

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TAPESTRY SUBDIVISION**

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acquiring any right, title or interest in the Property or any Building Lot, parcel or portion thereof; shall inure to the benefit of and be binding upon Grantor, Grantor's successors in interest, each Owner, and each Owner's successors in interest; and, subject to the terms and conditions hereof, may be enforced by Grantor, Grantor's successors in interest, any Owner, any such Owner's successors in interest, or by the Association.

Notwithstanding the foregoing, until one hundred percent (100%) of all the Building Lots in the Property are transferred by Grantor, no provision of this Declaration shall be construed so as to prevent or limit Grantor's right to complete development of the Property and to construct Residential Structures thereon, nor Grantor's right to maintain model homes, construction, sales or leasing offices or similar facilities (temporary or otherwise) on any portion thereof, including any Common Area or any public right-of-way, nor Grantor's right to post signs incidental to construction, sales or leasing, nor Grantor's right to modify plans for the Property

3 DEFINITIONS

3.1 **"Architectural Committee"** shall mean the committee created by Grantor pursuant to Article V hereof, which may also be referred to herein as the "Committee".

3.2 **"Articles"** shall mean the Articles of Incorporation of the Association

3.3 **"Assessments"** shall mean those payments received of Owners who are Association Members, including the Regular Assessment, Special Assessments, and Limited Assessments. The Association shall have the right to require Assessments of Members

3.4 **"Association"** shall mean Tapestry Homeowners Association, Inc., to be organized by Grantor as described in Article VIII of this Declaration.

3.5 **"Board"** shall mean the duly qualified Board of Directors, or the governing body or individual, of the Association.

3.6 **"Building Lot"** shall mean a subdivision lot as specified or shown on any Plat or preliminary Plat of the Property and/or by any Supplemental Declaration, upon which Residential Structures may be constructed. The term "Building Lot" shall not include any Common Area.

3.7 **"Bylaws"** shall mean the Bylaws of the Association.

3.8 **"Common Area"** shall mean any or all of the parcels of Common Area and may include, without limitation, private streets or drives, sidewalks, bicycle paths, curbs, landscaping, walls, hedges, plantings, trees, vegetation, common landscaped areas, storage facilities, recreational facilities, and other amenities and facilities. Common Area may be established from time to time by Grantor on any portion of the Property describing such area or a recorded Plat by granting or reserving Common Area in a deed or other instrument, or by designating Common Area as such in this Declaration or any Supplemental Declaration. The Common Area may include easement and/or license rights.

3.9 **"Declaration"** shall mean this Declaration, as it may be amended from time to time

3.10 "Grantor" shall mean Corey Barton Homes, Inc., an Idaho Corporation; DBA CBH Homes, or its successors in interest, or any Person or entity to whom the rights under this Declaration are expressly transferred, in whole or in part by Corey Barton Homes, Inc., an Idaho Corporation; DBA CBH Homes or its successors, other than a transfer to individual Building Lot Owners

3.11 "Improvement" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property by an Owner (other than a builder or Grantor) including, without limitation, accessory structures, buildings, fences, streets, drives, driveways, sidewalks, curbs, landscaping, signs, lights, mailboxes, electrical lines, pipes, pumps, ditches, waterways, recreational facilities, and fixtures of any kind whatsoever. The term "Improvement" shall not include Residential Structures

3.12 "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Building Lot, directly attributable to the Owner, equal to the cost incurred by Grantor or the Association, as the case may be, for corrective action performed pursuant to the provisions of this Declaration or any Supplemental Declaration including, without limitation, damage to any Common Area or the failure of an Owner to keep such Owner's Building Lot and/or Residential Structure and/or Improvements in proper repair, and including interest thereon as provided in this Declaration and/or a Supplemental Declaration.

3.13 "Member" shall mean each Owner holding a membership in the Association, including Grantor.

3.14 "Occupant" shall mean any resident or occupant of a Building Lot other than the Owner including, without limitation, family members, guests, invitees, and/or tenants.

3.15 "Owner" shall mean the Person or other legal entity, including Grantor, holding fee simple title of record to a Building Lot, and buyers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation, unless and until such Person has acquired fee simple title pursuant to foreclosure and other proceedings.

3.16 "Person" shall mean any individual, partnership, corporation or other legal entity.

3.17 "Plat" shall mean that certain subdivision plat now or hereafter covering any portion of the Property and recorded as Instrument No. 107117956, Book 99, Pages 12606 through 12608, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof, and shall mean collectively all subdivision plats now or hereafter covering any or all of the Property

3.18 "Regular Assessment" shall mean the portion of the cost of maintaining, improving, repairing, managing and operating the Common Area and all Improvements located thereon, and other costs of the Association which are levied against each Building Lot and paid to the Association by each Owner, pursuant to the terms of this Declaration or a Supplemental Declaration.

3.19 "Residential Structure" shall mean any single-family residential structure constructed on a Building Lot.

3.20 "Special Assessment" shall mean that portion of the cost of the capital improvements or replacements, equipment purchase and/or shortages in the Regular Assessment, which are authorized to be paid to the Association by the Owners pursuant to the provisions of this Declaration or a Supplemental Declaration

3.21 "Supplemental Declaration" shall mean any Supplemental Declaration recorded by Grantor including additional covenants, conditions and restrictions that might be adopted with respect to any portion of the Property, and/or adding or deleting a Tract or Tracts to or from the Property. A Supplemental Declaration that adds an additional Tract or Tracts to the Property may be referred to herein as a **"Supplemental Declaration of Annexation."** A Supplemental Declaration that deletes a Tract or Tracts from the Property may be referred to herein as a **"Supplemental Declaration of Deletion."**

3.22 "Tract" shall mean a defined portion of the Property (including that described on **Exhibit A**, or a portion of **Exhibit A**) that has been designated as a Tract by this Declaration or a recorded Supplemental Declaration of Annexation. Designation of a Tract is a sole and exclusive right of Grantor.

4 GENERAL AND SPECIFIC RESTRICTIONS

4.1 Residential Structures – Generally. All Residential Structures (except for sales offices or similar facilities of Grantor) are to be designed, constructed and used in such a manner as shall be compatible with this Declaration, and shall meet the following minimum standards:

4.1.1 Use, Size, Height and Construction of Dwelling Structure. All Building Lots shall be improved and used solely for residential use. Except for accessory structures as may be approved as provided in Section 4.1.4 below, no Building Lot shall be improved except with a single-family Residential Structure, which Residential Structure, excluding garages shall not be less than 1 square feet and shall be designed to accommodate no more than a single family and occasional guests, and such other Improvements as are necessary or customarily incidental to a Residential Structure. No business or home occupation shall be conducted from any Residential Structure in the Property, exclusive of Grantor's use thereof including, without limitation, use by Grantor as a sales office intended for the sale of Building Lots or new Residential Structures thereon. Subject to other building restrictions set forth herein, no single family structure of one (1) story shall have a floor area of less than one thousand fifty (1,050) square feet, exclusive of garages, patios, breezeways, storage rooms, porches, and similar structures. No single family structure of two (2) stories or more shall have a floor area of less than one thousand three hundred feet (1,300) square feet, exclusive of garages, patios, breezeways, storage rooms, porches, and similar structures. A basement or daylight basement shall not be counted as a story in determining compliance with this section. The Residential Structures and accessory structures shall be constructed on site, unless otherwise specifically permitted in writing by the Architectural Committee. Modular or manufactured homes or houses shall not be permitted. Already-constructed homes or houses shall not be permitted to be moved onto a Building Lot.

4.1.2 Architectural Committee Review. No Improvements that will be visible above ground or that will ultimately affect the visibility of any above-ground Improvement shall be built, erected, placed or materially altered on or removed from the Property unless and until the building plans, specifications, and plot plan or other appropriate plans and specifications have been reviewed in advance by the Architectural Committee and the same have been approved in writing. The review and approval or disapproval may be based upon the following factors: size, height, scale, design and style elements, mass and form, topography, setbacks, finished ground elevations, architectural symmetry, drainage, color, materials, physical or aesthetic impacts on other Building Lots or property, artistic conformity to the terrain and the other Residential Structures and Improvements on the Property, and any and all other factors which the Architectural Committee, in its reasonable discretion, may deem relevant, from time to time.

The Architectural Committee shall be generally guided by the following:

- (a) All roofing material shall be thirty (25) year black composition shingles, as approved by the Architectural Committee. Samples must be submitted and approved in writing by the Architectural Committee before installation;
- (b) The Architectural Committee shall not approve flat roofs, zero-roof overhangs, or exterior roof construction of tarpaper, gravel or metal;
- (c) Exterior colors shall be of a flat or semi-gloss type and must be approved in writing by the Architectural Committee prior to application. Colors shall be compatible with surrounding Residential Structures;
- (d) The Architectural Committee shall not approve any plans that contemplate visible construction with blocks of cement, cinder, pumice or similar materials, unless the same is faced on the outside with wood, stone, stucco or similar materials and approved in writing by the Architectural Committee;
- (e) The Architectural Committee shall not approve any extreme, bizarre, or eccentric designs or construction;
- (f) All roofs of the Residential Structures must have a pitch of at least 5/12. (Porches and covered patio roof pitch shall be addressed on a case by case basis in context with the overall appearance of the structure);
- (g) Exterior surfaces of chimneys are to be of hardwood, vinyl, stucco, wood, stone or brick.
- (h) Utility meters shall be placed in an unobtrusive location and concealed behind fences, where possible. Location shall be shown on the site plan;
- (i) Front elevations of the Residential Structures must have some type of brick, stucco, stone, as approved by the Architectural Committee; and

- (j) Exterior surfaces are to be of masonite, hardboard, vinyl, stucco, stone or brick as approved by the Architectural Committee

Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of the Residential Structures and Improvements. This Declaration is not intended to serve as authority for the Architectural Committee to control the interior layout or design of residential structures except to the extent incidentally necessitated by use, size and height restrictions.

