

**NOTES:**

- THE SUBDIVIDER OF THIS PROPOSED DEVELOPMENT IS:  
PEARSON STORAGE PARTNERS, LLC  
PO BOX 4110  
McCALL, ID 83638
- THE LAND SURVEYOR OF THIS PROPOSED DEVELOPMENT IS:  
DUNN LAND SURVEYS, INC.  
25 COYOTE TRAIL  
CASCADE, ID 83811
- THE EXISTING LAND USE/ZONING IS AGRICULTURAL.
- THIS PLAT IS SUBJECT TO THE CONDOMINIUM PROPERTY ACT, TITLE 55, CHAPTER 15, OF IDAHO CODE
- THE TOTAL AREA FOR THE DEVELOPMENT IS APPROXIMATELY ±18.47 ACRES.
- REFER TO EXHIBIT NO. EX-3 FOR EXISTING CONDITIONS AND TOPOGRAPHY.
- SETBACKS WILL COMPLY WITH VALLEY COUNTY STANDARDS.
- ALL LIGHTING MUST BE DARK SKY COMPLIANT.
- ONLY ONE WOOD BURNING DEVICE PER LOT.
- THE VALLEY COUNTY BOARD OF COMMISSIONERS HAVE THE SOLE DISCRETION TO SET THE LEVEL OF SERVICE FOR ANY PUBLIC ROAD: THE LEVEL OF SERVICE CAN BE CHANGED.
- SURROUNDING LAND USES ARE SUBJECT TO CHANGE.
- WETLAND BOUNDARIES AS SHOWN ON THIS PLAN HAVE BEEN DELINEATED, SUBMITTED TO THE USACE, AND HAS RECEIVED A PRELIMINARY JURISDICTIONAL DETERMINATION.

**LEGEND:**

- PROPERTY BOUNDARY
- ADJACENT PROPERTY LINE
- ROAD/DRIVE CENTER LINE
- EXISTING EASEMENT LINE
- PROPOSED LOT LINE
- PROPOSED EASEMENT LINE
- DELINEATED WETLAND AREA

**FLOOD PLAIN NOTE:**

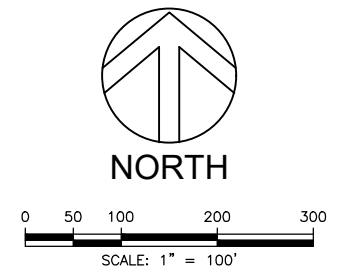
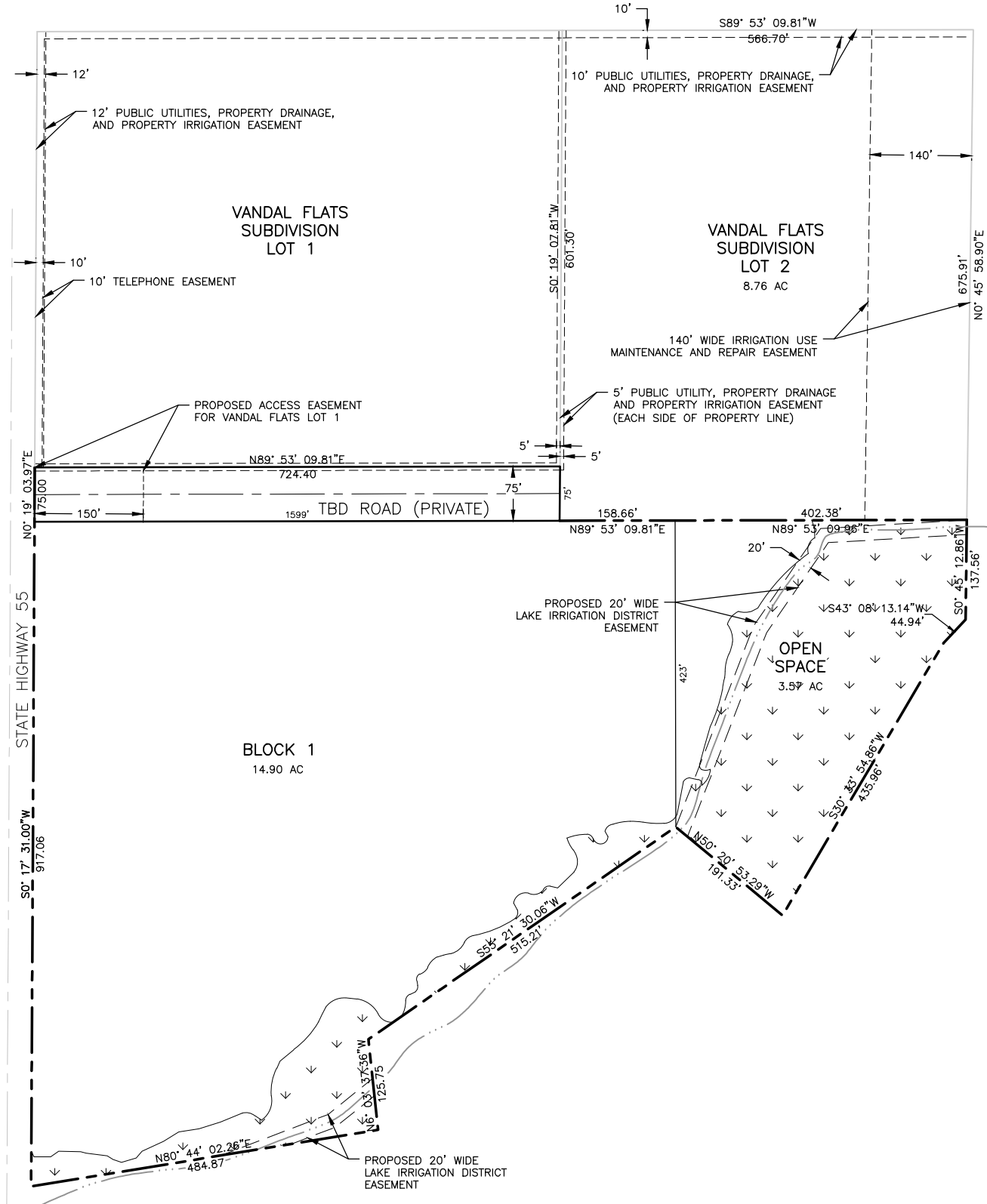
FEMA FIRM PANEL(S): 16085C1002C  
 FIRM EFFECTIVE DATE(S): 2/1/2019  
 FLOOD ZONE(S): ZONE X  
 BASE FLOOD ELEVATION(S): N/A  
 FLOOD ZONES ARE SUBJECT TO CHANGE BY FEMA AND ALL LAND WITHIN A FLOODWAY OR FLOODPLAIN IS REGULATED BY TITLE 9 AND TITLE 11 OF THE VALLEY COUNTY CODE.

**DEVELOPMENT DATA:**

PROPERTY AREA	19.71	ACRES
BLOCK 1	14.90	ACRES
CONDOMINIUM AREA (BLOCK 1)	3.05	ACRES
BLOCK 1 (REMAINDER)	11.85	ACRES
OPEN SPACE	3.57	ACRES
PROPOSED PRIVATE RIGHT-OF-WAY	1.24	ACRES

**PRELIMINARY PLAT-ROCKY MOUNTAIN STORAGE**

A COMMERCIAL SUBDIVISION LOCATED IN PORTIONS OF  
 NE 1/4 OF THE NE 1/4, AND SE 1/4 OF THE NE 1/4 OF SECTION 33  
 T.18N., R.3E., B.M.  
 VALLEY COUNTY, IDAHO  
 2026



Path: M:\01\RockyMountain\Drawings\2026\20260120\RockyMountain\20260120\_12\_PrelimPlat.dwg File Name: 2026\_12\_12\_PrelimPlat.dwg Plot Date: 4/8/2026 11:56 AM ipat

NO.	REVISION	BY	DATE	DESIGN
1.	UPDATED PER VC P&Z/ COMMISSIONERS REQUEST.	RFP	4/8/2026	RFP
				DRAWN
				RFP
				CHECKED
				GTT
				APPROVED
				GTT

**FOR REVIEW ONLY  
NOT FOR  
CONSTRUCTION**

**CRESTLINE ENGINEERS**  
 323 DEINHARD LANE, SUITE C · PO BOX 2330  
 McCALL, IDAHO 83638  
 208.634.4140 · 208.634.4146 FAX



**ROCKY MOUNTAIN STORAGE**  
 VALLEY COUNTY, IDAHO  
 OVERALL PRELIMINARY PLAT

VERIFY SCALE	
BAR IS ONE INCH ON FULL SIZE DRAWING	
PROJECT	22012
DATE	4/8/2026
DRAWING NO.	SHEET NO.
EX-1	1 OF 7











**LANDSCAPING NOTES:**

1. THE EXISTING SITE VEGETATION CONSISTS OF PASTURE/NATIVE GRASSES. EXISTING VEGETATION SHALL BE MAINTAINED TO THE GREATEST EXTENT POSSIBLE DURING PROJECT CONSTRUCTION.
2. NATIVE CONIFERS, ASPENS/OTHER DECIDUOUS TREES, AND SHRUBS SHALL BE PLANTED AS SHOWN WITHIN THE PROPOSED PLAN AND WILL INCLUDE A MINIMUM SIZE/NUMBER AS INDICATED.
3. CONIFER TREES AS SHOWN, WILL BE SPRUCE, PONDEROSA PINE, OR LARCH, AND SHALL BE 6"-8" TALL MINIMUM.
4. ASPENS OR OTHER DECIDUOUS TREES, WILL POTENTIALLY INCLUDED MAPLE, ASH, OR CANADA RED CHOKECHERRY, AND SHALL BE A MINIMUM SIZE OF 5 GALLON. SHOULD IT BE DESIRED BY THE OWNER, DECIDUOUS TREES MAY BE SUBSTITUTED WITH ADDITIONAL CONIFER TREES.

5. SHRUBS TO BE NATIVE TO VALLEY COUNTY AND DROUGHT TOLERANT WHERE PRACTICAL. EXAMPLE SPECIES INCLUDE, BUT ARE NOT LIMITED TO, DOGWOOD, SERVICEBERRY, MOUNTAIN SNOWBERRY, MALLOW NINEBARK, SPIREA, OR SUMAC. SHOULD ADDITIONAL SPECIES BE DESIRED, THE OWNER WILL COMPLETE SELECTION WITH THE HELP OF A LOCAL NURSERY/LANDSCAPER.
6. ALL REMAINING DISTURBED AREAS WILL BE RESEEDED USING A SEED MIXTURE MATCHING EXISTING OR A DROUGHT TOLERANT SEED MIXTURE NATIVE TO VALLEY COUNTY.
7. ALL LANDSCAPED AREAS WITH THE EXCEPTION OF THE AREAS TO BE REVEGETATED WITH A NATIVE SEED MIXTURE SHALL BE WATERED BY A SPRINKLER/DRIP IRRIGATION SYSTEM.

