clubhouse shall pay the cost of making good the damage. Management shall assess the amount of such cost and the decision shall be final.**
- e) Surveillance cameras are being used at the Clubhouse premises as a security measure.**
- f) Equipment must be returned to its proper place after use.**
- g) Violation of Clubhouse rules shall result in disciplinary action at the discretion of Management.**

***Rules are subject to change upon decisions of the Board of Directors.**