4.1.3 Setbacks and Height. No Residential Structure or Improvement (exclusive of fences and similar structures) shall be placed nearer to the Building Lot lines or built higher than permitted by the Plat for the Tract in which the Building Lot is located, by any applicable zoning restriction, by any conditional use permit, or as may be specified in this Declaration or any Supplemental Declaration, whichever is more restrictive. This Section is intended to comply with the building standards for the City of Meridian, Idaho. Any and all buildings shall comply, at a minimum, with City of Meridian Building Codes.

4.1.4 Accessory Structures. Detached garages shall be allowed if in conformity with the provisions of this Declaration, and as approved by the Architectural Committee. No pools, pool slides, diving boards, hot tubs, spas, outbuildings, or similar items shall extend higher than ten feet (10') above the finished graded surface of the Building Lot upon which such item(s) are located, and no playhouses or playground equipment shall extend higher than ten feet (10'), except for basketball backboards, which may extend beyond this limit as reasonably required to accommodate a ten foot (10') rim.

4.1.5 Driveways. All access driveways shall have a wearing surface approved by the Architectural Committee consisting of concrete and shall be properly graded to assure proper drainage.

4.1.5.1 Common Driveway Easement. Each Building Lot that shares a driveway with an adjacent Building Lot ("Common Driveway") is subject to a perpetual non-exclusive access easement ("Driveway Easement") on, over, across and through that portion of the neighboring Building Lot for purposes of a Common Driveway. Each Driveway Easement shall be used for construction of a Common Driveway, for ingress and egress to and from the Building Lots sharing the Common Driveway, and for maintenance and repair of the Common Driveway. No Driveway Easement shall be used for parking of motor vehicles so as to block access to a neighboring Building Lot; provided, however, each Owner and such Owner's Occupants, tenants, guests and invitees shall be permitted to park motor vehicles immediately in front of such Owner's garage located at the end of such Driveway Easement. Notwithstanding the foregoing, in no event shall such parking and/or any other use of the Driveway Easement materially interfere with or impede the neighboring Owner's use and enjoyment of the Driveway Easement for the purposes identified in this Section. The Driveway Easement shall be a perpetual easement running with the land and shall inure to the benefit of, and be binding on, the Building Lots so sharing such Driveway Easement, and the Owner's guests, invitees, successors and assigns thereof. The Owners of the Building Lots so sharing and benefiting from such Driveway Easement shall maintain the Driveway Easement and

the Common Driveway constructed thereon at all times in good condition and repair. All costs of maintenance and repair shall be shared equally by the Owners so sharing such Common Driveway. No prior approval of either Owner is required for any maintenance or repair to the Common Driveway or the Driveway Easement if such maintenance or repair is less than Five Hundred and No/100 Dollars (\$500.00). Where maintenance or repair of the Common Driveway or the Driveway Easement exceeds Five Hundred and No/100 Dollars (\$500.00), then prior written approval from each Owner shall be required, such approval not to be unreasonably withheld, conditioned or delayed.

4.1.5.2 Indemnification The Owners sharing a Common Driveway agree to indemnify, defend and hold the Owner of the neighboring Building Lot harmless from and against all damages, claims, liabilities, suits, obligations, fines, losses, actions, judgments, penalties, charges, costs or expenses including, without limitation attorneys' fees and other professional fees, arising out of, relating to or resulting from any injury, loss of life or damage to the property from the use, action or omission relating to the Common Driveway or the Driveway Easement.

4.1.6 Mailboxes All mailbox stands will be of consistent design, material and coloration as specified by the Architectural Committee. All mailboxes shall be standard sized black galvanized steel rural mailboxes and to assure uniformity, shall be located at places designated by the Architectural Committee and/or the Postal Service.

4.1.7 Fencing Street side fencing shall be installed on a Building Lot within sixty (60) days after occupancy permit, with wing fencing on interior lots, and wing fencing plus street side fencing on corner lots. Wing fencing shall be set back five feet (5') from each corner of the front of the Residential Structure, and street side fencing shall be set back twenty feet (20') from the sidewalk. Subject to the foregoing, no fence, hedge or boundary wall situated anywhere upon a Building Lot shall have a height greater than six feet (6'), or other lesser height as the Architectural Committee may require, above the finished graded surface. Fencing using natural landscaping as a visual and/or privacy barrier is strongly encouraged. "Invisible" fencing to control and contain domestic pets, including dogs, is strongly encouraged and shall be allowed. No fence shall be constructed on any Building Lot of any material other than six foot (6') dog-eared cedar fencing, nor finished in any finish other than clear stain, except as may be specifically approved by the Architectural Committee prior to construction. Any and all fencing shall comply with City of Meridian Building Codes.

4.1.8 Lighting Exterior lighting, including flood lighting, shall be part of the architectural concept of the Residential Structure and the Improvements on a Building Lot. Fixtures, stands and all exposed accessories shall be harmonious with building design and approved by the Architectural Committee prior to installation. Lighting shall be restrained in design, and excessive brightness shall be avoided.

4.1.9 Sewer Covenants Grantor and all Owners hereby covenant and agree:

- (a) To pay any and all monthly sewer charges in accordance with the ordinances and laws of Meridian City after connecting to the Meridian City public sewer system;

- (b) To submit to inspections by either the Meridian City Public Works Department or Building Department whenever a Building Lot is to be connected to Meridian City's public sewer system and a Residential Structure is constructed on such Building Lot;
- (c) That Grantor and each Owner of a Building Lot within the Property does vest in Meridian City the right and power to bring any and all actions against Grantor or any Owner for the collection of any and all sewer charges the Association required by Meridian City owed by Grantor, the Association or any Owner, as the appropriate case may be, and to enforce any portion of this Section. This covenant shall run with the land
- (d) That the recording of any Plat by Grantor shall be deemed and construed as a request for annexation of the Property to the corporate limits of Meridian City and that this request and consent shall be binding on all subsequent Owners of the Property

4.2 Antennae. No exterior radio antenna, television antenna or other antenna of any type shall be erected or maintained on the Property unless it is approved by the Architectural Committee and located or screened in a manner acceptable to said Architectural Committee. Satellite dishes shall be allowed on the Property if size and location are submitted and approved by the Architectural Committee prior to installations, such satellite dishes are located on the back of any Residential Structure or in the rear yard of a Building Lot, and are screened from view. All such applications will be reviewed on a case-by-case basis.

4.3 Insurance Rates. Nothing shall be done or kept on any Building Lot that will increase the rate of insurance on any other portion of the Property, nor shall anything be done or kept on the Property or a Building Lot that would result in the cancellation of insurance or which would be in violation of applicable laws, regulations, and ordinances.

4.4 No Further Subdivision. Subject to the express provisions in this Declaration regarding easements, and subject to Section 4.20 below (Exemption of Grantor), no Building Lot as depicted on a final recorded Plat of the Property may be further subdivided, nor may any easement or other interest therein be granted, unless applied for or granted by Grantor.

4.5 Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee except: (i) such signs as may be used by Grantor in connection with the development of the Property and sale of Building Lots or new Residential Structures thereon; (ii) temporary signs naming the contractors, the architect, and the lending institution for a particular construction operation; (iii) such informational signs of customary and reasonable dimensions as prescribed by the Architectural Committee; and (iv) one (1) temporary sign of customary and reasonable dimensions not to exceed three feet (3') by two feet (2') as may be displayed by an Owner on or from a Building Lot advertising the Residential Structure constructed thereon for sale. No visible "for rent" or "for lease" signs shall be permitted on the Property.

4.6 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, and no odor shall be permitted to arise therefrom so as to render the

Property or any portion thereof unsanitary, unsightly, offensive or detrimental to the Property or to its Occupants, or to any other property in the vicinity thereof or to its Occupants. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the Tapestry Subdivision or in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), flashing lights or search lights shall be located, used or placed on the Property without the prior written approval of the Architectural Committee.

4.7 Exterior Maintenance: Owner's Obligations. No Residential Structure or Improvement shall be permitted to fall into disrepair, and each Residential Structure or Improvement shall at all times be kept in good condition and repair. In the event that any Owner of a Building Lot shall permit any Residential Structure, Improvement or Building Lot, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, or so as to damage adjoining property or facilities, the Association, upon fifteen (15) days' prior written notice to the Owner of such Building Lot, shall have the right to correct such condition and to enter upon such Owner's Building Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost shall be a Limited Assessment and shall create an enforceable lien. The Owner of the offending Building Lot shall be personally liable, and such Owner's Building Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Architectural Committee in taking such corrective acts, plus all costs including, without limitation, attorneys' fees incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

4.8 Drainage. There shall be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Property is completed by Grantor, or that drainage which is shown on any plans approved by the Architectural Committee. All Building Lots shall be graded at the time of initial construction of the Residential Structures thereon so that the front, side and rear yards drain sufficiently away from the foundation, and so that the Building Lot drains in a manner that will not cause damage or flooding to neighboring Building Lots or property in the Tapestry Subdivision. All drainage shall be in accordance with all applicable law and local building code requirements. Grantor shall have no liability or obligation whatsoever relating to any Owner's inadequate grading or drainage of any Building Lot.