**LEGEND:**

- PROPERTY BOUNDARY
- - - EXISTING CONTOUR
- PROPOSED BUILDING FOOTPRINT
- PROPOSED ROAD/DRIVE
- PROPOSED CONIFER (17, 6"-8" TALL)
- PROPOSED ASPEN/OT (35, 5 GALLON)
- PROPOSED SHRUB (42, 2 GALLON)
- PROPOSED LANDSCAPE
- PROPOSED DRAINAGE

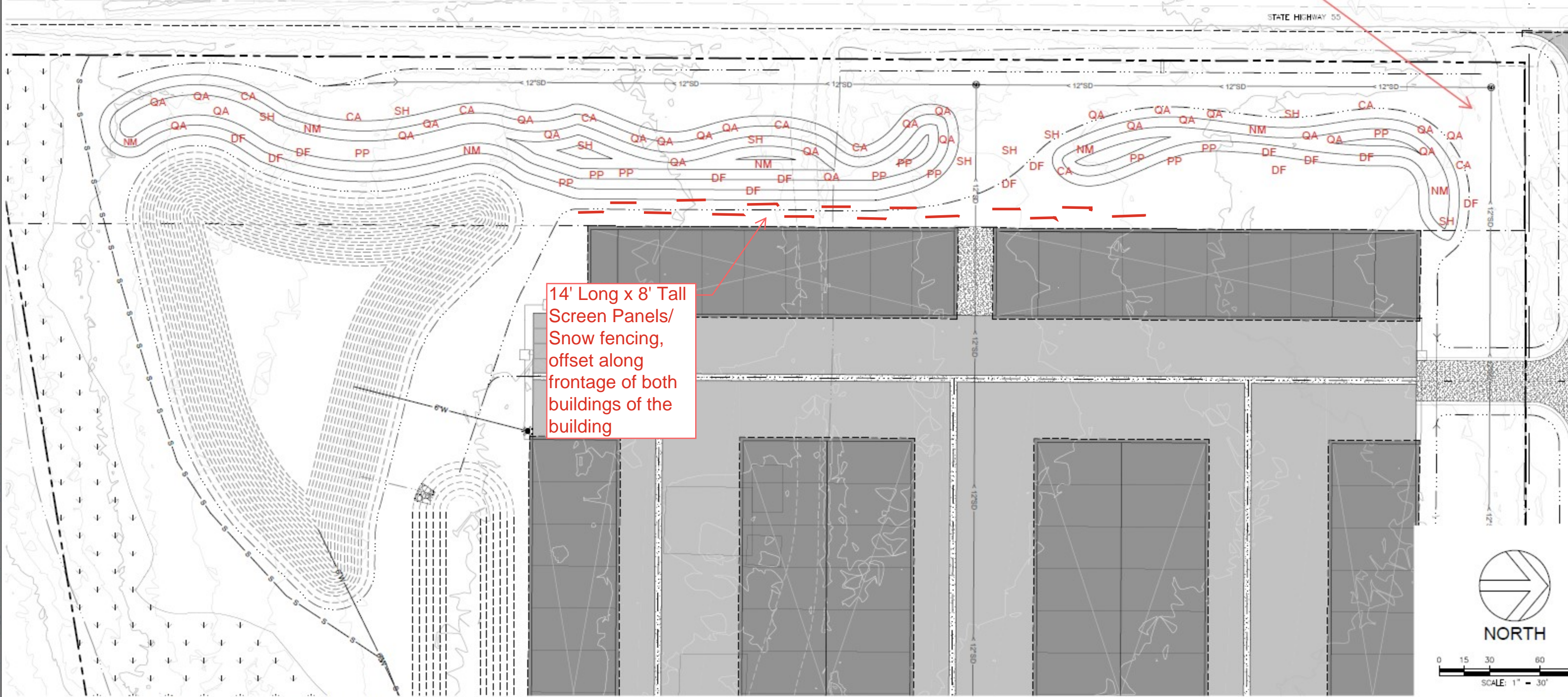
Symbol	Tree List	QTY
NM	Emerald Lustre® Norway Maple, Size 2.25"	7
SH	'Snowbird' Snowbird Hawthorn, Size 2"	9
CB	Starlite® Crabapple, Size 2"	9
PP	Ponderosa Pine, Size 5'-6" 15	11
QA	Quaking Aspen, Size 2"	26
DF	Douglas Fir, Size 5'-6"	13
	<b>Total trees</b>	<b>75</b>

**NOTES:**

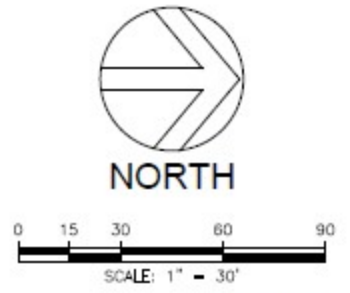
1. REFER TO DRAWING NO. EX-4, SHEET 4 FOR GRADING, DRAINAGE, AND EROSION AND SEDIMENT CONTROL NOTES, LEGEND, AND SYMBOLS.

20- Boulders  
Drip irrigation to all trees  
Dryland seed in all disturbed areas

Sign Location



14' Long x 8' Tall  
Screen Panels/  
Snow fencing,  
offset along  
frontage of both  
buildings of the  
building



NO.	REVISION	BY	DATE	DESIGN
				RFP/GTT
				DRAWN
				RFP
				CHECKED
				GTT
				APPROVED
				GTT

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ROCKY MOUNTAIN STORAGE  
VALLEY COUNTY, IDAHO  
PRELIMINARY LANDSCAPE CONCEPT

VERIFY SCALE BAR IS ONE INCH ON FULL SIZE DRAWING	
PROJECT	22012
DATE	7/28/2025
DRAWING NO.	SHEET NO.
EX-7	7 OF 7













On Fri, Apr 10, 2026 at 11:12 AM Matt Parks <[mparks@clarkwardle.com](mailto:mparks@clarkwardle.com)> wrote:

Cynda,

Enclosed are the draft CCRs for the storage facility. The declaration establishes a storage-only condominium regime for the Rocky Mountain Storage Condos project, including ownership structure, use restrictions, access (including the private drive to SH-55), and association governance. It also allocates maintenance responsibilities between the Association and individual unit owners, while preserving flexibility for development, access modifications, and compliance with Valley County and other applicable requirements.

For the development agreement, would this be in line with the Commissioners' comments at the hearing as a condition of approval?

*As a condition of approval, the Applicant shall enter into a Development Agreement with Valley County, in a form acceptable to the Valley County Prosecuting Attorney, which shall be recorded in the real property records of Valley County and run with the land.*

*The Development Agreement shall, at a minimum, provide that: (a) the private access drive serving the Project, including all ingress and egress connections to State Highway 55, shall be constructed, maintained, repaired, and replaced by the owner(s) of the Project or the applicable owners' association in a safe and operable condition at all times; (b) all landscaping, buffering, screening, and visual mitigation improvements installed in connection with the Project, including without limitation any landscaping or screening along State Highway 55, shall be installed, maintained, replaced, and perpetually preserved in accordance with the approved plans; and (c) Valley County shall have the right, but not the obligation, to enforce such maintenance, repair, replacement, and preservation obligations.*

**Matthew C. Parks, of Counsel**

251 E Front Street, **Suite 310** | PO Box 639 | Boise, Idaho 83701

[mparks@clarkwardle.com](mailto:mparks@clarkwardle.com) | Direct 986.269.4443 | Fax 208.388.1001

**CONDOMINIUM DECLARATION FOR  
ROCKY MOUNTAIN STORAGE CONDOMINIUMS**

THIS CONDOMINIUM DECLARATION FOR ROCKY MOUNTAIN STORAGE CONDOMINIUMS (this “**Declaration**”) is made effective as of \_\_\_\_\_, 2026 (the “**Effective Date**”), by \_\_\_\_\_, LLC (“**Grantor**”). Capitalized terms not otherwise defined in the text of this Declaration are defined in Section 3.

**1. SECTION 1 – RECITALS**

1.1. **Property Covered.** Grantor is the owner of that certain real property located in Valley County, Idaho, legally described on **Exhibit A** attached hereto and incorporated herein by this reference (the “**Property**”), as shown on the final plat for Rocky Mountain Storage Condominiums, recorded in the real property records of Valley County Idaho, on \_\_\_\_\_ 2026 as Instrument No. \_\_\_\_\_, Book No. \_\_\_\_\_ of Plats at Pages \_\_\_\_\_, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference (the “**Plat**”).

1.2. **Annexation and Withdrawal of Property.** During the Initial Development Period, Grantor may, in its discretion, at any time and from time to time, and without having to obtain the consent, approval, or signature of any Person or the Association, elect to remove any portion of the Property from (or annex additional real property to) the jurisdiction of this Declaration. In the case of de-annexed property, such property shall be considered de-annexed upon a notice duly recorded in Valley County Recorder’s Office, stating that such de-annexed property has been removed from the jurisdiction of this Declaration. No amendment to this Declaration shall be necessary or required to remove any portion of the Property from the jurisdiction of this Declaration. The removal of any portion of the Property shall not impair access to the remaining Units, shall not impair structural support to the remaining Units or Common Area, and shall not materially increase assessments. Portions of the Property that are removed, pursuant to this section, shall be deemed never to have been part of the Property for economic and governance purposes provided such removal does not impair access, utility service, structural support, or materially alter the relative value or use of any Unit or the Common Area.

1.3. **Storage Use:** Grantor intends to develop the Property with multiple storage condominium buildings (each, a “**Building**” and collectively, the “**Buildings**”) in accordance with the Plat, this Declaration, and the development approvals now or hereafter obtained from Valley County and other governing authorities. The Property, together with the Buildings and every other improvement or structure thereon, and every easement or right appurtenant

thereto, is referred to in this Declaration as the **“Project.”** The Project may be commonly known as the “Rocky Mountain Storage Condos” or the “Rocky Mountain Storage Condominiums”. A complete description of the Buildings and every Unit thereof is provided in the Plat.

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

## **2. SECTION 2 – DECLARATION**

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

Notwithstanding the foregoing, until one hundred percent (100%) of the Property is transferred by Grantor, no provision of this Declaration shall be construed as to prevent or limit Grantor’s right to complete development of the Property, including any subdivision or re-subdivision of the Property, and to construct improvements thereon, including the Common Areas or any public right-of-way, nor Grantor’s right to post signs incidental to construction, sales, or leasing.

## **3. SECTION 3 – ADDITIONAL DEFINITIONS**

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

**“Articles”** mean the Articles of Incorporation of Rocky Mountain Storage Condo Owners’ Association, Inc., as the same may be amended from time to time in accordance with the provisions thereof; provided, however, in order to be effective such amendment must reference this Declaration, as amended, and be recorded in the real property records of Valley County, Idaho.

**“Assessments”** mean the a share of the funds required for the payment of common expenses, including those attributable to less than all Owners in the case of Limited Assessments, together with any late payment charges, interest, administrative fees, and costs (including without limitation attorneys’ fees) incurred in collecting the same, which, from time to time, are assessed against the Owners, and shall include Regular Assessments, Special Assessments, Transfer Assessments, and Limited Assessments.

**“Association”** means Rocky Mountain Storage Condo Owners’ Association, Inc., an Idaho nonprofit corporation, its successors, and assigns.

**“Association Rules”** means the rules and regulations relating to the Project that may be adopted, amended, or repealed from time to time by the Board, as more particularly described in Section 8.9 hereof.

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

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

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

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

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

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

**“Grantor”** shall mean \_\_\_\_\_ LLC, an Idaho limited liability company, or any person or entity to whom the rights under this Declaration are expressly transferred by Grantor.

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

**“Limited Assessment”** means a charge against a particular Owner for an expense directly attributable to such Owner, equal to the cost incurred or estimated to be incurred by the Association in connection with corrective action or maintenance, repair, replacement, and operation activities performed pursuant to the provisions of this Declaration, including damage to or maintenance, repair, replacement, and operation activities performed for any Common Area or the failure of an Owner to keep the Owner’s Condominium in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all Owners, as more particularly described in Section 9.6 herein.

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

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

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

**“Member”** means any person or entity holding a membership in the Association.

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

**“Mortgagee”** means any Person or any successor to the interest of such Person named as the mortgage, trust beneficiary, or creditor pursuant to any Mortgage under which the interest of

an Owner's interest in its Condominium, or successor to the interest of such Owner, is encumbered.

