

**RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR TIMBERLINE RANCH SUBDIVISION**

[Terminating and Restating, in its entirety, that *Declaration of Covenants, Conditions and Restrictions and Building and Design Guidelines for Timberline Ranch*, attached as Exhibit C to Instrument No. 184309, recorded January 18, 2007]

This RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TIMBERLINE RANCH [hereinafter "Restated Declaration"], is made and effective as of the date signed below, by **TREE TOPS TIMBERLINE, LLC, an Idaho Limited Liability Company**, [hereinafter the "Declarant"], which is the assignee of all of those certain rights, title and interests previously owned and held by that former "Declarant" - *Timberline Partners, LLC*, ["Timberline"], as referenced, described and reserved in that *Declaration of Covenants, Conditions and Restrictions and Building and Design Guidelines for Timberline Ranch*, signed on December 1, 2006, and which were attached to a certain *Developer's Agreement* as Exhibit C, recorded in the Teton County, Idaho Clerk's Land Records Office as Instrument # 184309 on January 18, 2007, [hereinafter "the 2007 Declaration"].

Declarant presently owns all but two Lots of the Subdivision Property identified below; and pursuant to those rights assigned to it by Timberline pursuant to Article 12.1 of the 2007 Declaration, and pursuant to the City of Victor's consent to the termination and restatement of the 2007 Declaration, [as given in ¶ 15 of that *Third Amendment and Restatement to Developer's Agreement*, recorded as Instrument #231655]:

DECLARANT TREE TOPS TIMBERLINE, LLC, HEREBY RESTATES the 2007 Declaration in its entirety. Therefore, the 2007 Declaration, recorded as Exhibit C to Instrument #184309, is hereby terminated, revoked, replaced and now Restated in its entirety by this *Restated Declaration of Covenants, Conditions and Restrictions for Timberline Ranch Subdivision*, dated and effective as of the date signed below.

The Timberline Ranch Subdivision [as identified below and hereinafter also referred to as "Subdivision" or the "Property" or "Subdivision Lots" or "Lots"], is a desirable residential area, having great scenic and natural value, and Declarant is adopting the following Covenants, Conditions and Restrictions for the benefit of all owners of the Property: (a) to preserve and maintain the unique rural character of the Property, including the Property's riparian areas and wetlands, surface and underground waters, vegetation, and wildlife, (b) to assure that the appearance, condition, and use of the Property remains reasonably consistent with desirable qualities of surrounding lands, and (c) to maintain the scenic and natural values of the Property.

NOW THEREFORE, the Declarant, after having approved and adopted this Restated Declaration by the unanimous consent of its managers and members, hereby declares that all of the lands within the *TIMBERLINE RANCH SUBDIVISION*, and any part thereof, as more particularly described as being Phase I(A), as that phase and plat is identified in those Teton County, Idaho plat book and records, and making up 65 platted residential lots ("Lots") with additional open space lots, legally referred and described as:

ALL of the Final Plat Timberline Ranch Subdivision, Teton County, Idaho, as per the plat recorded January 18, 2007, as Instrument No. 184307. Correction plat recorded August 26, 2008, as Instrument No. 199741. Amendment #1 recorded July 22, 2010, as Instrument No. 212175. *

LESS: (1) All of Phase 1-B as shown on Final Subdivision Plat Amendment No. 1, Timberline Ranch Subdivision, Teton County, Idaho, as per the plat recorded July 22, 2010, as Instrument No. 212175; (2) Tract 1 of the Final Plat of Timberline Ranch Subdivision, Teton County, Idaho, as per the plat recorded January 18, 2007, as Instrument No. 184307. Correction plat recorded August 26, 2008, as Instrument No. 199741, Amendment #1 recorded July 22, 2010, as Instrument No. 212175; and (3) the *Future Phase* of Timberline Ranch Subdivision - correction plat recorded August 26, 2008, as Instrument No. 199741, Amendment #1 recorded July 22, 2010, as Instrument No. 212175 - more specifically identified as 25.15 Acres of land having a Teton County Tax reference of #1198 less #5680, Less Timberline Ranch Sub Phase 1, and identified by Census Tract / Block # as 960100/4386.

* [With said 65 platted residential Lots also described as Block 3 – Lots 1 through 9, Block 4 – Lots 1 through 7, Block 5 – Lots 1– 3, Block 6 – Lots 1 through 15, Block 7 – Lots 1 through 17, and Block 8 – Lots 1 through 14, of the *Final Plat Timberline Ranch Subdivision*.]