4.9 Grading. The Owner of any Building Lot within the Property in which grading or other work has been performed pursuant to an approved grading plan shall maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means or devices which are not the responsibility of the Architectural Committee or a public agency, and plantings and ground cover installed or completed thereon. Such requirements shall be subject to such assessment as may be applicable. An approved grading plan means such plan as may have been approved by the applicable government agency and/or Architectural Committee. Without

limitation on the foregoing, each Building Lot Owner shall grade and maintain, or cause to be graded and maintained, the grade of such Owner's Building Lot so that all storm water runoff and/or irrigation water runoff shall not drain to any other Owner's property except to an approved drainage easement area. All Building Lots shall be graded at the time of initial construction of Improvements thereon so that the front, side and rear yards drain sufficiently away from the foundation, and so that the Building Lot drains in a manner that will not cause damage or flooding to neighboring property. All drainage shall be in accordance with all local building code requirements. In the event that any Owner (or any Owner's builder, contractor, agent or employee) does not adequately grade and slope such Owner's Building Lot, and water drains onto neighboring property and causes ponding, flooding, or other damage, the offending Owner shall be responsible to remedy the problem and shall be solely liable for any injuries or damages occurring as a result of same. Grantor shall have no liability or obligation whatsoever relating to any Owner's inadequate grading or drainage of any Building Lot.

4.10 Irrigation No Owner shall excessively irrigate or water such Owner's Building Lot, so as to cause any damage or flooding to neighboring Building Lots or other property in the Tapestry Subdivision. Grantor shall have no liability or obligation whatsoever relating to any Owner's excessive irrigation or watering of such Owner's Building Lot. The area wherein the Property is located is desert, and irrigation water is not always reliable and water is not unlimited. Irrigation water may not be available due to drought, harsh weather conditions, governmental action, system breakdown, transmission failure, overuse by Building Lot Owners, or any other cause. Therefore, no Building Lot shall have any right to continuous or unlimited water from any source including, without limitation, from the Irrigation System, defined below. Each Building Lot Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to have acknowledged the foregoing, and to covenant and agree to be bound by and to comply with any and all rules or regulations for the use and rotation of irrigation water as may be imposed by this Declaration, Grantor, the Association or the Board

4.11 No Hazardous Activities No activities shall be conducted on the Property, and no Improvements constructed on any portion of the Property that are or might be unsafe or hazardous to any person or property

4.12 Unsightly Articles No unsightly articles shall be permitted to remain on any Building Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage and trash shall be kept at all times in such containers and in such areas as approved by the Architectural Committee. Playground equipment, such as slides and swings, shall not be permitted in the front yard of any Building Lot. No clothing or fabrics shall be hung, dried or aired in such a way as to be visible to other property, and no equipment, heat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Building Lot except within an enclosed structure or as appropriately screened from view. Any holiday decorations may be placed no earlier than thirty (30) days prior to the holiday and must be removed within thirty (30) days after the holiday for which they were placed. No vacant Residential Structure shall be used for the storage of building materials.

4.13 No Temporary Structures No house trailer, mobile home, or tent (other than for short term individual use which shall not exceed seven (7) days unless approved by the Architectural

Committee), no temporary building, improvement or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property. Any sales office established by Grantor for the Property shall also be exempt from this restriction.

4.14 No Unscreened Items No garbage cans, trash containers, firewood, boats, trailers, campers, all-terrain vehicles, motorcycles, recreational vehicles, bicycles, dilapidated or unrepaired and unsightly vehicles or similar items, vehicles or equipment shall be placed or parked upon any portion of the Property (including, without limitation, streets, and driveways)

4.15 No Mining or Drilling No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, sand, gravel or earth. This Section shall not prohibit exploratory drilling or coring which is necessary to construct a Residential Structure or Improvement.

4.16 Energy Devices, Outside No energy production devices including, without limitation, generators of any kind and solar energy devices, shall be constructed or maintained on any portion of the Property without the written approval of the Architectural Committee, except for heat pumps shown in the plans approved by the Architectural Committee. This Section shall not apply to passive solar energy systems incorporated into the approved design of a residential structure.

4.17 Vehicles Vehicles parked on a driveway shall not extend into any sidewalk or bike path or pedestrian path. Motor homes and other recreational vehicles may be stored behind the front yard fence. No recreational vehicles shall remain parked on the driveway or street for more than is required for loading and unloading for typical use (not to exceed 72 hours).

4.18 Animals/Pets No domesticated animals, birds, insects, pigeons, poultry, etc. shall be kept on the Property unless the presence of such creatures does not constitute a nuisance nor conflict with any City of Meridian ordinance. This Section does not apply to the keeping of up to two (2) domesticated dogs, up to two (2) domesticated cats, and other household pets that do not unreasonably bother or constitute a nuisance to others. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. Each dog shall be kept on a leash, curbed, and otherwise controlled at all times when such animal is off the Owner's Building Lot. With respect to any animal off of the Owner's Building Lot, the Owner or the custodian of animal shall be responsible for the immediate clean up any animal droppings. The construction of dog runs or other pet enclosures shall be subject to Architectural Committee approval, shall be appropriately screened, and shall be maintained in a sanitary condition. Dog runs or other pet enclosures shall be placed a minimum of five feet (5') from the side and fifteen feet (15') from the rear Building Lot line, shall not be placed in any front yard of a Building Lot, and shall be screened from view so as not to be visible from an adjacent Building Lot. The use of "invisible" fencing to control or restrain dogs to the respective animal Owner's Building Lot is strongly encouraged and is recommended.

4.19 Landscaping Upon substantial completion of the Residential Structure constructed thereon, each Building Lot shall have (i) in the front yard, an underground sprinkler system, with rolled (sod) lawns; (ii) at least one (1) 2" caliper flowering tree. Within six (6) months of

occupancy of the Residential Structure, (5) 1 gallon shrubs need to be planted in the front yard. The rear yard (and side yard, if applicable) of the Building Lot shall also be completed with grass, seed or sod. An allowance of additional time to complete the required landscaping may be granted at the sole discretion of the Architectural Committee during the months of November through March given weather conditions and irrigation water availability. A landscape plan shall be submitted to and approved by the Architectural Committee prior to commencement of any landscaping work. In the event that any Owner shall fail or refuse to install the aforesaid landscaping, the Architectural Committee, upon ten (10) days' prior written notice to such Owner, shall have the right to enter upon such Owner's Building Lot for the purpose of installing the same, and such Owner shall promptly reimburse the Architectural Committee for the cost thereof. Such costs shall be a Limited Assessment and shall create an enforceable lien. The Owner of the offending Building Lot shall be personally liable, and such Owner's Building Lot may be subject to a mechanics' lien for all cost and expenses incurred by the Architectural Committee in taking such actions, plus all costs incurred in collecting the amounts due. The Owner of the offending Building Lot shall pay all amounts due for such work within (10) ten days after receipt of written demand thereof. The Association will assume the role of the Architectural Committee with respect to enforcement only upon the establishment of the Association.

Exemption of Grantor. Nothing contained herein shall limit the right of Grantor to subdivide or re-subdivide any portion of the Property, to grant licenses, to reserve rights-of-way and easements to utility companies, public agencies or others, or to complete excavation, grading and construction of Improvements to and on any portion of the Property owned by Grantor, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Grantor deems advisable in the course of development of the Property so long as any Building Lot within the Property remains unsold, and regardless of whether a Building Lot is depicted on a final recorded Plat. Such right shall include, without limitation, erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Grantor's business of completing the work and disposing of the same by sales, lease or otherwise. Grantor shall have the right at any time prior to acquisition from Grantor of title to a Building Lot by a purchaser (other than Grantor or a builder) to grant, establish and/or reserve on that Building Lot additional licenses, reservations and rights-of-way to Grantor for the development and disposal of the Property. Grantor may use any structures owned or leased by Grantor on the Property as model home complexes or real estate sales or leasing offices. Grantor need not seek or obtain Architectural Committee approval of any Improvement constructed or placed by Grantor or an affiliate of Grantor on any portion of the Property owned by Grantor or an affiliate of Grantor. The rights of Grantor hereunder may be assigned by Grantor to any successor in interest in connection with Grantor's interest in any portion of the Property by an express written assignment recorded in the office of the Ada County, Recorder. The original Grantor under this Declaration shall be entitled to reserve any such rights thereunder as such original Grantor may deem appropriate.