**"Owner"** means any person or entity, including Grantor, at any time owning a Condominium. The term "Owner" shall not refer to any Mortgagee, as herein defined, unless such Mortgagee has acquired fee simple title pursuant to foreclosure or other proceedings.

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

**"Regular Assessment"** means an assessment by the Association to provide for the payment of all estimated expenses growing out of or connected with the Project as a whole, as more particularly described in Section 9.4 herein.

**"Special Assessment"** means that portion of the costs of capital improvements, replacements, equipment purchases and replacements, or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration as more particularly described in Section 9.5 herein.

**"Transfer Assessment"** has the meaning set forth in Section 9.7 herein.

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

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

**4.1. Estates of an Owner of a Condominium.** The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit and an undivided tenant-in-common interest in the Common Area. The percentage of ownership interest in the Common Area which is to be allocated to each Condominium for purposes of

Assessments, tax assessment under Section 55-1514 of the Condominium Act, and liability as provided by Section 55-1515 of the Condominium Act, is set forth on the attached Exhibit C.

- 4.2. **Title.** Title to a Condominium may be held or owned by any Person and in any way title to any other real property may be held or owned in the State of Idaho.
- 4.3. **No Further Division.** No Owner may divide, adjust, or further condominiumize such Owner's Condominium without the prior written approval of the Association, Valley County, and all other governing authorities whose approval is required, and all such divisions, adjustments, and further condominiumizations must comply with any condominium project amendment requirements of Valley County, and otherwise comply with all Applicable Laws.
- 4.4. **Inseparability of Condominiums.** No part of a Condominium, or of the legal rights comprising ownership of such a Condominium, may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to such Unit shall always be conveyed, devised, encumbered, transferred, and otherwise affected only as a complete Condominium and shall not be transferred in any way resulting in the division of the Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of the Condominium or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Condominium together with all appurtenant rights created by law or this Declaration.
- 4.5. **Partition of Common Area Not Permitted.** The Common Area shall be owned in common by all of the Owners of Units, and no Owner may bring any action for partition thereof.
- 4.6. **Taxes and Assessments.** Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Condominium. If any taxes of special districts or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Property or any part thereof, the Association shall pay the same and assess the same to the responsible Owner or Owners. Each Owner shall pay the taxes and assessments assessed against such Owner's Condominium, or interest therein, and such Owner's interest in the Common Area, or any part of any or all of the foregoing. The Association reserves the right to protest any tax valuations or assessments by any taxing government agency and to pay for any costs associated with such protests. Each Owner agrees to reimburse the Association for any costs associated with such protests as related to that Owner's Unit.

4.7. **Owner's Rights with Respect to Interiors.** Each Owner shall have the exclusive right to maintain, finish, refinish, and decorate the interior surfaces of the walls, floors, ceilings, and doors (including door frames and door trim) forming and within the interior boundaries of the Owner's Unit, subject to the terms and conditions of the Condominium Documents, including without limitation Section 7 of this Declaration; provided, however, that no action described in this Section 4.7 shall require access through another Unit to be completed.

## 5. SECTION 5 – EASEMENTS

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

5.2. **Easements of Access for Repair, Maintenance, and Emergencies.** Portions of the Common Area and/or easement areas granted pursuant to this Declaration or any other Condominium Document, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners have the irrevocable right, to be exercised by the Association as their agent, of access to each Unit and to all Common Area from time to time during such reasonable hours as may be necessary and established by the Board for the construction, installation, inspection, operation, maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or the construction, installation, inspection, operation, maintenance, repair or replacement of any improvements and facilities located within the Common Area, or for making repairs, maintenance and emergencies therein necessary to prevent damage to the Common Area or to another Unit or Units or to correct a violation of any covenant, condition or restriction of the Declaration when, after reasonable efforts by the Association, the Owner fails to do so. The Association shall also have such right of access independent of any agency relationship. Except in the case of an emergency, the Association shall notify Owners a minimum of forty-eight (48) hours prior to accessing a Unit under the easement granted hereunder. Damage to the interior of any part of a Unit or Units resulting from the construction, installation, inspection, operation, maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners shall be an expense of all

of the Owners; provided, however, that if such damage is the result of the negligence of an Owner or such Owner's Lessees, invitees, or licensees, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired, and the Unit shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association as an Assessment pursuant to Section 9 herein.

- 5.3. **Owner's Right to Support.** Each Owner shall have the right to the horizontal and lateral support of such Owner's Condominium, and such rights shall be appurtenant to and pass with the title to each Condominium.
- 5.4. **Ingress/Egress Easement.** Each Owner shall have the right to ingress and egress over, upon, and across the Common Area (as shown in Exhibit B) necessary for access to that Owner's Condominium and such rights shall be appurtenant to and pass with the title to each Condominium. In exercising the rights granted in this Section, each Owner agrees to use reasonable efforts to avoid interference with the access to other Condominiums.
- 5.5. **Association's Right to Use of Common Area.** The Association shall have the right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration or other Condominium Documents, including the right to grant utility easements, alter the Common Areas, and to construct and maintain storage facilities in the Common Area for use by the Association.
- 5.6. **Grantor's Right Incident to Construction.** Grantor and Persons it shall select, shall have the express and unconditional right to ingress and egress over, upon, and across the Project, including Common Area and all Units, the right to store materials thereon and to make other use thereof as may be reasonably necessary or incident to completion of development and construction of the Buildings and Units shown on the Plat or any amendment thereto and the completion of all Units for use and occupancy; provided, however, that no such rights shall be exercised by Grantor in such a way as to unreasonably interfere with occupancy, use, enjoyment, or access to an Owner's Condominium by that Owner or such Owner's Lessees, invitees, or licensees.
- 5.7. **Certain Easements Benefit Valley County.** The easements herein granted to an Owner for ingress and egress to and from such Owner's Condominium over, upon, and across the Common Area are hereby recognized to be a condition of platting the Property imposed by Valley County. Such easements shall not be dissolved or altered in any material way that would prevent their beneficial use for their intended purposes without the express written consent of Valley County.
- 5.8. **Emergency Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon

all streets and property within the Project in the proper performance of their duties. The easement granted herein is recognized to be a condition of platting the Property imposed by Valley County. Such easement shall not be dissolved or altered in any material way that would prevent its beneficial use for its intended purpose without the written consent of Valley County.

Each Owner expressly acknowledges that the Association and Valley County shall each have one master key capable of accessing all doors connected to the common security system of any of the Buildings. Each Owner expressly covenants and agrees to notify the Association prior to re-keying any lock in the Buildings, and also covenants and agrees to use a locksmith approved by the Board.

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

5.10. **Easements for Annual Inspection.** Any Person authorized by the Board shall have the right of access to all Units on an annual basis for the purpose of inspecting such Units for compliance with the terms and conditions of the Condominium Documents. The Association shall notify Owners a minimum of forty-eight (48) hours prior to accessing Units under the easement granted hereunder.

5.11. **Easements Deemed Created.** All conveyances of Condominiums hereafter made, whether by the Grantor or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Sections 5.1 through 5.12, even though no specific reference to such easements or to those Sections appear in any such conveyance.

5.12. **Primary Access Easement (State Highway 55)**

5.12.1. Establishment of Primary Access. The Project is served by a private access drive (the "Access Drive") providing ingress and egress between the Project and State Highway 55 ("SH-55"). The Access Drive may be located within the Common Area and/or within one or more easement areas benefiting the Project, as shown on the Plat or established by separate recorded instrument (collectively, the "Access Easement").

5.12.2. Appurtenant Easement Rights. Each Owner, together with such Owner's tenants, invitees, licensees, and guests, is hereby granted a perpetual, non-exclusive easement for vehicular and pedestrian ingress, egress, and access over, upon, and across the Access Drive and the Access Easement for the purpose of access to and

from such Owner's Unit and the Project. Such easement shall be appurtenant to and shall run with each Unit.

- 5.12.3. Nature of Access; No Guarantee of Direct Highway Access. Each Owner acknowledges that access to SH-55 is subject to the jurisdiction and regulatory authority of the Idaho Transportation Department ("ITD") and Valley County. The Access Drive and Access Easement constitute the sole and exclusive legal access serving the Project unless otherwise established by recorded instrument. No Owner shall have any independent right of direct access to SH-55 except as may be expressly permitted by Applicable Law and approved by ITD.
- 5.12.4. Compliance with Governmental Requirements. All use of the Access Drive and Access Easement shall comply with all Applicable Laws, including without limitation any permits, conditions of approval, access management requirements, or design standards imposed by ITD or Valley County. The Association and Owners shall not take any action that would violate or cause non-compliance with such requirements.
- 5.12.5. Modification or Reconfiguration of Access. The Access Drive and Access Easement may be relocated, modified, reconfigured, consolidated with adjacent access points, or otherwise altered by the Grantor during the Initial Development Period, or thereafter by the Association, as may be required or approved by ITD or Valley County, provided that reasonable legal and physical access to all Units is maintained at all times, such modification does not materially impair access to any Unit, and any such modification is documented by a recorded instrument if required. No Owner consent shall be required for any such modification that complies with this Section.
- 5.12.6. Maintenance and Cost Allocation. Unless otherwise provided in the Condominium Documents or a separate recorded agreement, the Access Drive shall be maintained, repaired, replaced, and operated by the Association as part of the Common Area, and the costs thereof shall be allocated as a Common Expense. The Association may adopt reasonable rules governing use, including restrictions on parking, loading, vehicle types, and circulation.
- 5.12.7. Shared Access / Third-Party Rights. The Access Drive and Access Easement may be subject to shared use with adjacent properties pursuant to recorded easements or agreements. The Association is authorized to enter into, amend, or terminate such agreements, including access, maintenance, cost-sharing, and use agreements, as it deems reasonably necessary or appropriate, provided that such agreements do not materially impair access to the Units.
- 5.12.8. No Obstruction. No Owner or occupant shall obstruct, block, or interfere with the use of the Access Drive or Access Easement. Parking or storage of vehicles or materials within the Access Drive is prohibited except as may be expressly permitted by the Association.

5.12.9. Priority of Governmental Authority. In the event of any conflict between this Declaration and any requirement imposed by ITD or Valley County relating to access to SH-55, the requirements of ITD or Valley County shall control.

## 6. SECTION 6 – DESCRIPTION OF CONDOMINIUM

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

Condominium Unit \_\_\_\_\_ as shown on The Plat of Rocky Mountain Storage Condos filed in Book \_\_\_\_\_ of Plats, at Pages \_\_\_\_\_ through \_\_\_\_\_, as Instrument No. \_\_\_\_\_, official records of Valley County, Idaho, as the same may be amended or supplemented from time to time, and as defined in the Condominium Declaration for Rocky Mountain Storage Condominiums, recorded as Instrument No. \_\_\_\_\_, official records of Valley County, Idaho, as the same may be amended or supplemented from time to time.

Such a description shall be construed to describe the separate ownership interest in the identified Unit, together with the appurtenant undivided tenant-in-common interest in the Common Area, and to incorporate all rights incident to ownership of a Condominium interest and all the limitations on such ownership as described in the Condominium Documents or supplements thereto, whether so specified in the instrument.

## 7. SECTION 7 – USES AND REGULATION OF USES

7.1. **Storage Purposes.** The Units shall be used solely for the passive activity of storing personal property in accordance with the terms of this Declaration and Applicable Law. No portion of a Unit shall be used at any time for any wholesale or retail activity; provided, however, an Owner may lease its Unit to a third party to be used by the third party for the passive activity of storing personal property. It is the explicit purpose of the Project that the Units shall be used and maintained as a first-class storage facility for the mutual benefit of each of the Owners. All permitted activities are incidental and subordinate to the primary use of the Unit for storage and shall not constitute a separate or independent use.