5 ARCHITECTURAL COMMITTEE

5.1 Creation. Before or within thirty (30) days after the date on which Grantor first conveys a Building Lot to an Owner (other than Grantor or a builder), Grantor shall appoint at least three (3) individuals to serve on the Architectural Committee ("**Architectural Committee**"). Each

member shall hold office until such time as such member has resigned or has been removed, or such member's successor has been appointed, as provided herein. A member of the Architectural Committee need not be an Owner. Members of the Architectural Committee may be removed by the person or entity appointing them at any time without cause. Without limiting the foregoing, at Grantor's discretion, the Board of Directors of the Association or a property management company selected by the Association to perform the Association's duties, may be designated as the Architectural Committee.

5.2 Grantor's Right of Appointment Grantor shall have the exclusive right to appoint and remove all members of the Architectural Committee until Grantor has conveyed one hundred percent (100%) of the aggregate Building Lots within the Property, as the same may be now or hereafter platted, or until ten (10) years after the recording date of this Declaration, whichever occurs later. If a vacancy on the Architectural Committee occurs until a permanent replacement has been appointed, Grantor may appoint an acting member to serve for a specified temporary period not to exceed one (1) year. The original Grantor under this Declaration shall also have the right to appoint and remove all members of the Architectural Committee for a Tract annexed pursuant to a Supplemental Declaration, as shall be set forth in such Supplemental Declaration. Any Tract annexed pursuant to a Supplemental Declaration shall be subject only to the control of the Architectural Committee specifically appointed for the Tract so annexed.

5.3 Association's Right of Appointment After Grantor has conveyed one hundred percent (100%) of the aggregate Building Lots within the Property, or ten (10) years after the recording date of this Declaration, whichever occurs later, the Board shall have the exclusive right to appoint and remove all members of the Architectural Committee.

5.4 Review of Proposed Construction The Architectural Committee shall consider and act upon any and all proposals or plans and specifications submitted for its approval pursuant to this Declaration, including the inspection of construction in conformance with plans approved by the Architectural Committee. The Architectural Committee shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of Improvements shall be submitted for Architectural Committee review and approval. The Architectural Committee shall have the power to hire an architect, licensed with the State of Idaho, to assist the Architectural Committee in its review of proposals or plans and specifications submitted to the Architectural Committee, and the Architectural Committee may charge a reasonable plan review fee, as determined in its reasonable discretion. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction alterations, or additions contemplated thereby in the locations indicated are in conformity with this Declaration, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on Grantor, the Association, or the Property, as the case may be. No approval by the Architectural Committee of any plans and specifications so reviewed and approved shall constitute, or be deemed to be, a warranty by the Architectural Committee that such plans and specifications comply with applicable laws, rules or regulations, or that such plans and specifications are structurally sound or comply with applicable safety requirements.

5.4.1 Conditions on Approval The Architectural Committee may condition its approval of proposals or plans and specifications upon such changes therein as it deems appropriate, and/or

upon the agreement of the Owner submitting the same ("Applicant") to grant appropriate easements for the maintenance thereof, and the Architectural Committee may require submission of additional plans and specifications or other information before approving or disapproving any material submitted

5.4.2 Architectural Committee Rules The Architectural Committee also may establish rules and/or guidelines setting forth procedures for and the required content of the applications and plans submitted for approval. Such rules and guidelines may establish, without limitation, specific rules and regulations regarding design and style elements, landscaping and fences and other structures such as animal enclosures, as well as special architectural guidelines applicable to Building Lots located adjacent to public and/or private open space

5.4.3 Detailed Plans The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper including, without limitation, floor plans, site plans, landscape plans, drainage plans, elevation drawings and descriptions or samples of exterior material and colors. Until receipt by the Architectural Committee of all such required plans and specifications, the Architectural Committee may postpone review of any plans and specifications submitted for approval.

5.4.4 Architectural Committee Decisions Responses by the Architectural Committee to the Applicant will be sent to the address set forth in the application for approval within thirty (30) days after filing all materials required by the Architectural Committee. Any materials submitted pursuant to this Article shall be deemed approved unless written disapproval by the Architectural Committee shall have been mailed or otherwise delivered to the Applicant within thirty (30) days after the date of filing of all of said materials with the Architectural Committee.

5.5 No Waiver of Future Approvals The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent

5.6 Compensation of Members The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder, which have been previously approved by the Board, and except as otherwise agreed by Grantor or the Association.

5.7 Non-Liability of Architectural Committee Members Neither the Architectural Committee nor any member or representative thereof shall be liable to Grantor, the Association, any Owner or any other party for any loss, damage or injury arising out of or in any way connected with performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee or any such individual member or representative thereof. The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Property generally. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishes and materials and similar features, but in no event shall the

Architectural Committee be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with applicable law or building or other codes.

5.8 Variances. The Architectural Committee may, in its reasonable discretion, authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration including, without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, market conditions, or environmental considerations may require. Such variances must be evidenced in writing, and must be signed by at least one (1) member of the Architectural Committee. If such variances are granted, no violation of the covenants, conditions or restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or any Supplemental Declaration for any purpose except as to the particular Building Lot and particular provision hereof covered by the variance, nor shall such variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting such Owner's use of the Building Lot including, without limitation, zoning ordinances or requirements imposed by any governmental or municipal authority.

6 ANNEXATION AND DELETION OF TRACTS

6.1 Annexation Real property may be added to the Property at the sole discretion of the Grantor and in compliance with all city and county codes. Tracts of such additional property may be annexed into the Property and brought within the provisions of this Declaration as provided herein by Grantor, its successors or assigns, at any time, and from time to time, without the approval of any Owner or Association by means of Grantor's recordation of a Supplemented Declaration of Annexation covering such Tract in the Office of the Ada County, Idaho Recorder. The use and development of such Tracts shall conform to all applicable land use regulations, as such regulations are amended from time to time or may be modified by variances. The original Grantor under this Declaration, as long as it owns any portion of the Property, without the approval of any Owner or the Association or any successor Grantor, shall be entitled to annex any Tract of such additional property, at any time, and from time to time, as such the original Grantor deems appropriate. Such reserved right of annexation may be assigned by the original Grantor in the original Grantor's sole discretion.

6.2 Deletion Grantor may delete all or a portion of the Property, including subsequently annexed Tracts, from the Property and from coverage of this Declaration so long as Grantor is the Owner of all such property being deleted and provided that Grantor records a Supplemental Declaration of Deletion in the office of the Ada County, Idaho Recorder in the same manner as a Supplemental Declaration of Annexation. Neither Owners (other than Grantor) nor the Association shall be entitled to delete all or any portion of the Property without the written approval of Grantor so long as Grantor owns any portion of the Property. The original Grantor under this Declaration, as long as it owns all of the property within a Tract being deleted, shall be entitled to delete such Tract as aforesaid. Such reserved right of deletion may be assigned by such original Grantor.

7 EASEMENTS

7.1 Drainage and Utility Easements Grantor expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Building Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Building Lots resulting from the normal use of adjoining Building Lots, and for necessary maintenance and repair of any Residential Structure or Improvement including, without limitation, fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees and landscaping. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Grantor for the installation and maintenance of utilities and drainage facilities that are required for the development of the Property, and Grantor reserves the right to grant such easements. In addition, Grantor reserves the right to grant additional easements and rights-of-way over the Property to utility companies and public agencies as necessary or expedient for the proper development of the Property until close of escrow for the sale of the last Building Lot in the Property to a purchaser (other than Grantor or a builder).

7.2 Maintenance and Use Easement Between Walls and Lot Lines Whenever the wall of a structure or a fence or retaining wall is legitimately constructed on a Building Lot under plans and specifications approved by the Architectural Committee, and is located within three feet (3') of the boundary line of such Building Lot, the Owners of such Building Lots are hereby granted mutual easements of encroachment over and on the adjoining Building Lots (not to exceed three feet (3') from the Building Lot line) for purposes of maintaining and repairing such wall or fence and eaves or other overhangs, and the Owners of such adjoining Building Lots are hereby granted an easement for landscaping purposes over and on the area lying between the boundary line of the Building Lots and such structure or fence so long as such use does not cause damage to the structure or fence, as the case may be. Notwithstanding the foregoing, no encroachment shall be in violation of the provisions of the current Building Code adopted by the City of Meridian.

7.3 Easement Reserved unto Grantor and Association Grantor and the Association, as the case may be, shall have and are hereby granted a permanent easement to go upon any Building Lot to perform maintenance upon the Property, or any facilities or systems related thereto, and including, snow removal, lawn maintenance, utility service and drainage system maintenance, maintenance of the Irrigation System and perimeter fence (if any) maintenance, together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easements hereby reserved, and all rights and privileges incident thereto, including the right from time to time to cut, trim and remove trees, brush, overhanging branches and other obstructions which may injure or interfere with the use, occupation or enjoyment of the reserved easement and the operation, maintenance and repair of utility service connections and drainage systems. Without limiting the foregoing, in the event an Owner shall fail or refuse to perform its maintenance or repair obligations as required under this Declaration, Grantor or the Board, as the case may be, shall have the power to enter onto said Owner's Building Lot for the purpose of performing such maintenance or repairs as may be reasonably required and shall have the power to incur expenses therefor; provided, however, that Grantor or the Board of the Association, as the case may be, shall have delivered to such Owner reasonable advance written notice describing the maintenance or repairs required to be made and advising the Owner of Grantor's

or the Association's intent to perform such maintenance and repairs if the Owner fails or refuses to do so within the time set forth in such notice. The cost incurred by Grantor or the Association in performing such maintenance or repairs shall be a Limited Assessment and shall create an enforceable lien against such Owner's Building Lot.

8 TAPESTRY HOMEOWNERS ASSOCIATION, INC.

8.1 Organization of Association; Bylaws. The Tapestry Homeowners Association, Inc. ("Association") shall be organized by Grantor as an Idaho corporation under the provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, the Bylaws and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

8.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title in such Owner's Building Lot and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and shall not be reflected on the books of the Association.

8.3 Voting. Voting in the Association shall be carried out by Members who shall cast the votes attributable to the Building Lots which they own, or attributable to the Building Lots owned by Grantor. The number of votes any Member may cast on any issue is determined by the number of Building Lots which the Member, including Grantor, owns. When more than one person holds an interest in any Building Lot, all such persons shall be Members but shall share the votes attributable to the Building Lot.

Fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it shall thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint Owners of the Building Lot(s) from which the vote derived. The right to vote may not be severed or separated from the ownership of the Building Lot to which it is appurtenant, except that any Owner may give a revocable proxy, or may assign such Owner's right to vote to a lessee, mortgagee, beneficiary or contract purchaser of the Building Lot concerned, for the term of the lease, mortgage, deed of trust or contract, as the case may be. Any sale, transfer or conveyance of such Building Lot to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

For voting purposes, the Association shall have two (2) classes of Members as described below:

8.3.1 Class A Members Owners other than Grantor shall be known as "Class A Members." Each Class A Member shall be entitled to cast one (1) vote for each Building Lot owned by such Class A Member on the day of the vote.

8.3.2 Class B Members Grantor shall be known as the "Class B Member," and shall be entitled to three (3) votes for each Building Lot owned by such Class B Member on the day of the vote. The Class B Member shall cease to be a voting Member in the Association on the happening of either of the following events, whichever occurs earlier:

- (a) when the Class B Member holds no votes; or
- (b) ten (10) years after the date this Declaration is recorded in the official records of Ada County, Idaho.

8.4 Board of Directors and Officers. The affairs of the Association shall be conducted and managed by the Board of Directors ("Board") as the Board may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time. The Board of the Association shall be elected in accordance with the provisions set forth in the Bylaws.

8.5 Power and Duties of the Association

8.5.1 Powers. The Association shall have all the powers of a non-profit corporation organized under the general corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, the Articles and the Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Common Area and the Association's other assets, including water rights when and if received from Grantor, and affairs and the performance of the other responsibilities herein assigned including, without limitation:

- (a) **Assessments.** The power to levy Assessments on any Owner or any portion of the Property and to force payment of such Assessments, all in accordance with the provisions of this Declaration;
- (b) **Right of Enforcement.** The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, the Articles or the Bylaws;
- (c) **Emergency Powers.** The power, exercised by the Association or by any person authorized by it, to enter upon any Building Lot or Common Area (but not inside any Residential Structure constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association; and

- (d) **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 Common Area, and for the preservation of the health, safety, convenience and the welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:
- (i) Underground lines, cables, wires, conduits or other devices for the transmission of electricity or electronic signals for lighting, heating, power, telephone, television or other purposes, and the above-ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services; and
 - (ii) Public sewers, storm drains, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and
 - (iii) Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing and landscaping abutting Common Area or public streets or land conveyed for any public or quasi-public purpose.

8.5.2 Duties. In addition to duties necessary and proper to carry out the power delegated to the Association by this Declaration, the Articles and the Bylaws, without limiting the generality thereof, the Association or its agent, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

- (a) **Operation and Maintenance of Common Area.** It is the Associations duty to operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired by the Association
- (b) **Taxes and Assessments.** Pay all real and personal property taxes and Assessments separately levied against the Common Area or against the Association and/or any other property owned by the Association. Such taxes and Assessments may be contested or compromised by the Association; provided, however, that such taxes and Assessments shall be paid or a bond insuring payment shall be posted prior to the sale or disposition of any property to satisfy the payment of such taxes and Assessments. In addition, the Association shall pay all other federal, state or local taxes, including income or corporate taxes levied against the

Association, in the event that the Association is denied the status of a tax exempt corporation;

- (c) **Water and Other Utilities**. Acquire, provide and/or pay for necessary services for maintenance of the Common Area, and to manage for the benefit of the Association water rights (if any) and rights to receive water (if any) held by the Association, whether such rights are evidenced by license, permit, claim, stock ownership or otherwise;
- (d) **Enforcement of Restrictions and Rules**. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, the Articles or the Bylaws including, without limitation, the recordation of any claim of lien with the Ada County, Idaho Recorder, as more fully provided herein; and
- (e) **Insurance**. Obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable including, without limitation, the following policies of insurance:
 - (i) Fire insurance including those risks embraced by coverage of the type known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreed amount basis for the full insurable replacement value of all Improvements, equipment and fixtures located within the Common Area;
 - (ii) Commercial general liability insurance insuring the Board, the Association, Grantor and the individual grantees and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Area. Limits of liability of such coverage shall be as follows: not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) per occurrence with respect to personal injury or death, and One Million Dollars (\$1,000,000) per occurrence with respect to property damage; and
 - (iii) Such other insurance, including officers and director insurance, motor vehicle insurance and Worker's Compensation insurance, to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property.

The Association shall be deemed trustee of the interests of all Owners in connection with any insurance proceeds paid to the Association under such policies, and shall have full power to receive such Owner's interests in such proceeds and to deal therewith. Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessment levied by the Association.

Without limiting the foregoing, each Owner may obtain insurance at such Owner's own expense providing coverage upon such Owner's Building Lot, such Owner's Residential Structure, Improvements and personal property, for such Owner's personal liability, and covering such other risks as such Owner may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies that the Association obtains pursuant to this article. All such insurance carried by the Owner shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents and guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation. Proceeds of such insurance claims shall be paid to the Owner of the Building Lot and/or the mortgagee in connection with such Building Lot.

8.5.3 Personal Liability. No Member of the Board, or member of any committee of the Association, including the Architectural Committee, or any officer of the Association, or Grantor, or the manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association, the Board, the manager (if any) or any other representative or employee of the Association, Grantor, or any committee, or any officer of the Association; provided that such person, upon the basis of such information as may be possessed by such person, has acted in good faith without willful or intentional misconduct.

8.5.4 Budgets and Financial Statements. Financial statements for the Association shall be prepared regularly and copies shall be distributed to each Member of the Association upon such Member's written and reasonable request, as follows:

- (a) **Budget/Projected Operating Statement.** A projected operating statement or budget for the Association, for each fiscal year shall be available for distribution not less than sixty (60) days before the beginning of each fiscal year. The operating statement projected for the ensuing fiscal year shall include a schedule of Assessments received and receivable, identified by the Building Lot number and the Owner thereof;
- (b) **Balance Sheet.** Within ninety (90) days after the close of each fiscal year, the Association shall cause to be prepared a balance sheet as of the last day of the Association's fiscal year, and shall make such balance sheet available for distribution to each Owner;
- (c) **Operating Statement.** Within thirty (30) days after the close of each fiscal year, the Association shall cause to be prepared an annual operating statement reflecting the income and expenditures of the Association for the foregoing fiscal year. Copies of the balance sheet and operating statement shall be available for distribution to each Member requesting a

copy of the balance sheet and operating statement within one hundred twenty (120) days after the end of each fiscal year; and

- (d) **Audit.** The Association shall provide an audited statement for the preceding fiscal year if the holder, insurer or guarantor of any first mortgage that is secured by a Building Lot submits a written request for it; such holder, insurer or guarantor shall pay the reasonable cost of such audit. A copy of each audit shall be delivered to each Member requesting a copy of such audit within thirty (30) days after the completion of such audit.

8.5.5 Meetings of Association. Each year the Association shall hold at least one meeting of the Members, according to the schedule for such meetings established by the Bylaws; provided, that such meeting shall occur no earlier than April 15 and no later than May 31 of each year. Only Members shall be entitled to attend Association meetings, and all other persons may be excluded. Notice for all Association meetings, regular or special, shall be given by regular mail to all Members not less than ten (10) days nor more than thirty (30) days before the meeting and shall set forth the place, date and hour of the meeting and the nature of the business to be conducted. All meetings shall be held within the Property or as close thereto as practical at a reasonable place selected by the Board. The presence at any meeting in person of the Class B Member where there is such a Member, and of the Class A Members representing Owners holding at least thirty percent (30%) of the total votes of all Class A Members, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than ten (10) days nor more than thirty (30) days from the time the original meeting was scheduled. At any such meeting properly called, the presence of any Class A Member and the Class B Member (if applicable) shall constitute a quorum. *quorum is 1/3*

9 COVENANT FOR MAINTENANCE ASSESSMENTS

9.1 Creation of the Lien and Personal Obligation of Assessments For each Building Lot owned within the Property, each Owner (other than a builder or Grantor and subject to the provision in Section 9.4) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Set-up fee to be collected at the close of each Building Lot in the amount of One Hundred Fifty and No/100 Dollars (\$150.00) payable to the Association. Upon each transfer of any Building Lot and recording of the deed therefor, each buyer at closing shall pay to the Association a special transfer assessment of Fifty and No/100 Dollars (\$50.00);
- (b) Regular Assessment;
- (c) Special Assessments for capital improvements as herein provided; and
- (d) Limited Assessments as herein provided.