7.1.1. A requirement that the facility should remain a Storage Group S-1 occupancy, limited to the uses of an S-1 occupancy, as defined by International Building Code (“IBC”), except that the occupancy classification of an individual storage unit may be changed by an Owner if first approved by the Board and then approved by Valley

County through the approval of a tenant improvement permit and an occupancy permit.

7.1.2. Each Owner shall receive, at a minimum, occupancy permits from Valley County following the transfer of ownership.

7.1.3. If any improvements are proposed within the Unit, the Owner shall be required to obtain tenant improvement permit approval from Valley County prior to construction.

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

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

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

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

7.2.4. **Hobby Welding.**

7.2.4.1. Subject to the conditions set forth in this Section, the Association may permit non-commercial hobby welding and incidental metal fabrication activities ("Hobby Welding") to be conducted within a Unit by the Owner or an Authorized User. All Hobby Welding shall be conducted in full compliance with all Applicable Laws, including without limitation all applicable federal, state, and local laws, and any fire, building, electrical, mechanical, or safety codes, standards, or regulations applicable to the Project as adopted or enforced by

Valley County or any other authority having jurisdiction, together with all required permits and inspections. Notwithstanding the foregoing, the Board may impose additional requirements, condition or revoke permission for Hobby Welding, or prohibit such activities altogether, to the extent reasonably necessary to comply with applicable law, fire or safety requirements, or the requirements or limitations of the Association's insurance coverage.

- 7.2.4.2. No Hobby Welding shall occur unless the Unit is equipped and maintained with, at a minimum: (a) an operational ABC-rated fire extinguisher of adequate size readily accessible within the Unit; (b) appropriate spark containment and shielding to prevent the escape of sparks, slag, or molten material beyond the Unit; (c) proper ventilation sufficient to prevent the accumulation of smoke, fumes, or gases within the Unit or Common Area; and (d) compliance with any additional fire safety measures reasonably required by the Board or the Association's insurer.
- 7.2.4.3. Hobby Welding shall be conducted in a manner that does not: (a) create excessive noise, vibration, smoke, odors, glare, or light emissions detectable outside the Unit; (b) interfere with the quiet use and enjoyment of other Units or the Common Area; or (c) endanger persons or property. The Board shall have sole discretion to determine whether a nuisance or unsafe condition exists.
- 7.2.4.4. The following are expressly prohibited without prior written approval of the Board: (a) cutting, welding, or fabrication involving hazardous, flammable, or explosive materials beyond those customarily associated with small-scale hobby welding; (b) use or storage of compressed gases, fuels, or chemicals in quantities exceeding code-allowed limits for the Unit; or (c) plasma cutting, industrial arc gouging, or other high-heat processes producing excessive sparks or emissions.
- 7.2.4.5. Any Owner permitting Hobby Welding within a Unit shall: (a) maintain liability insurance covering welding-related risks in amounts reasonably required by the Association; and (b) indemnify, defend, and hold harmless the Association, the Board, and other Owners from any loss, damage, claim, liability, or expense arising out of or related to Hobby Welding activities, except to the extent caused by the gross negligence or willful misconduct of the Association.
- 7.2.4.6. The Board may adopt reasonable rules, require inspections, impose additional safety requirements, or suspend or revoke permission for Hobby Welding within a Unit upon a determination that such activity: (a) violates this Declaration; (b) presents an increased risk to persons or property; (c)

jeopardizes the Association's insurance coverage; or (d) constitutes a nuisance or hazard.

7.2.4.7. The allowance of Hobby Welding under this Section shall not be deemed a waiver of any other provision of this Declaration or of the Association's right to enforce the same.

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

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

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

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

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

7.3.5. **Hazardous Substances.** No Owner shall cause or permit any Hazardous Substance (as defined below) to be used, stored, generated, released, handled or disposed of on or in any Unit in violation of Applicable Law, or otherwise in violation of any rules relating to the same as adopted by the Board from time to time, which rules may be more restrictive than those established by any Applicable Law; provided, however, that any fuels or other liquids contained within any boat, mobile home, motor home, automobile, truck, recreational vehicle, other vehicle and/or other equipment which is stored within a Unit shall be deemed permitted even if so defined, so long as such fuels or other liquids are necessary for the operation thereof and are lawfully contained within such item of personal property for such purpose. Except as otherwise expressly provided herein, as used herein, the term "**Hazardous Substance**" shall include all flammable materials, explosives, radioactive materials,

hazardous wastes, toxic substances, or other hazardous materials, including without limitation, substances defined as “hazardous substances,” “hazardous materials,” “hazardous wastes” or “toxic substances” in any Applicable Law or in any guideline pertaining to health, industrial hygiene, or the environment, whether now or hereinafter promulgated. Notwithstanding the foregoing, the term “Hazardous Substances” shall not include commercially available fuels, compressed gases, welding rods, shielding gases, or other materials customarily and reasonably used in connection with hobby welding activities conducted within a Unit, provided that all of the following conditions are strictly satisfied:

7.3.5.1. Quantity Limitation. Such materials are maintained only in quantities reasonably necessary for non-commercial, hobby use and not for industrial, commercial, or bulk storage purposes.

7.3.5.2. Proper Storage. All such materials are stored, handled, and used in strict accordance with (i) manufacturer specifications and safety data sheets (SDS), and (ii) all applicable federal, state, and local laws, codes, and regulations, including (without limitation) fire codes and building codes.

7.3.5.3. Safety Compliance. Appropriate safety measures are implemented and maintained within the Unit, including, as applicable, proper ventilation, fire-resistant surfaces, and readily accessible fire suppression equipment.

7.3.5.4. No Nuisance or Hazard. The storage and use of such materials does not create a risk of fire, explosion, or other hazard to other Units or the Common Area, and does not constitute a nuisance or violate any other provision of this Declaration or the rules and regulations.

7.3.5.5. Board Authority. The Association shall have the right, upon reasonable notice, to require an Owner to demonstrate compliance with this subsection and to require removal of any materials or cessation of any activity that, in the Board’s reasonable discretion, presents a safety risk or violates this Declaration.

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

- 7.3.7. **Residential Use.** No Owner shall use Unit, or permit another to use such Unit, for residential purposes, permanent or temporary. No Unit shall be used for residential, sleeping, or overnight occupancy purposes.
- 7.3.8. **Animals.** No Owner shall use any Unit to shelter any animal, whether that animal is a pet, and whether such shelter is permanent or temporary. "Shelter" shall mean any event where an animal is left in a Unit unattended for any period.
- 7.3.9. **Leash Regulation.** Animals belonging to an Owner or their guests must be kept on a leash and under the control of the animal's owner. All animal owners must pick up animal waste and dispose of the waste by removing the same from the Project.
- 7.3.10. **Unit Rental** The Owner of a Unit, including the Grantor, a mortgagee in possession, or any successor in interest thereto, may lease or rent a Unit for a term of not less than thirty (30) days, subject to the limitation that any such lease or rental agreement shall be in writing and by its terms shall provide that such lease or rental agreement and the Lessee thereunder are subject, in all respects, to the Condominium Documents. Any such lease or rental agreement shall provide that any failure by the Lessee to comply with the terms contained in said documents shall be a fault under the terms of said lease or rental agreement and shall be a basis for termination thereof. The Association shall approve the form of all lease and rental agreements to ensure compliance with the provisions hereof. Each Owner shall notify the Association in writing within (5) business days following the execution of any lease or rental agreement covering a Unit, of the identity, telephone number(s) and addresses of each Lessee and of the duration of the lease/rental agreement. The Owner of a Unit leased or rented shall always be responsible for and liable to the Association and other Owners for all acts and omissions of its Lessee, including but not limited to fines and Assessments levied against the Unit and its Owner based on the Lessee's use violations of the Condominium Declarations. **IN ADDITION, ALL AGREEMENTS FOR THE LEASE OR RENTAL OF A UNIT SHALL INCLUDE, AS AN INCORPORATED EXHIBIT THERETO, A COPY OF THIS DECLARATION, AS THE SAME MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME.**
- 7.3.11. **Vehicle Parking.** Parking or storing any motor vehicle at any location within the Property, outside of the boundaries of a Unit or a designated parking space, is strictly prohibited. No motor vehicle shall obstruct in any fashion the free passage of vehicles or pedestrians to and from every other Unit. Owners or guests may park vehicles within their respective Units at any time without limitation. Short-term parking immediately in front of a Unit is permitted for normal day-to-day use of the Unit, including loading or unloading, visiting, or working inside the Unit, so long as the vehicle does not block another Owner's access or the common drive lanes. Such parking may continue for the duration of the Owner's or guest's active presence at

the Unit but shall not be used for overnight or long-term vehicle storage. Overnight parking exceeding twenty-four (24) hours in front of a Unit is prohibited unless authorized in writing by the Board. Parking elsewhere on the Property outside the boundaries of a Unit and not directly in front of that Unit is limited to two (2) consecutive hours for loading, unloading, or short-term access only. Any vehicle parked beyond that limit is considered improperly parked or stored. All vehicles parked outside of a Unit must be operable, lawfully registered, and maintained in a neat and safe condition. For purposes of this Section 7.3.11, a vehicle (including boats, motorcycles, snowmobiles, or recreational equipment) is deemed “stored” when it is left outside a Unit in violation of the time limits or in a manner that appears abandoned or interferes with access or the appearance of the Project, as determined by the Board in its reasonable discretion. The Board may require the immediate removal of any inoperable, unregistered, obstructive, or improperly parked vehicle or other personal property left outside of a Unit. If not promptly removed by the responsible Owner, the Board may cause removal at the Owner’s risk and expense.

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

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

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

**7.3.15. Trash Collection.** All trash and trash collection from a Unit shall be the responsibility of the Owner, and no trash shall be permitted to be stored inside or outside of the Unit(s). Each Owner shall be solely responsible for his or her trash produced by the Owner from permitted uses within the Unit, which shall be promptly removed from the Project by the Owner.

**7.3.16. Units for Sale or Lease and Realtor Signage.** All “Unit for Sale or Lease” signage placement requests shall be approved, prior to placement on the Property, by the Board. The Board shall designate the landscaping areas for “Unit for Sale or Lease” sign placement locations. Each Owner may request One (1) sign per “Unit for Sale or Lease” to be placed in the designated area within the Common Area. Approved “Unit for Sale or Lease” signs shall not exceed 2’(W) by 4’6”(H) and shall be constructed of a metal material in a workmanship like manner and be in good physical and aesthetic condition. The approved signage shall demonstrate “Unit for Sale or Lease”. The use

of mobile signs or portable signs; balloons, flags, wiggle flags or kite style signs, inflatable signs, signs which produce odors, sound, smoke, flame or other emissions, signs which imitate or simulate official signs, or which use yellow or red blinking or intermittent lights resembling danger or warning signals; signs with lights; roof signs and billboards are prohibited. The approved "Unit for Sale or Lease" signage shall be removed by the Owner within seventy-two (72) hours of the sale or the cancellation or termination thereof. Liability for damage and/or destruction of the Common Area by the signage, installation, or removal shall be the sole responsibility of the Owner. Reasonable efforts shall be made by the Board to notify a Owner of a sign that fails to comply with the terms contained herein prior to the removal of the signage. The Board reserves the right to have any unauthorized or non-conforming signage removed, without notification, at the Owner's sole and separate cost. It shall be the Owner's sole responsibility to ensure that, prior to placement, that all approved "Unit for Sale or Lease" signage conforms to Applicable Law.

**7.3.17. Commercial or Industrial Welding Prohibited.** Hobby Welding is permitted solely for personal, non-commercial purposes, subject to the provisions of Section 7.2.4. The operation of a welding, fabrication, or metalworking business open to the public, employing non-Owners, generating regular customer traffic, or conducted for compensation is expressly prohibited unless specifically approved in writing by the Board as a permitted commercial use under this Declaration.