The set-up fee, the site clean-up fee, the transfer fee, the Regular Assessment, the Special Assessments and Limited Assessments, together with interest as allowed by this Declaration, the

Bylaws and Idaho law, whichever is greater, costs and reasonable attorneys' fees, shall be a charge on each Owner's Building Lot and shall be a continuing lien upon such Owner's Building Lot against which each such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorneys' fees incurred in a collection effort, whether or not suit has been filed, shall also be the personal obligation of the Person who was the Owner of such Building Lot at the time when the Assessment accrued and become due and payable. The personal obligation for delinquent Assessment shall not pass to an Owner's successors in title unless expressly assumed by such successor.

9.1.1 Purpose of Assessments The Regular Assessment levied annually by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and for the improvement and maintenance of the Common Area, and to pay the annual assessments to the irrigation district for the Irrigation System and other financial obligations.

9.1.2 Special Assessments for Capital Improvements In addition to the Regular Assessment authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Assessment shall have the assent of at least two-thirds (2/3) of the votes of the membership, either in person or by proxy at a meeting duly called for this purpose.

9.1.3 Limited Assessments Limited Assessments may be levied against any Owner in an amount equal to the costs and expenses incurred by Grantor or the Association, including, without limitation, attorneys' fees, whether or not suit has been filed, for any corrective action taken by Grantor or the Association pursuant to this Declaration or otherwise as necessitated by any intentional or negligent act or omission by any such Owner or the Occupant of such Owner's Building Lot, or the agents, contractors or employees thereof. Such costs and expenses shall include, without limitation, costs and expenses incurred for the repair and replacement of Common Area or other property owned or maintained by Grantor or the Association, and for landscaping performed by Grantor or the Association which has not been performed by such Owner as provided herein.

9.2 Maximum Annual Assessment Until January 1 of the year following the conveyance of the first Building Lot to an Owner (other than a builder or Grantor), the maximum Regular Assessment shall be Four Hundred Fifty and No/100 Dollars (\$450.00) per Building Lot per year, to be billed and paid monthly, quarterly, semi-annually, or annually, as determined at the discretion of the Board.

From and after January 1 of the year following the conveyance of the first Building Lot to an Owner (other than a builder or Grantor), the maximum Regular Assessment may be increased each year not more than ten percent (10%) above the Regular Assessment for the previous year without a vote of three-fourths (3/4) of the votes of the Members at a meeting duly called for this purpose. Without limiting the foregoing, the Board may fix the Regular Assessment at an amount not in excess of the maximum.

9.3 Notice and Quorum for Any Action Authorized Under Sections 9.1 and 9.2. Written notice of any meeting called for the purpose of taking any action authorized under Sections 9.1 and 9.2 shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of the votes of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Without limiting the foregoing, quorum must include Grantor or the Class B Member, so long as Grantor or the Class B Member, as the case may be, holds a voting interest in the Association.

9.4 Uniform Rate of Assessment Both Regular Assessment and Special Assessments must be fixed at a uniform rate for all Building Lots and may be collected on a semi-annual basis or other basis as determined by the Board in the Board's sole discretion; provided, however, that during the time there is a Class B Member, such Class B Member's obligation shall be limited to the difference between the amount of Regular Assessment and Special Assessments levied against all Building Lots not owned by Grantor and the amount of the Association's actual expenses exceed the Assessments so levied and collected by other Owners, rather than those sums otherwise due by Class A Members and Class C Members established in Sections 9.1 and 9.2 above.

9.5 Date of Commencement of Regular Assessment-Due Dates The Regular Assessment provided for herein shall commence as to all Building Lots on August 15, 2008. The Board shall fix the amount of the Regular Assessment against each Building Lot at least thirty (30) days in advance of each Assessment period. Written notice of the Regular Assessment shall be sent to every Owner subject thereto. The due dates for payment of Regular Assessment shall be established by the Board. The Limited Assessments shall be due on the date set by the Association when levying to Limited Assessment. The due date for the Special Assessment shall be determined by the Association and approved by the Members as part of the vote approving the Special Assessment. The Association shall, upon written demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Building Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Building Lot is binding upon the Association as of the date of its issuance.

9.6 Effect of Nonpayment of Assessments – Remedies of the Association Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum; provided, however, the Association may, but is not obligated to, waive such interest fee in the event the Owner has made payment arrangements with the Association. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the non-paying Owner's Building Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Building Lot.

9.7 Subordination of the Lien to Mortgages The lien of Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Building Lot shall

not affect the Assessment lien. However, the sale or transfer of any Building Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Building Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

9.8 Effect of Nonpayment as Against Mortgagees. No mortgagee shall be required to collect an Assessment, and the failure of a Building Lot Owner to pay Assessments shall not, in the absence of express language to the contrary in such mortgage documents, by itself cause a default under an insured (HUD/VA) mortgage.

10 ENFORCEMENT OF ASSESSMENTS; LIENS

10.1 Right to Enforce The Association or any Owner or the owner of any recorded mortgage upon any part of the Property shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In addition to the foregoing, the Association or the Associations agent(s) shall be entitled to enter upon the property of that Owner who has caused or permitted a violation of any of the restrictions, conditions or covenants contained herein, provided that the Association deposits in the mail, pre-paid postage a notice giving fifteen (15) days advance written notice to make all corrections and bring the property into compliance with the provisions of this Declaration, and/or the Association shall be entitled to impose a monetary penalty, not to exceed the sum of \$25.00 per day, against an Owner who has caused or permitted a violation of any of the restrictions, conditions or covenants contained herein, provided that the Owner is given fifteen (15) days advance written notice of the proposed monetary penalty and a timely opportunity to be heard on the matter. The opportunity to be heard may, at the election of such Owner, be oral or in writing. The notice shall be given personally to such Owner or sent by first class or certified mail to the last known address of such Owner as shown in the records of the Association and shall state the place, date and time of the hearing. The hearing shall be conducted by the Board of Directors of the Association or by a committee composed of not less than three (3) persons appointed by the Board of Directors. Such hearing shall be conducted in good faith and in a fair and reasonable manner. Any Owner challenging the monetary penalty imposed as provided herein, including and claim alleging defective notice, must commence legal action within one (1) year after the date of the imposition of the said penalty. Any monetary penalty imposed as provided herein shall become a part of the assessment to which such Owner's Building Lot is subject, shall be in addition to any assessments levied by the Association pursuant to the provisions of ARTICLE IX of this Declaration, and shall not be subject to any of the requirements, limitations or restrictions on the amount or uniformity of assessments contained herein. In the event the Association or an Owner is required to initiate any action to enforce the provisions of this Declaration or in the event the Association retains legal counsel in connection with any of its methods of enforcement as set forth herein, the Association or the enforcing Owner shall be entitled to recover from the Owner against whom an enforcement is sought, all attorney fees and costs incurred as a consequence hereof, whether or not any lawsuit is actually filed, and any such attorney fees and costs so incurred by the Association shall be added to and become a part of the assessment to which such Owner's Lot is subject. Failure by an Association, or by any Owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.2 Assessment Liens

10.2.1 Creation There is hereby created a claim of lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot 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 Building Lots upon recordation of a claim of lien with the Ada County, Idaho Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Building Lot and Assessments on any Building Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

10.2.2 Claim of Lien Upon default of any Owner in the payment of any Regular Assessment, Special Assessment or Limited Assessment issued hereunder, the Association may cause to be recorded in the office of the Ada County, Idaho Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Building Lot(s) against which the same have been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

10.3 Method of Foreclosure Such lien may be foreclosed by appropriate action in court or by sale by the Association establishing the Assessment, 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 permitted by 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 Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Building Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Building Lot(s), and a copy thereof is recorded by the Association in the Office of the Ada County, Idaho Recorder.

10.5 Subordination to Certain Trust Deeds The lien for the Assessments provided for herein in connection with a given Building Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Building Lot prior to the

recordation of a claim of lien for the Assessments. Except as expressly provided in paragraph 10.6 with respect to a first mortgagee who acquires title to a Building Lot, the sale or transfer of any Building Lot shall not affect the Assessment 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 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of the beneficiary under any deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Building Lot shall remain subject to this Declaration as amended.

11 IDENTIFICATION AND USE OF COMMON AREA

11.1 Common Area. Grantor shall designate and reserve the Common Area in this Declaration and/or recorded plats, deeds or other instruments. Without limiting the foregoing, the Common Area is hereby designated as:

Lots 1, 2 and 13, Block 1, Lots 1 and 9, Block 2.

This Common Area shall be conveyed to the Association free and clear of all liens and title encumbrances (other than easements, taxes, and common restrictions) and shall be owned and maintained by the Association.

11.1.1 Notes. The Common Area and Building Lots are subject to the "Notes," as stated on the final recorded Plat for TAPESTRY SUBDIVISION, recorded as Instrument No. 107117956, Book 99, Pages 12606 through 12608, Ada County, Idaho.

11.2 Use. Every Building Lot Owner shall have a right and easement of enjoyment in and to the Common Area, and such right and easement shall be appurtenant to and shall pass with the title to every Building Lot, subject, however, the following provisions:

11.2.1 The right of the Association holding or controlling the Common Area to levy and increase Assessments;

11.2.2 The right of the Association to suspend any Member's voting rights and rights to use of, except for the right of an Owner to ingress and egress to such Owner's Building Lot, or interest in, Common Area and other recreational facilities owned by the Association for any period during which any Assessment or charge against such Member's Building Lot remains unpaid and for a period not to exceed thirty (30) days for each infraction of its published rules and regulations;

11.2.3 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be permitted by the Articles and the Bylaws and agreed to by the Members. No dedication or transfer of said Common Area shall be effective unless an instrument

agreeing to such dedication or transfer signed by Members representing two-thirds (2/3) of each class of Members has been recorded. Meridian City must also approve in writing any proposed dedication or transfer of the Common Area;

11.2.4 The right of the Association to prohibit the construction of structures or Improvements on the Common Area;

11.2.5 The right of the Association to limit the number of Members permitted to use the Common Area, or a portion thereof, at any one time; and

11.2.6 The right of the Association to publish reasonable rules and regulations governing the use of the Common Area.

11.3 Liability to Building Lot Owners. Each Owner shall be fully liable for any damages to any Common Area which may be sustained by reason of negligence or willful misconduct of such Owner, such Owner's Occupant, resident tenant or contract purchaser, or such Owner's family and guests, both minor and adult. In the case of joint ownership of a Building Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited Assessment against the Owner's Building Lot and may be collected as provided herein for the collection of other Assessments. No Owner shall be liable for any amount greater than is legally allowable under Idaho law.

11.4 Stormwater Drainage Maintenance. ACHD Storm Water Drainage System. Lot 9, Block 2 is servient to and contains the Ada County Highway District ("ACHD") storm water drainage system. These Lots are encumbered by that certain Master Perpetual Storm Water Drainage Easement recorded on June 1, 2004 as Instrument No. 104068411 official records of Ada County, and incorporated herein by this reference as if set forth in full (the "Master Easement"). The Master Easement and the storm water drainage system are dedicated to ACHD pursuant to Section 40-2302 Idaho Code. The Master Easement is for operation and maintenance of the storm water drainage system. Said easement shall remain free of all encroachments and obstructions (including fences and trees) which may adversely affect the operation and maintenance of the storm drainage facilities.

Drainage. There shall be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee and the Ada County Highway District ("ACHD"). For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time of the overall grading of any portion of the Property is completed by Grantor, or that drainage which is shown on any plans approved by the Architectural Committee and/or ACHD, which may include drainage from Common Area over, any Building Lot in the Property.

Storm drain facilities within the Subdivision shall be located within the ACHD rights of way and/or within Common Area Lot(s) owned by the Association. Maintenance of all the storm drain facilities within the public rights of way shall be the responsibility of ACHD. Surface maintenance (grass, trees, shrubs, etc.) of the storm water management facilities outside the public rights of way (i.e., Association properties, swales; seepage trenches, storm ponds, park/detention areas, etc., hereinafter "Storm Water Park Area") is the responsibility of the

Association. All Storm Water Park Areas are subject to ACHD easements, if any, shown on the recorded Plat(s) for the Subdivision. The primary purpose of the Storm Water Park Areas is for the management of storm water. All recreational, aesthetic and other uses of these areas are secondary. ACHD has the right to inspect such facilities, and if necessary, perform any required maintenance or repairs. ACHD has the right to assess the Association for the costs of any required maintenance or repairs where the Association has failed to adequately maintain the surface areas that are part of the storm water treatment/detention area(s) within the Subdivision, including the use of liens and/or assessments of maintenance costs against the Lots within the Subdivision. The Association shall maintain a "**Maintenance and Operation Manual**" containing a stamped and approved construction plan for the Subdivision showing the location of all Storm Water Park Areas, a copy of the final plat, engineering drawings showing the detail of each Storm Water Park Area that receives ACHD drainage and states that the Association shall be responsible for maintaining the same along with plan sheets folded and appended to the manual, a written description of the maintenance required by the Association, an itemized estimate of the annual operating and maintenance costs of the Association along with a statement describing the primary purpose of each facility to be to control storm water. The Maintenance and Operation Manual dated April 27, 2007 shall also state that any additions to or improvements within the storm drain facilities, such as park benches or additional landscaping, should be considered temporary and may be removed when heavy maintenance of the storm drain facilities are required and that the replacement of those items shall be the financial responsibility of the Association. Any changes or modifications of the Storm Water Park Areas above and beyond the improvements shown on the ACHD approved storm drain plans for the Subdivision as set forth in the Maintenance and Operation Manual shall require the prior approval of ACHD and any other governmental entity having jurisdiction of the Subdivision.

11.4.1 "Heavy" Maintenance of Drainage Facilities. "Heavy" maintenance consists of periodically inspecting the Storm Water Drainage Facilities (the "**Drainage Facilities**") to ensure these are functioning properly; cleaning out the Drainage Facilities' piping and mucking out the Drainage Facilities when the sediment level exceeds the designed storage level. All other maintenance shall be referred to herein as "**light**" maintenance, as more specifically set forth below. ACHD shall have the duty to perform the "heavy" maintenance of the Drainage Facilities and shall be allowed to perform this "heavy" maintenance work.

11.4.2 "Light" Maintenance. The Association shall have the duty to perform the "light" maintenance of the Drainage Facilities as follows:

- (a) **Monthly Inspection of the Drainage Facilities** Monthly visual inspections of the Drainage Facilities shall be performed by the Association. In the event that the Association notices any need for repair or maintenance of the Drainage Facilities, the Association shall have a licensed contractor make the necessary repairs;
- (b) **Monthly Inspection of Underground Facilities** Monthly visual inspections of the underground Drainage Facilities shall be performed by the Association to check for clogging or standing water in or on the piping, the manholes or other structures. In the event that any of these

items are found, the Association shall contact ACHD so that ACHD can perform their "heavy" maintenance responsibilities;

- (c) **Mowing and Maintenance of Landscaping.** The Association shall perform the normal surface routine maintenance such as mowing laws, fertilization, weed control, and irrigation of any landscaping within the Drainage Facilities. Any lawn placed in the Drainage Facilities shall be maintained in a healthy condition;
- (d) **Trash Cleanup.** Any trash found during the periodic inspection shall be corrected and removed from the Drainage Facilities and disposed of properly offsite; and
- (e) **Annual Operating Costs of the Drainage Facilities.** The annual operating costs for the Drainage Facilities to the Association shall be paid by the Owners as Regular Assessment.

11.4.3 Association Failure to Maintain; ACHD Remedies. In the event that ACHD determines, in ACHD's sole discretion, that the Association is not adequately performing the Association's "light" maintenance responsibilities set out above, then ACHD shall, before undertaking maintenance of the Drainage Facilities, provide written notice of ACHD's intention to begin maintenance after a thirty (30) day period. Within such thirty (30) day period following ACHD's written notice, the Association may undertake to initiate and conclude all maintenance defects as identified by ACHD. In the event that the Association shall fail to commence and conclude maintenance to the extent said items of specific maintenance are identified by ACHD within the prescribed thirty (30) days, then ACHD may undertake such maintenance.

Should ACHD engage in maintenance of the Drainage Facilities after having provided notice to the Association and having provided the Association an opportunity to undertake said maintenance, the Association shall pay all of the costs of the maintenance. ACHD shall first bill the Association and if such bill shall not be paid within sixty (60) days, then ACHD shall be entitled and empowered to file a taxable lien against all Building Lots within the Tapestry Subdivision with power of sale as to each and every Building Lot in order to secure payment of any and all Assessments levied against all Building Lots pursuant to this Declaration as if said maintenance had been performed by the Association, together with interest at the rate which accrues on judgments thereon and all costs of collection which may be paid or incurred by ACHD.

The Association shall not be dissolved or relieved of its responsibility to perform the "light" maintenance of the Drainage Facilities without the prior written approval from ACHD

The Association and all Owners of Building Lots by accepting title to a Building Lot hereby agree that all Owners within the Tapestry Subdivision are benefited property owners of such maintenance.

12 PRESSURIZED IRRIGATION SYSTEM

12.1 Irrigation System. Each Building Lot shall have access to a pressured irrigation water system (the "Irrigation System") and irrigation water, when seasonally available, will be supplied through the Irrigation System. It is contemplated that Grantor shall construct the Irrigation System, and that Grantor shall transfer the Irrigation System to the City of Meridian by describing such transfer on a recorded Plat, or granting or reserving the Irrigation System in a deed or other instrument, or in this Declaration or in any Supplemental Declaration and upon such transfer, the City of Meridian shall operate and maintain the Irrigation System. Payments for water use shall be made by the Owners to the City of Meridian. Use of and Assessments in connection with the Irrigation System shall be subject to such rules and regulations of the Association governing use of and Assessments in connection with the Irrigation System as may be adopted by the Association from time to time. For purposes of this Article, Grantor is hereby appointed and made attorney-in-fact for the Association, with full power of attorney to consummate any such transfer of the Irrigation System.