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

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

**7.5.1.** No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or such Owner's Lessees, invitees, or licensees, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner's Lessees, invitees, or licensees.

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

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

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

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

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

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

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

**7.8. Construction and Structural Alterations.** It is the concurrent responsibility of Grantor, the Association, and each Owner to ensure the continuing structural integrity and code compliance of each of the Buildings. The construction characteristics of the Buildings do not permit the addition of loads except as specifically engineered and approved in advance in accordance with the International Building Code (“IBC”), applicable fire and life-safety codes, and this Declaration.

**7.8.1. General Limitation.** Subject to the provisions of this Section, an Owner may make alterations to the interior of such Owner’s Unit at the Owner’s sole cost and expense, provided that no such alteration shall adversely affect the Common Area, any fire-resistive assembly, any Building system, or the structural integrity of any Building. The Board shall provide specifications concerning permissible interior alterations, and no alterations shall be made except in compliance with such specifications and this Declaration.

**7.8.2. Mandatory Prior Board Approval.** Notwithstanding anything herein to the contrary, prior written approval of the Board is required before any Owner undertakes, permits, or causes any of the following within a Unit:

7.8.2.1. Installation or modification of any load-bearing structure, including without limitation lofts or mezzanines;

7.8.2.2. Any electrical panel or service changes;

7.8.2.3. Any fire sprinkler or fire suppression system modification;

7.8.2.4. Any penetration through a fire-rated wall, floor, or ceiling assembly; or

7.8.2.5. Any alteration that impacts egress, ventilation, fire protection, or life-safety systems.

Any work performed without required approval constitutes a material violation of this Declaration.

**7.8.3. Submittal Requirements for Approval.** As a condition to Board approval, the Owner shall submit complete, Idaho-licensed design professional stamped

engineering plans (as applicable) demonstrating compliance with the IBC, fire code, and this Declaration. The Board may require additional supporting materials reasonably necessary to verify structural capacity, fire protection integrity, and life-safety compliance.

**7.8.4. Governmental Permits.** For any work described in subsection 7.8.2, the Owner must obtain all required permits from Valley County prior to commencement of work and shall provide copies of issued permits to the Association upon request. No Board approval authorizes work that is not properly permitted.

**7.8.5. Maximum Loft/Mezzanine Standards.** Unless the Board adopts more restrictive written standards, the following shall apply:

7.8.5.1. Maximum Area: Loft or mezzanine area shall not exceed thirty percent (30%) of the Unit floor area.

7.8.5.2. Minimum Headroom: Minimum clear headroom beneath and above any loft or mezzanine walking surface shall be not less than 7 feet unless otherwise approved by the Board and permitted by code.

7.8.5.3. Design Live Load: All lofts and mezzanines shall be engineered for a minimum live load of 50 pounds per square foot (psf) (or such higher standard as required by the IBC or the project structural design criteria).

7.8.5.4. No Roof or Frame Overstress: Engineering must demonstrate no overstress of the Building slab, frame, walls, or roof system.

**7.8.6. Stairs and Ladder Standards.** Access to any loft or mezzanine shall comply with the following:

7.8.6.1. Permanent stairs are required where mandated by applicable code;

7.8.6.2. Where ladders are permitted by code and approved by the Board, they must be commercial-grade, permanently affixed, and designed for the intended load;

7.8.6.3. Stairs shall have compliant rise/run geometry, handrails, and landings per the IBC;

7.8.6.4. No pull-down attic ladders or temporary access devices are permitted unless expressly approved in writing by the Board and allowed by code.

**7.8.7. Post-Construction Deliverables.** As a condition of continued approval, any Owner performing work described in subsection 7.8.2. shall, within thirty (30) days after completion, deliver to the Board:

7.8.7.1. Final inspection approvals from Valley County (if applicable);

7.8.7.2. Engineer or contractor certification of compliance (if required by the Board); and

7.8.7.3. As-built drawings accurately depicting the installed improvements.

Failure to timely provide such materials constitutes a violation of this Declaration.

**7.8.8. Notice of Improvements.** Each Owner shall notify the Board of any improvements to the Unit costing more than \$5,500.00, whether or not Board approval is otherwise required.

**7.8.9. Owner Liability.** Any Owner who makes or permits alterations to a Unit shall be strictly liable for all resulting damage to any Building, Unit, or Common Area and shall, upon demand, reimburse the Association for all costs incurred in reviewing, correcting, repairing, or enforcing compliance with this Section.

**7.8.10. Rulemaking Authority.** The Board may adopt and amend reasonable architectural, structural, and safety rules consistent with this Section and the IBC, which rules shall be binding upon all Owners.

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

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

## **8. SECTION 8 – ROCKY MOUNTAIN STORAGE CONDO OWNERS’ ASSOCIATION**

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

**8.2. Membership.** Every Owner shall be entitled to be a Member of the Association. No Person or entity other than an Owner may be a Member of the Association, and the Articles and/or Bylaws of the Association shall so state, and, in addition, shall state that the membership in the Association shall not be transferred except in connection with the transfer of a Condominium; provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan, secured by a lien on a Condominium or to any person, entity, or organization that has assumed, by contract or otherwise, liability for paying assessments of an Owner.

**8.3. Voting Rights in the Association.** Each Owner shall be entitled to the number of votes allocated to each Owner’s Unit, as identified on Exhibit C. When more than one (1) Person is the Owner of any Unit, all such Owners shall be Members, but all such Members shall only be entitled to the number of votes established for such Unit. If the Owners of a Unit cannot agree among themselves as to how to cast their votes on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a particular Unit, it will thereafter be presumed for all purposes that the Owner was acting the authority and consent of all other Owners with whom such Owner shares the Unit, unless objection thereto is made by an Owner of that Unit to the Person presiding over the meeting at the time the vote is cast. If more than the number of allocated votes is cast for any particular Unit, none of such votes shall be counted and all such votes shall be deemed null and void other than to determine whether a quorum exists.

**Notwithstanding the foregoing, or anything in this Declaration to the contrary, until the termination of the Initial Development Period, defined in Section 18 below, Grantor shall have the exclusive right, power, and authority to appoint and elect the Board and otherwise manage the affairs of the Project and the Association, until the termination of the Initial Development Period. Until the termination of the Initial Development Period, Members, other than Grantor, shall not be entitled to any voting rights set forth in this Section 8.3, and Grantor shall be the “management body” of the Project, as provided in the Condominium Act.**

- 8.4. **Member Meetings.** The Association shall hold an annual meeting of the Members and periodic special meetings of the Members as set forth in the Bylaws.
- 8.5. **Proxies.** A membership in the Association shall be appurtenant to and inseparable from the Condominium owned by such Member. A membership in the Association shall not be assigned, transferred, pledged, or alienated in any way except: (a) that an Owner may give a proxy pursuant to the Bylaws (and shall and does give the Grantor a proxy which is coupled with Grantor's interest in the Project and is irrevocable during the Initial Development Period, as more fully set forth in Section 18.2 hereof); and (b) upon the transfer of title to the Condominium and then only to the transferee of title to said Condominium. Any attempt to make a prohibited transfer of membership shall be void and shall not be reflected on the books of the Association. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium or to any Person that has assumed, by contract or otherwise, liability for paying Assessments of any Owner.
- 8.6. **Board of Directors.** The business and affairs of the Association are managed by the Board. The Board will consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Grantor has the exclusive right to fill vacancies and to appoint, remove, and replace directors at any time and from time-to-time in Grantor's sole discretion. After the Initial Development Period, the Owners have the right to elect, remove, and replace directors as provided in the Bylaws.
- 8.7. **Delegation of Authority.** The Board may, at any time and from time-to-time, delegate all or any portion of its powers and duties to committees, officers, employees, or to any Person to act as manager, including (without limitation) the Management Company.
- 8.8. **Powers of the Association.** The Association shall have all the powers of a nonprofit corporation incorporated under the laws of the State of Idaho and all of the powers and duties set forth in the Condominium Documents, including the power to perform all acts which may be necessary to, proper for, or incidental to the foregoing powers. The powers of the Association include, by way of illustration and not limitation:
- 8.8.1. **Assessments.** The power and authority to levy Assessments on the Owners of Condominiums and to enforce payment of such Assessments, including (without limitation) the power and authority to establish and fund via Assessments such operating and capital reserves as the Board deems necessary or prudent, and the right and power to enforce the obligations of the Owners to pay each Assessment or charge provided for in the Condominium Documents.
- 8.8.2. **Right of Enforcement.** The power and authority at any time and from time-to-time, on its own behalf or on behalf of any consenting Owners, to take any action,

including any legal action, to prevent, restrain, enjoin, enforce, or remedy any breach or threatened breach of the Condominium Documents. The power of enforcement includes: The right to remove, alter, rebuild, or restore any improvements constructed, reconstructed, refinished, altered, or maintained in violation of the Condominium Documents. If such improvements are in a Unit, the Board must first provide the Owner thereof with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure, and the Owner of the improvements must immediately reimburse the Association for all expenses incurred with such removal.

8.8.3. The right to perform any duty or obligation of an Owner under the Condominium Documents if such duty or obligation is not timely performed by such Owner. In such event, the defaulting Owner must immediately reimburse the Association for all costs reasonably incurred by the Association in performing such duty or obligation. Except in the event of an emergency, the Association must provide the defaulting Owner with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure prior to exercising its power and authority hereunder. The right to authorize variances from the requirements of this Declaration when required by Applicable Law or when needed to prevent the requirements would impose an undue hardship on an Owner that would be inequitable for such Owner to bear. The granting of a variance does not waive any element of the Declaration for any purpose except as to the Condominium and the particular provision covered by the variance. Approval of a variance does not affect the Owner's obligation to comply with the other elements of this Declaration or Applicable Law.

8.9. **Association Rules.** The power and authority to adopt, amend, and repeal the Association Rules as the Board deems reasonable and appropriate to govern the Project, including rules and regulations regarding: (a) the use of the Common Area; and (b) procedures in the conduct of business and affairs of the Association. Except when inconsistent with this Declaration, the Association Rules have the same force and effect as if they were set forth in and were made a part of this Declaration. A copy of the Association Rules as they may from time to time be adopted, amended, or repealed, shall be mailed, or otherwise delivered to each Owner.

8.10. **Emergency Powers.** The power and authority to enter upon any Unit as necessary in connection with any maintenance or construction for which it is responsible, or when necessitated by violation of the Declaration or other Condominium Documents, or in the event of any emergency involving potential danger to life or property and the power to take corrective action. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association, except as otherwise provided herein. Each Owner understands and acknowledges that Valley County and the Association shall have and possess a master key to all locks in the Buildings

and/or on the Project. Each Owner further agrees to notify the Board before changing any lock and only to employ a locksmith approved by the Board, to ensure that the master key system may be preserved.