12.2 Non-Potable Water. The non-potable Irrigation System contains inherent dangers. Use of the Irrigation System shall be subject to such rules, regulations, laws and ordinances as may be adopted and amended from time to time, of the local jurisdiction, State of Idaho, and federal government, if any, and the Association, governing the use of the Irrigation System including, without limitation, all requirements of the "Idaho Rules for Public Drinking Water Systems." Each Owner shall clearly mark every non-potable water tap on such Owner's Building Lot with a warning label or sticker, and shall maintain such label or sticker. No Owner, or any other person claiming right under any Owner, shall cause or allow to be caused, any connection between the domestic water system and the Irrigation System. Cross-connections of any type or kind whatsoever between the non-potable Irrigation System and potable water lines are strictly prohibited.

12.3 Owners Responsibilities; Location of Lines. Each Building Lot will have a control valve on the pressurized irrigation system to allow irrigation water onto that individual Building Lot. Each Building Lot Owner shall be responsible for such Owner's own irrigation system on such Owner's Building Lot downstream from the control valve (e.g., filters, screens, sprinkler lines and sprinkler heads). Each Owner shall install a sufficient sand screen or similar filter set up to keep sand and other irrigation ditch debris out of the Owner's irrigation system. Each Owner shall clean and maintain their own screens and filter systems. Each Building Lot Owner shall use all reasonable efforts to conserve and not waste irrigation water. Any Owner damaging the main Irrigation System shall be responsible for all of the costs of that damage.

12.4 Water Unreliable. The area of the country where the Tapestry Subdivision is located is desert. Irrigation water is not always reliable and such water is not unlimited. Irrigation water may not be available due to, without limitation, drought, harsh weather conditions, government actions, system breakdowns, transmission failures, overuse by Building Lot Owners or any other causes. Each Owner assumes the risk of any water shortage, and in the event that there is a water shortage, each Owner must be prepared to use such Owner's domestic water supply.

12.5 Rotation. No Building Lot in the Tapestry Subdivision shall have any right to, or assurance of, a continuous or unlimited supply of irrigation water from the Irrigation System, nor is any Building Lot guaranteed enough water from the Irrigation System to irrigate all of the landscaping on the Building Lot. Each Building Lot shall be subject to, and each Building Lot

Owner by accepting a deed to a Building Lot in Tapestry Subdivision agrees to be bound by and to comply with, any rules or regulations which may be established for the use and rotation of irrigation water between the Building Lots by the Association. All Building Lot Owners and occupants shall follow said water rotation schedules and any rules promulgated relative to the use of irrigation water. Failure to adhere to the rotation schedule or rules may, following notice from the Board, result in suspension of the right to use irrigation water.

12.6 No Liability Neither the Association nor the Grantor (or any members, employees, agents, officers or directors thereof) nor the City of Meridian shall have any liability of any kind to any Owner, tenant, the Association, Member of the Association, or any others for any losses or damages relating in any respect to the Irrigation System, or irrigation water, or the lack thereof including, without limitation, damages to, or loss of lawns, landscaping, trees, shrubs, gardens or the like caused by the lack of, or shortage of, irrigation water. Each Owner accepts the risk of loss or damage due to the unavailability, shortage or lack of irrigation water.

12.7 WARNING! IRRIGATION WATER IS NOT DRINKABLE Notice is hereby given to each Owner in Tapestry Subdivision that the water in the Irrigation System is NOT fit for human consumption. It contains untreated ditch or pond water, which may contain dirt, hazardous wastes or farm chemicals or disease-causing organisms. Drinking of the irrigation water may make a person sick and could result in death or permanent disability.

NEVER DRINK WATER FROM THE PRESSURIZED IRRIGATION SYSTEM!

It is the duty of each Owner to:

- educate all family members, guests, tenants and invitees that the water from the Irrigation System is not drinkable;
- ensure that ALL of the faucets and risers in the Irrigation System are adequately marked, and if not marked to check with the local health department to determine what type of markings are required by that health department or agency;
- not remove any existing tags or other warning markers from the irrigation risers; and
- not install, or maintain the installation of, any cross connections between the Irrigation System and the drinking water system unless the cross connection has been approved in writing by the Association AND the supplier of the irrigation water AND the supplier of the drinking water AND the cross connection back flow prevention device meets all relevant governmental and building code requirements.

12.8 No Liability for Quality or Quantity of Water Neither the Association nor the Grantor (or any members, employees, agents, officers, shareholders or directors thereof) nor the City of Meridian shall have any liability of any kind to any Owner, Occupant, tenant, lessee, the Association, and/or any others for any losses, damages, or bodily injuries relating in any respect to the quantity of water or the quality of the irrigation water, or the ingestion of, or contact with, the irrigation water. Each Owner, Occupant, tenant, lessee and the Association accepts the risk of using the irrigation water and waives and releases any and all claims relating thereto.

13 MISCELLANEOUS

13.1 Term. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions and equitable servitudes of this Declaration shall run for a term of twenty (20) years from the date this Declaration is recorded, after which time said Restrictions shall be automatically extended for successive periods of ten (10) years each, unless, prior to expiration of the term or extended term then in effect (as the case may be) of this Declaration, the term is extinguished by an instrument signed by Members entitled to cast not less than three-fourths (3/4) of the votes of the membership of the Association, and approved by the City of Meridian. Except as otherwise specifically provided herein, any of the Restrictions of this Declaration, except the easements herein granted, may be amended as set forth below. Any amendment or election not to extend the term must be recorded, and shall not be effective or binding until it is recorded in the Official Records of Ada County, Idaho.

13.2 Amendment

13.2.1 By Grantor; Grantor's Consent Required. Until the recordation of the first deed to a Building Lot (transferring title to such Building Lot to an Owner other than Grantor or a builder), the provisions of this Declaration may be amended, modified, clarified, supplemented, added to (collectively, "**amendment**") or terminated only by Grantor by recordation of written instrument setting forth such amendment or termination (following express written consent thereto by the City of Meridian). Any amendment affecting only a particular Tract may be made only by Grantor by an amendment to this Declaration at any time up to the recordation of the first deed to a Building Lot in such Tract. Without limitation on the foregoing, and notwithstanding anything to the contrary set forth in this Declaration, as a right reserved unto the original Grantor under this Declaration, as long such original Grantor owns any portion of the property which has not yet been annexed into the Tapestry Subdivision, no amendment to or termination of this Declaration shall be effective or enforceable without the prior written consent of such original Grantor. Such reserved right of consent may be assigned by such original Grantor.

13.2.2 After Sale of First Building Lot. Subject to the required prior written consent of the original Grantor under this Declaration, as set forth in Section 13.2.1, after the recordation of the first deed to a Building Lot (to an Owner other than Grantor or a builder), the provisions of this Declaration may be amended by a written instrument approved by Owners holding at least three-fourths (3/4) of the votes of the membership of the Association, and shall be approved by the City of Meridian.

13.3 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to Grantor, the Association or any other person or entity for the purpose of service of notices by such person or entity, or to the address of an Owner's Building Lot, if no other address for notices has been given to such person or entity by such Owner. Such address may be changed from time to time by notice in writing given in compliance with the foregoing.

13.4 Enforcement and Non-Waiver

13.4.1 Right of Enforcement Except as otherwise provided herein, any Owner of any Building Lot shall have the right to enforce any or all of the provisions hereof against any property within the Property and the Owners thereof.

13.4.2 Violations and Nuisances The failure of any Owner of a Building Lot to comply with any provision hereof, is hereby declared a nuisance and will give rise to a cause of action in Grantor, the Association, or any Owner of a Building Lot(s) within the Property for recovery of damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Grantor or the Association may enforce by self-help any of the provisions hereof, and only if such self-help is preceded by reasonable written notice to the Owner.

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

13.4.4 Remedies Cumulative Each remedy provided herein is cumulative and not exclusive.

13.4.5 Non-Waiver The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the right to enforce any such provision.

13.5 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 Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

13.5.1 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 Property as set forth in the recitals of this Declaration.

13.5.2 Restrictions Severable Notwithstanding the provisions of the foregoing Section 13.5.1, 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.

13.5.3 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.

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

13.6 Successors and Assigns All references herein to Grantor, an Owner, or a person shall be construed to include all successors, assigns, partners and authorized agents of such Grantor, Owner, or person.

13.7 Assignment by Grantor. Any or all rights, powers and reservations of Grantor herein contained may be assigned to any Person or entity which is now organized or which may hereafter be organized and which will assume the duties of Grantor hereunder pertaining to the particular rights, powers and reservations assigned, and, upon any such Person or entity evidencing his, her or its intent in writing to accept such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Grantor herein. In the event of any such assignment and assumption, Grantor shall be released from any liability or obligation arising under this Declaration and accruing after the date of such assignment and assumption, except with respect to any rights, powers and reservations as may have been reserved unto Grantor. All rights of Grantor hereunder reserved or created shall be held and exercised by Grantor alone, so long as it owns any interest in any portion of the Property or a Tract that may be annexed into the Property, which Property or Tract is subject to such reserved or created rights.

14 INDEMNIFICATION

To the full extent permitted by applicable law and without limiting any other provision in this Declaration, Grantor, each member of the Board, each member of an Association committee, and each officer shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceedings to which he, she or it may be a party, or in which he, she or it may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he, she or it holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by insurance and except in such cases wherein such person or entity is adjudged guilty of willful misfeasance in the performance of his, her or its duties; provided, however, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association; and further provided that this right of indemnification shall be inapplicable to the extent necessary, if at all, for the Association to obtain any insurance required by this Declaration.