- 8.11. **Operation and Maintenance of Common Area.** The power and authority to manage, operate, maintain, repair, and replace the Common Area for the benefit of the Project and the Owners, and the power and authority to construct, install, maintain, repair, replace, and operate any improvements in the Common Area, any public right-of-way serving the Project or any other location deemed by the Board to benefit the Project, including any fences, signs or other improvements at Project entrances or otherwise in the vicinity of the Project, and any berms, retaining walls, fences, and other amenities within or abutting any Common Area
- 8.12. **Licenses, Easements and Rights-of-Way.** The power to grant and convey to any third party such licenses, easements, and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation, and enjoyment of the Project, and/or for the preservation of health, safety, convenience, and welfare of the Owners. The foregoing power includes, without limitation, the power to grant and convey to such third parties' licenses, easements, and rights-of-way for the purpose of constructing, erecting, operating, or maintaining any of the following: Lines, cables, wires, conduits, or other devices for the transmission of electricity, heating, power, telephone, television and data, other utility services and meters and other facilities associated with the foregoing. Sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and cross parking easements, sidewalk abutments, drive lanes, parking areas, curb cuts, landscaping abutting Common Areas, public and private streets, or land conveyed for any public or quasi-public purpose.
- 8.13. **Property for Common Use.** The power and authority to acquire and hold for the use and benefit of all of the Owners, or for the benefit of only those Owners within a particular Condominium, tangible and intangible personal property and real property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interest in the Common Area.
- 8.14. **Amenity Agreement.** The power and authority to enter any lease, license, use, or other agreement as the Board deems proper or convenient to secure the use of off-site amenities or facilities for the benefit of the Project.
- 8.15. **Inspection.** The power and authority to enter a Unit for the purpose of conducting regular maintenance inspections; provided, however, that, except in cases of emergency, reasonable prior notice of such entry and inspection shall be given to the Owner of such Unit.

- 8.16. **Taxes.** The power and authority to pay all real and personal property taxes and assessments (if any) levied against the Common Area, the Association, and any other property owned by the Association. In addition, the Association must pay all taxes, including income, revenue, corporate, or other taxes (if any) levied against the Association.
- 8.17. **Entitlement Obligations.** The power and authority to fulfill any duties imposed by any governmental or other quasi-governmental agencies as part of the entitlements for the development of Project, including any requirements or obligations identified in such entitlements as the responsibility of community association or homeowners' association or management body, such as plat notes, development agreements, or conditions of approval.
- 8.18. **Financing.** The power and authority to enter into any agreements necessary or convenient to allow Owners to take full advantage of, or secure the full availability of, any financing programs offered.
- 8.19. **Estoppel Certificates.** The power and authority to execute a written statement stating: (a) whether, to the knowledge of the Association, a particular Owner or Owner's Condominium is in fault of this Declaration or other Condominium Documents; (b) the dates to which any Assessments have been paid by a particular Owner; and (c) such other matters as the Board deems reasonable. Any such certificate may be relied upon by a bona-fide prospective purchaser or Mortgagee of such Owner's Condominium, but only to the extent such prospective purchaser or Mortgagee has no knowledge to the contrary. The Association may charge a reasonable fee for such statements.
- 8.20. **Improvements in Public Right-of-Way.** The power and authority to enter into license and easement agreements with Valley County Highway District (or assume the duties and obligations under any such license agreement entered by Grantor) to install, maintain, irrigate, trim, repair, and replace improvements and landscaping in the public rights-of-way (including sidewalk easements and planter strips).
- 8.21. **Implied Rights.** Notwithstanding the foregoing, the Association may exercise any other right or privilege given to it expressly by this Declaration or by Applicable Law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such rights shall include without limitation the right to acquire water meters for each Unit.
- 8.22. **Enforcement.**
- 8.22.1. **The Power to Levy Fines.** The power to impose reasonable monetary fines which shall constitute a lien upon the Unit owned or occupied by the Owner, Lessee, or

other Person determined by the Board to be in violation of the Condominium Documents (individually, a “**Violation**”). Provided, however, the Association shall not impose a fine on an Owner for a Violation unless: (i) the Board votes to impose the fine at any regular or special meeting of the Board or the Association (individually, a “**Levy Meeting**”); (ii) such Owner is provided at least thirty (30) days advance written notice of the Levy Meeting by personal service or certified mail at the last known address of such Owner as shown in the records of the Association; and (iii) such Owner is given a reasonable opportunity to respond to the Violation during the Levy Meeting. Provided further, the Association shall not impose a fine on an Owner if such Owner, prior to the Levy Meeting, begins resolving the Violation and continues to address the Violation in good faith until the Violation is fully resolved (the “**Remedial Period**”). For purposes of this Section, the phrase “address the violation in good faith until the Violation is fully resolved” means the Owner must resolve the Violation within thirty (30) calendar days of the Notice; provided, however, if the nature of the Violation is such that more than thirty (30) calendar days are required for its resolution, then the Owner must diligently prosecute the same to completion within sixty (60) calendar days. All such fines shall be deemed to be a part of the Assessments to which the Owner’s Unit is subject under this Declaration. In all cases, no portion of such fines may be used to increase the compensation to the Board or agent thereof.

**8.22.2. Limited Authority to Suspend Gate Access.** In order to protect the health, safety, and security of the Condominium, the Board shall have the limited authority, following compliance with the notice and hearing procedures set forth in this Declaration and the Bylaws, to temporarily suspend or restrict certain Access Credentials (as defined below) only as expressly provided in this Section.

8.22.2.1. Any suspension of Access Credentials shall be narrowly tailored and shall not unreasonably interfere with an Owner’s reasonable access to their Unit. Except in an Emergency, the Association shall not deny all means of access to a Unit.

8.22.2.2. The Board may suspend or restrict Access Credentials solely in connection with a “Serious Violation,” defined as a violation that the Board reasonably determines:

8.22.2.2.1. poses an immediate material threat to life, safety, fire protection, security, or structural integrity;

8.22.2.2.2. involves tampering with or impairment of any gate, access control, fire protection, or life-safety system; or

8.22.2.2.3. involves repeated violations after written notice and a reasonable opportunity to cure, where lesser enforcement measures have failed.

8.22.2.3. Any action taken under this Section shall be proportionate to the risk presented, and the Board shall first consider less restrictive alternatives, including fines, suspension of privileges unrelated to access, or other enforcement remedies.

8.22.2.4. The Board may suspend vehicular gate access privileges, provided that the Owner and Occupants retain reasonable pedestrian and/or other lawful means of access to the Unit at all times, except during a bona fide Emergency.

8.22.2.5. Except in the case of an Emergency, the Board shall not impose any suspension unless the Owner has been provided:

8.22.2.5.1. written notice of the alleged violation;

8.22.2.5.2. a reasonable opportunity to cure (if curable); and

8.22.2.5.3. notice of and opportunity for a hearing.

8.22.2.6. The Board or its managing agent may impose a temporary suspension without prior notice only where necessary to address an imminent threat to persons, property, or Building systems, and only for so long as such threat exists. Notice and a hearing opportunity shall be provided promptly thereafter.

8.22.2.7. Any suspension shall be for a limited and defined duration, and Access Credentials shall be reinstated promptly upon the earliest of:

8.22.2.7.1. cure of the violation;

8.22.2.7.2. elimination of the safety risk; or

8.22.2.7.3. Board determination that suspension is no longer necessary.

8.22.2.8. Notwithstanding anything to the contrary, the Association shall not exercise its rights under this Section in a manner that deprives an Owner of reasonable access to their Unit, and this Section shall be interpreted and applied to avoid any claim of constructive eviction.

8.22.2.9. Suspension of Access Credentials shall not be used as a means to compel payment of fines, assessments, or other monetary obligations, and reinstatement shall not be conditioned upon payment of such amounts.

8.22.2.10. The remedies in this Section are cumulative; however, suspension of access is intended to be a limited safety measure of last resort, not a primary enforcement tool.

8.22.2.11. In no event shall the Association suspend access to a Unit in a manner that would materially impair a Mortgagee's ability to access, secure, or realize upon its collateral.

8.23. **Intentionally Omitted.**

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

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

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

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

8.24.4. **Insurance.** Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the policies of insurance described in **Section 13** hereof.

**8.24.5. Maintenance of Exterior and Improvements.** Maintain and repair the exterior surfaces of the Buildings and improvements in the Project. Exterior maintenance shall include painting, staining, repairing, re-staining, replacing, and caring for all exterior surfaces including roofs and exterior portions of doors as necessary to maintain them in good condition.

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

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

**8.24.8. Maintenance of Record and Right of Inspection.** The Association shall keep such records of its business and affairs as is customary for community or owner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records shall be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by people desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Section 8.24.8. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

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

provided, however, the Association shall not be obligated to indemnify, defend, and hold harmless any Released Party for their own gross negligence or willful misconduct.

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

## 9. SECTION 9 – ASSESSMENTS

- 9.1. **Covenant to Pay Assessments.** By acceptance of a deed to any Condominium, each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against such Owner or such Owner's Condominium pursuant to the Condominium Documents. Assessments against a Condominium shall be a continuing lien on such Condominium until paid, whether ownership of such Condominium is transferred. Assessments against a Condominium are also the personal obligation of the Owner of the Condominium when the Assessment becomes due and payable. Such Assessments and charges, together with interest, costs, and reasonable attorneys' fees, which may be incurred in collecting the same, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such Assessment or charge is made. The due date, manner and method of payment shall be as set forth in this Declaration or as established by the Board from time to time.

- 9.2. **Exempt Property.** The following property shall be exempt from payment of Regular and Special Assessments: (a) all Common Area; (b) any property dedicated to and accepted by any governmental authority or public utility; and (c) all Units owned by Grantor (collectively, the "**Exempt Property**")

- 9.3. **Rate of Assessment.** Except as otherwise provided herein, all Owners shall be responsible for Regular Assessments and Special Assessments levied by the Association in proportion to their percentage ownership interest in the Common Area, as set forth on Exhibit C. Owners shall be responsible for Limited Assessments levied by the Association, as set forth in Section 9.6.

- 9.4. **Regular Assessments.**

- 9.4.1. **Purpose of Regular Assessments.** The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including attorneys' fees and other professional fees, for the conduct of its affairs as provided in this Declaration (including without limitation Section 8 hereof) and other Condominium Documents, including without limitation the costs and expenses of

construction, improvement, protection, maintenance, repair, management and operation of the Common Area and furnishing utility services, including water, sewer, gas, trash and electricity and other common services to the Common Area, and each Condominium (if not separately metered), insurance, and any deficit remaining from previous periods (collectively the “**Expenses**”). “Expenses” shall also include an amount to fund adequate reserves for repairs, replacement, maintenance, and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis, and for extraordinary operating expenses, contingent risks or liabilities (such as indemnification and defense expenses), capital repairs, capital replacements, and any other expenses for which the Board, in its reasonable opinion, deems prudent to fund a reserve. If not already separately metered, the Board reserves the right to separately meter utility services provided to each Condominium, and in such event the Owner of the Condominium shall be fully responsible for the costs of providing utilities for the Owner’s individual use.

**9.4.2. Computation of Allocation for Regular Assessments.** Unless otherwise determined by the Board, the Association shall compute and forecast the amount of its Expenses and Regular Assessments on an annual basis. The computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association unless a change in the Members or other circumstance makes it impracticable to compute the Regular Assessments in that timeframe. In such event, the Owners shall be immediately notified upon completion of such computation. Notwithstanding the foregoing, the computation of Regular Assessments shall be completed in good faith and shall be valid upon completion. The computation of the Regular Assessments for the period from the recordation of this Declaration until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such a period was less than one year. The Board shall have the exclusive right to approve any Assessment under Section 9. Except as provided herein, Regular Assessments shall be levied by the Association against Condominiums in proportion to their percentage ownerships in the Common Area as set forth on Exhibit C. Certain Expenses which exist only for the benefit of or only to serve a single Condominium or group of Condominiums (but not all Condominiums) shall only be levied against the Owners thereof in proportion to their percentage ownerships, as among each other, as set forth on Exhibit C.

**9.5. Special Assessments.** In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including, without limitation, costs of construction, reconstruction, unexpected repairs or replacement of improvements upon the Common Area, attorneys’ fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such

Expenses and levy a Special Assessment for such amount. The Board shall, in its discretion, determine the schedule under which such a Special Assessment will be paid. If such Special Assessment shall affect more than one Condominium or group of Condominiums (but not all Condominiums), the Owners of the affected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownerships, as among each other, as set forth on Exhibit C, while all Owners shall share such costs associated with the Common Area in proportion to their ownership interests set forth on Exhibit C.

9.6. **Limited Assessments.** Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an Owner: (a) for any fines in accordance with Section 8.22, and for fees or charges levied against the Owner under the Condominium Documents; (b) to reimburse the Association for any costs incurred to bring the Owner's Condominium or any improvements therein into compliance with the Condominium Documents; (c) to reimburse the Association for any damages caused by an Owner or such Owner's Lessees, invitees, or licensees to any Common Area or improvements or other property owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Condominium Documents that benefit such Owner or Owner's Condominium, but less than all Owners or all Owners' Condominiums. If such Limited Assessment shall affect more than one Condominium, but not all Condominiums, the Owners of the effected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownership, as among each other, while all Owners shall share such costs associated with the Common Area in proportion to their percentage ownership interest set forth on Exhibit C, as applicable.

9.7. **Transfer Assessments.** Upon the transfer of fee simple title to a Unit from Grantor to Owner, and upon each subsequent transfer of such Unit thereafter, the transferee will pay a transfer assessment to the Association (the "**Transfer Assessment**"). The amount of the Transfer Assessment shall initially be \$500.00, subject to change at any time upon approval of the Board. Each Transfer Assessment will be paid at the escrow closing of such Lot for the benefit of the Association, or if no such escrow closing, directly to the Association. The Transfer Assessments are to be used to pay for Expenses and are not to be used for any purpose prohibited by law. Transfer Assessments are not to be considered for prepayment of any other type of Assessments, which are in addition to the Owner's continuing obligation to pay for all other types of Assessments and are not refundable.

9.8. **Notice and Assessment Due Date.** Unless the Board establishes a different schedule for the payment of Regular Assessments, annual installments of the Regular Assessments shall be paid for or before the 1<sup>st</sup> of February each year. The Board shall, in its reasonable discretion, determine the schedule under which Assessments (other than Regular Assessments) will be paid. Any Assessment not received within ten (10) days after it is due date shall be delinquent and subject to a one-time late charge equal to ten percent (10%)

of the unpaid amount, plus interest at twelve percent (12%) per annum until paid in full. Returned payments shall be subject to an administrative fee in an amount to be set by the Board, and the Board may thereafter require all payments from such Owner to be paid by certified check or cashier's check.

9.9. **Estoppel Certificate.** The Association, upon at least twenty (20) days' prior written request, shall execute, acknowledge, and deliver to the party making such request, a statement in writing stating whether or not, to the knowledge of the Association, a particular Owner is in default under the provisions of this Declaration, and further stating the dates to which any Regular and Special Assessments have been paid by such Owner. Any such certificate delivered pursuant to this Section 9.9 may be relied upon by any prospective purchaser or mortgagee of the Owner's Unit or Condominium. Reliance on such certificate may not extend to any default as to which the signor shall have had no actual knowledge. Owners agree to pay for all reasonable costs associated with obtaining this certificate.

## 10. SECTION 10 – ENFORCEMENT OF ASSESMENTS; LIENS

10.1. **Right to Enforce.** The Association has the right to collect and enforce its Assessments, including any late charges and/or interest accrued thereon pursuant to the provisions hereof. Each Owner shall be deemed to covenant and agree to pay each, and every Assessment provided in this Declaration, including any late charges and/or interest accrued thereon, and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay (and agrees that the lien may include) reasonable attorneys' fees and costs, including the costs and expenses for any lien releases, in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Section 10 to enforce the liens created pursuant to this Section 10. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

10.2. **Assessment Liens.**

10.2.1. **Creation.** There is hereby created a claim of lien with power of sale on each and every Condominium to secure payment of any and all Assessments levied against such Condominium pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Condominium

upon recordation of claim of lien with Valley County Recorder, which claim of lien shall be the “notice of assessment” described in the Act. Each delinquency shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Such a claim of liens may be foreclosed in any manner permitted by Applicable Law. Upon payment of such lien in full, the Association shall prepare and record the release of such a claim of lien.

10.2.2. **Notice of Lien.** Upon default of any Owner in the payment of any Assessments issued hereunder, the Association may cause to be recorded in the office of Valley County Recorder a notice of lien. The notice shall state the amount of such Assessment and other authorized charges (including the cost of recording such notice), a sufficient description of the Unit and Condominium against which the same have been assessed, and the name of the record Owner thereof. Each assessment shall constitute a separate basis for a notice of lien, but any number of assessments may be included within a single notice. Upon payment to the Association of such assessment and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The Association may demand and shall receive the cost of preparing and recording such release before recording the same.

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

10.4. **Required Notice.** No action may be brought to foreclose the claim of lien created by recordation of the notice of lien, whether judicially, by power of sale, or otherwise, until the expiration of thirty (30) days after a copy of such notice of claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner described in such notice of assessment, and to the Person in possession of such Condominium(s), and a copy thereof is recorded by the Association with Valley County Recorder’s Office.

10.5. **Subordination.** Upon recordation of a claim of lien for delinquent Assessments in accordance with Applicable Law, such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the claim of lien except for: (a) liens which, by law, would be superior thereto; and (b) the lien of a first priority Mortgage given and made in good faith and for value that is of record as an encumbrance against such Condominium prior to the recordation of a claim of lien for the Assessments. Except as

expressly provided in this Section 10.5, the sale or transfer of any Condominium shall not affect the lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

10.6. **Grantor Exemption.** Grantor and Grantor-owned Units are exempt from Assessments as set forth in Sections 9.2 and 9.3.

10.7. **Rights of Mortgagees.** Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of a Mortgagee under any Mortgage encumbering a Unit or Condominium, made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such Mortgage, such Unit or Condominium shall remain subject to this Declaration, as amended.

In the event a Mortgagee obtains title to any Unit or Condominium by any method permitted under law and/or pursuant to all remedies provided in this Declaration, and/or pursuant to any provisions in the Mortgage, such Mortgagee will not be liable for any such Unit's or Condominium's unpaid dues or charges which accrue prior to the acquisition of title to such Unit or Condominium by such Mortgagee. Further, upon obtaining title to any such Unit or Condominium, such Mortgagee shall have the unrestricted right to exercise any vote as may be attributable to such Unit or Condominium in any meeting of the Association or otherwise.

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

A Mortgagee shall be responsible for all delinquencies associated with a mortgaged Unit or Condominium after being notified of such delinquencies prior to the beginning of any foreclosure proceedings on such Unit or Condominium. A Mortgagee shall be entitled to cure a default in payment of Assessments by paying all past due Assessments which accrued no more than sixty (60) days prior to the date that such Mortgagee was first notified by mail of such Owner's failure to pay Assessments past due. In the event of a foreclosure on any first mortgage, the Mortgagee thereof shall take the Unit or Condominium interest subject to all unpaid Assessments, except to the extent such liability has been limited by exercise of the cure option set forth in herein.

## 11. SECTION 11 RIGHTS TO COMMON AREAS

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

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

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

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

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

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

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

## 12. SECTION 12 – MECHANIC'S LIEN RIGHTS

No labor performed or services or materials furnished with the consent of or at the request of an Owner or such Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against the Condominium of any other Owner or against any part thereof, or

against any other property of any other Owner, unless such other Owner has expressly consented or requested in writing the performance of such labor or furnishing of such materials or services. Such express written consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency corrective action undertaken by the Association. Labor performed or services or materials furnished for the Property, if duly authorized by the Association, shall be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove his/her Condominium from a lien against two or more Condominiums or any part thereof by payment of sums secured by such lien which is attributable to such Owner's Condominium.

### 13. SECTION 13 – INSURANCE

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

13.1.1. **Casualty Insurance.** The Association shall obtain and maintain a "bare walls" insurance policy on the Buildings and other property owned by the Association in such amounts as shall provide for full replacement thereof, including, but not limited to, those costs associated with rebuilding, design, any required permits, legal fees, and any other fees associated with the replacement of the Buildings, in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall include fire and extended coverage, vandalism and mischief, and such other risks and hazards against which the Board deems appropriate to provide insurance protection. The Association may comply with the above requirements by purchasing blanket coverage and may elect such "deductible" provisions as the Board, in its reasonable opinion, deems consistent with good business practice. The Association's policy of casualty insurance does not insure individual Units, or the betterments or improvements made thereto (including without limitation cabinets, countertops, sinks, floor coverings, paint, attached fixtures, utility systems serving only the Unit, and the like) or the personal property or other contents thereof, all of which shall be insured by the Owner pursuant to Section 13.4 hereof.

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

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

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

**13.2. Form.** Casualty insurance on the Project shall be carried in a form or forms naming the Association as the insured as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Area) and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first Mortgagees which from time to time shall give notice to the Association of such Mortgages, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice is first given to each Owner and to each first Mortgagee requesting such notice. The Association shall furnish each Owner and Grantor with a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect. The commercial general liability policy shall be named Grantor, the Management Company, and the Association as the insured, with the Association as trustee for the Owners, and shall protect each Owner against liability for acts of the Association in connection with the ownership, operation, maintenance, or other use of the Buildings.

**13.3. Insurance Proceeds.** The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Section and as provided in Section 14 hereof. In the event: (a) Owners representing eighty

percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all priority Mortgagees elect not to rebuild the Project, the insurance proceeds shall be distributed to the Owners based on the ownership percentage of each Owner at the time of the casualty.

13.4. **Owner's Own Insurance.** Each Owner shall obtain and maintain, at its own expense, insurance providing coverage in the event of damage or destruction to the Owner's Unit, regardless of the cause of such damage or destruction, and covering such other risks as Owner may deem appropriate. The foregoing insurance shall be in such amounts as shall provide for full replacement of the Owner's Unit, including all betterments and improvements made thereto, and all personal property located therein and the contents thereof. Each Owner shall also obtain and maintain liability insurance covering all occurrences commonly insured against death, bodily injury, and property damage, with a per limit occurrence of not less than \$500,000.00 and an annual aggregate limit of not less than \$1,000,000.00, arising out of or in connection with the use, ownership, or maintenance of the Owner's Unit. All policies carried by each Owner pursuant to this Section 13.4 shall: (a) name the Association and the Grantor as additional insureds with rights to enforce; (b) be without contribution with respect to any insurance maintained by the Association for the benefit of all Owners; and (c) provide that the insurer waives any and all rights of subrogation as against the Association, the Grantor, and each other Owner.

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

#### **14. SECTION 14 – CASUALTY, DAMAGE, OR DESTRUCTION**

- 14.1. **Affects Title.** Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the Grantor and all subsequent Owners, whether or not it is expressed in the deed by which any Owner acquires a Condominium.
- 14.2. **Association as Agent.** All the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place, and stead for the purpose of dealing with their Condominium upon the Condominium's damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Grantor or from any Owner shall constitute such an appointment.
- 14.3. **General Authority of Association.** As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in succeeding Sections means restoring the Condominiums, including the site improvements, equipment, and facilities therein, to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all priority Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.
- 14.4. **Estimate of Costs.** As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable of the costs of repair or reconstruction of that part of the Project damaged or destroyed.
- 14.5. **Repair or Reconstruction.** As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or construction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications without the written consent of all affected Owners, and the location of the Units shall be substantially the same as prior to damage or destruction.

- 14.6. **Funds for Reconstruction.** The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Section 9.4 hereof, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such Special Assessments shall be allocated and collected as provided in that Section. Further levies may be made in a similar manner if the amounts collected prove insufficient to complete the repair or reconstruction.
- 14.7. **Disbursement of Funds for Repair or Reconstruction.** The insurance proceeds held by the Association and the amounts received from the assessments provided in Section 14.6 constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the cost of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners requiring repair and/or reconstruction of such Owner's Unit in proportion to the contributions by such Owner pursuant to the assessments by the Association under Section 14.6 of this Declaration.
- 14.8. **Decision not to Rebuild.** If eighty percent (80%) or more of the Owners and more than fifty percent (50%) of the priority Mortgagees agree not to rebuild, the Project shall be sold. All insurance proceeds and all sale proceeds shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit C; and such apportioned proceeds shall be paid into separate accounts, each such account representing one (1) Condominium. Each such account shall remain in the name of the Association and shall be further identified by the Condominium designation and the name of the Owner. From each separate account the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens, and the balance remaining to each respective Owner.

## 15. SECTION 15 – CONDEMNATION

- 15.1. **Consequences of Condemnation.** If at any time or times during the continuance of the condominium ownership regime pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section 15 shall apply.
- 15.2. **Proceeds.** All compensation, damages, and other proceeds therefrom, the sum of which is hereinafter called the "**Condemnation Award,**" shall be payable to the Association.

15.3. **Complete Taking.** If all the Units are taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit C, provided that if a standard different from the value of the Condominiums as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. Based on the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled and pay such amounts as soon as practicable.

15.4. **Partial Taking.** If less than all the Units are taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime here shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds and shall apportion the amounts so allocated among the Owners as follows:

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

15.4.2. **Allocation to Condominiums.** The total amount allocated to severance damages shall be apportioned to those Condominiums which were taken or condemned as follows:

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

15.5. **Reorganization.** In the event a partial taking results in the taking of a complete Unit, then, upon the distribution of such Owner's apportioned proceeds, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall re-allocate the ownership, voting rights and assessment ratio

determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such re-allocation to the remaining Owners for approval and amendment of this Declaration as provided in Section 20.1 hereof.

- 15.6. **Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 14 above.

## 16. SECTION 16 – DISCLAIMERS, WAIVERS, AND ACKNOWLEDGEMENTS

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

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

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

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

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

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

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

## 17. SECTION 17 – RESOLUTION OF DISPUTES

17.1. **Agreement to Avoid Litigation.** Grantor, the Association, and the Owners agree that it is in their best interests to provide a fair, impartial, and expeditious procedure for the resolution of disputes related to the Condominium Documents, instead of costly, lengthy, and unpredictable litigation. Accordingly, the Grantor, the Association (including its Board, officers, and committee members), each Owner, and any party claiming a right or interest under the Condominium Documents (each, a “**Bound Party**”) agree to encourage the efficient resolution of disputes within the Project without the emotional and financial costs of litigation. Each Bound Party therefore covenants and agrees that all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Condominium Documents or the rights, obligations, or duties of any Bound Party under the Condominium Documents (“**Claims**”) shall be subject to the provisions of Section 17.3 unless exempt under Section 17.2. All Claims shall be subject to resolution pursuant to this Section 17 as a condition precedent to the institution or continuation of any legal or equitable proceeding; provided, however, any Bound Party may proceed in accordance with applicable law to comply with any notice or filing deadlines prior to resolution of the Claim.

17.2. **Exemptions.** None of the following Claims shall be subject to this Section 17 unless all Bound Parties thereto agree in writing to submit such Claim to the dispute resolution procedures set forth in this Section 17:

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

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

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

17.2.4. Any Claim in which any indispensable party is not a Bound Party.

17.2.5. Any Claim against a Released Party that would be barred by Section 8.25.

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

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

17.3. **Dispute Resolution.**

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

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

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

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

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

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

17.3.2.5. Elect to exempt the Claim from this Section 17, at which time the Bound Parties are free to exercise any right or remedy in accordance with Applicable Law. If the Board fails to notify the Bound Parties within thirty (30) days of its receipt of a request for assistance, the Board shall be deemed to have elected to exempt the Claim from this Section 17.

**17.3.3. Enforcing Resolutions.** If the Bound Parties resolve any Claim through mediation or arbitration pursuant to this Section 17 and any Bound Party thereafter fails to

abide by the terms of such resolution (i.e., settlement agreement or arbitrator's award), then any other Bound Party may take any legal or other action to enforce such settlement agreement or arbitrator's award without the need to comply again with the procedures set forth in this Section 17. In such event, the Bound Party taking action to enforce the resolution shall be entitled to recover from any non-complying Bound Party all costs and attorneys' fees reasonably incurred in such enforcement.

## **18. SECTION 18 – INITIAL DEVELOPMENT PERIOD**

18.1. **Initial Development Period.** The “**Initial Development Period**” shall commence on the Effective Date of this Declaration and shall terminate on the later of: (a) the date on which one-hundred percent (100%) of the Units have been conveyed to purchasers other than Grantor; or (b) the date on which Grantor records a written notice of termination of its rights by delivery of written notice to the Association and recording a copy of the same in the real property records of Valley County, Idaho.

18.2. **Project Management.** Each Owner recognizes that the Project will require a high level of knowledge, effort, judgment, diligence, and attention during the Initial Development Period, and that level is beyond what can reasonably be expected from Project volunteers. Accordingly, each Owner agrees that it is in the best interest of the Project for Grantor to have full management authority for the Project during the Initial Development Period, including the sole and exclusive right to appoint, remove, and replace directors of the Board, and to fill vacancies on the Board, at any time and from time-to-time in Grantor's sole discretion. In furtherance thereof, each Owner hereby appoints Grantor as its proxy with respect to its membership interest in the Association (including voting rights with respect to any matter for which a vote of the Owners is desired or required, including without limitation the matters set forth in Section 20.1.2), which proxy shall be coupled with Grantor's interest in the Project and, notwithstanding anything to the contrary contained elsewhere in the Condominium Documents, is irrevocable during the Initial Development Period.

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

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

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

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

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

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

18.4. **Water Rights Appurtenant to Project.** Grantor may own certain water rights which are appurtenant to the Project. Grantor hereby reserves unto itself all water rights appurtenant to the Project, and Owners of all Condominiums accordingly shall have no right, title, or interest in any of said water or water rights. Grantor shall not be assessed any Regular Assessments or Special Assessments for any Condominiums owned by Grantor. If Grantor owns at least one Condominium, Grantor shall pay the shortfall, if any, in the operating Expenses of the Association; provided, however, such obligation shall not exceed the amount that the Regular Assessments and Special Assessments that Grantor would otherwise be assessed as an Owner multiplied by the total number of Condominiums owned by Grantor on the date Regular Assessments or Special Assessments are assessed against the Owners of Condominiums. Following the Initial Development Period, Grantor shall be assessed Regular Assessments and Special Assessments for each Condominium owned by Grantor.

18.5. **Assignment of Grantor's Rights.** Grantor may assign any or all of its rights under the Condominium Documents to any Person in a written instrument(s) that contains the assignee's acceptance of such assignment and agreement to assume any of Grantor's obligations pertaining to the rights assigned, which acceptance and assumption shall be effective upon the recordation of such written instrument(s) recorded in the real property records of Valley County, Idaho. Grantor shall promptly provide a copy of the recorded instrument to the Association and, thereupon, be released from Grantor's obligations pertaining to the rights assigned and the obligations assumed.

## 19. SECTION 19 – TERM

The easements created by this Declaration shall be perpetual, subject only to extinguishment by the holders of such easements as provided by Applicable Law. The remainder of this Declaration shall for a period of thirty (30) years commencing on the Effective Date, unless earlier amended or terminated in accordance with Section 20.1, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless earlier amended or terminated in accordance with Section 20.1.

## 20. SECTION 20 – MISCELLANEOUS

### 20.1. **Amendment.**

20.1.1. Until the expiration or earlier termination of the Initial Development Period, the Grantor shall have the exclusive right to unilaterally amend, modify, clarify, supplement, add to, or terminate, this Declaration by executing a written instrument setting forth such amendment, or termination, and the same shall be effective upon the recordation thereof in the real property records of Valley County, Idaho.

After the expiration or earlier termination of the Initial Development Period, any amendment to this Declaration, or termination hereof, shall be by a written instrument setting forth such amendment or termination, signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment or termination has been approved by the vote or written consent of Members representing more than seventy-five percent (75%) of the total voting power in the Association, and the same shall be effective upon the recordation thereof in the real property records of Valley County, Idaho

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

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

- a. Any condemnation or casualty loss that affects either a material portion of a Building or a Unit encumbered by such first Mortgage;
- b. Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a first Mortgage;
- c. A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

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

**20.3. Enforcement and Non-Waiver.**

**20.3.1. Right of Enforcement.** Except as otherwise provided herein, any Owner, the Association, and Grantor shall each have the right to enforce any or all of the provisions of this Declaration against any Condominium or any part or portion of the Project and against the Owners thereof. The failure of any Owner or Lessee to comply with Applicable Law pertaining to the ownership, use, or occupancy of any Condominium or other portion of the Project, or to comply with any provision of the Condominium Documents, is hereby declared a nuisance and gives rise to a cause of action (subject to Section 17) in Grantor, the Association (on its own and/or on behalf of any consenting Owners) and any affected Owner for recovery of damages or for negative or affirmative injunctive relief or both enforce the provisions hereof only as set forth in this Declaration. Each remedy provided herein is cumulative and not exclusive. If any party initiates or defends any legal action or proceedings to interpret or enforce any of the terms of this Declaration, the substantially prevailing party shall be entitled to recover any costs and attorneys' fees reasonably incurred therein.

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

**20.4. Registration of Mailing Address and Email Address.** Each Owner shall register such Owner's email address and mailing address with the Association and all notices or demands intended to be served upon any Owner shall be sent by United States Mail postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner fails to provide the Association with a valid mailing address, all notices shall be sent to that Owner's address on record with Valley County Assessor's office. All notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association's registered agent on file with the Idaho Secretary of State. All notices or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall not be entitled to receive any of the notices provided

for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.

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

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

20.5.2. **Restrictions Severable.** Notwithstanding the provisions of the foregoing Section 20.5.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

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

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

20.5.5. **Board Interpretation.** If any provision of this Declaration is reasonably susceptible to more than one interpretation, the Board shall have the authority, in good faith and in a commercially reasonable manner, to interpret such provision in connection with the administration of the Project. Any such interpretation shall be afforded appropriate deference consistent with applicable Idaho law, provided that the Board’s interpretation is not arbitrary, capricious, or made in bad faith.

20.6. **Owner’s Obligations Continue.** All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may have leased, rented, or entered a contract of sale of his interest as provided herein, but the Owner of a Condominium shall have no obligation for Assessments or other obligations accruing after the Owner conveys such Condominium.

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

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

[END OF TEXT]

This Declaration is executed effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**GRANTOR:**

\_\_\_\_\_, LLC,  
an Idaho limited liability company,

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

Printed Name: \_\_\_\_\_

Its [title]: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss.

County of \_\_\_\_\_ )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, in the  
year of \_\_\_\_\_ by \_\_\_\_\_ [name], as \_\_\_\_\_ [title] of  
\_\_\_\_\_, LLC.

\_\_\_\_\_  
Signature of Notary Public

My Commission expires: \_\_\_\_\_

[NOTARY STAMP OR SEAL]

**LIST OF EXHIBITS:**

**Exhibit A – Legal Description of Property**

**Exhibit B – Plat of Rocky Mountain Storage Condominiums**

**Exhibit C – Interests in Common Area and Voting Allocations**

**Exhibit D – \_\_\_\_\_**

**EXHIBIT A**  
**Legal Description of Property**

**EXHIBIT B**  
**Plat of Rocky Mountain Storage Condominiums**

**EXHIBIT C**  
**Interests in Common Area and Voting Allocations**

**EXHIBIT D**