SHALL BE HEREAFTER owned, sold, conveyed, encumbered, leased, used, occupied and developed subject to the following Covenants, Conditions and Restrictions [the "Covenants" or "Restated Declaration"], which Covenants shall run with the land and the Property and any portion thereof, and shall be binding upon all parties having or acquiring any legal or equitable interest in or title to the Property or any part thereof, and shall inure to the benefit of every owner of any part of the Property, as follows:

1. **TRACTS DEFINED.** These Covenants shall apply to all Subdivision Lots within the Property, as shown on the aforesaid Plats and Phase IA, and to any additional Subdivision Lots as may be created hereafter by division, subdivision, split or partition in accordance with Section 2 below. Each covenant herein shall apply to each such Subdivision Lot, and any portion thereof, and

shall be binding upon and run with the land. No part of this Restated Declaration is applicable to, restricts, governs or is effective as to Declarant's real property formerly referred to and excluded in the property description above as the *Future Phase*, which is referenced in Teton County Plats as being 25.15 Acres of land, having a Teton County Tax reference of #1198 less #5680, Less Timberline Ranch Sub Phase 1, and which is also identified as Teton County Census Tract / Block # 960100/4386, or as sometimes also referenced as *The Ponds Subdivision Future*.

2. **SUBDIVISION.** No Subdivision Lot shall be further divided, subdivided, split or partitioned in any manner, unless such Lot as split is then consolidated with a contiguous Lot, and the resulting Lot is larger than the Lot prior to its split. Two or more contiguous Lots within the Subdivision may be combined and thereafter treated as one building site, with the resulting Lot and building site subject to the same restrictions and conditions as would be applicable to both Lots prior to the consolidation. All resulting Lots shall be subject to this Restated Declaration, and each such division, subdivision, split, or partition shall fully comply with all applicable land use, subdivision, and zoning laws and regulations.

3. **RESIDENTIAL.** All Lots shall be used exclusively and only for residential purposes. However, nothing in this Restated Declaration shall be deemed to prevent any person from pursuing his or her calling upon the Lot owned by or occupied by such person, if such person is self-employed and has no employees working on such Lot or in such dwelling unit, and does not advertise any product, work for sale, or service provided to the public upon such Lot or dwelling unit. Any home business or home occupation use permitted herein must also comply with any and all applicable zoning regulations of Teton County and the City of Victor, as now in effect or as hereafter from time to time amended or promulgated. Such home business or home occupation use as permitted herein, may NOT result in an increase in vehicular traffic to that Lot which is above and beyond what would otherwise be reasonable if that Lot were used exclusively for residential purposes. No advertising or director signs relating to a home occupation or profession shall be allowed within the private, public, or commonly held lands within the Subdivision.

4. **CONSTRUCTION.** Any building(s) erected on a Subdivision Lot shall be on-site new construction. NO manufactured, mobile, pre-assembled, pre-fabricated or modular homes or construction, or tents, teepees or yurts are permitted at any time. Log homes shall be of custom, hand peeled variety only. No owner of a Lot shall erect or place any mobile homes, factory constructed or other modular residential buildings on a Lot. There shall be no more than one (1) primary

residential dwelling unit constructed on each Lot or each parcel thereof. Trailers, Mobile homes, tents, teepees or yurts shall not be used as temporary or permanent residences at any time.

(a) Primary Residence and Accessory Buildings. All buildings, fencing and any other improvements shall be appropriate in character, design and architecture for the area, and shall be constructed of new quality materials. All buildings and improvements will be painted or sided in primarily earth tone colors so that they shall blend with the land in the surrounding area as much as possible. Not more than one (1) single-family residential dwelling unit shall be constructed on any Lot, which is required to have an attached private garage for at least two vehicles, and a maximum of One (1) additional accessory buildings which may be used for a shop, studio, greenhouse or guest quarters, additional garage, workshop, recreation room, storage area, barn recreation room, or any combination thereof. Car ports, RV ports, pre-built sheds and pre-fabricated steel buildings are prohibited on all Lots on the Property.

(b) Primary Residential Dwelling Constructed First. No accessory structure, building, garage, or shed shall be constructed, placed, or maintained upon any lot until after commencement of construction of the Primary Residential Dwelling Unit on the same Lot.

(c) Vehicle Storage Facilities and Driveway Construction. Development of each Lot shall provide for automobile storage for a minimum of two (2) outdoor and two (2) indoor parking spaces for the Primary Residential Dwelling Unit. Each primary residence must have an attached garage of a *minimum 20' x 20' size, which may NOT be detached from the Primary Residential Dwelling Unit.* All parking spaces and driveways shall be graveled, asphalt, chip-sealed, or concrete. Any gravel surfaces shall include both base gravel or pit run of a minimum of six (6) inches and crushed finish gravel sized at one (1) inch minus or less and shall have at a minimum of three (3) inches, installed such that all course base gravel is completely covered by finish gravel.

(d) Road Damage. Each Lot Owner is responsible for any damage caused to the Subdivision Roads and Pathways within the Subdivision during the construction of improvements upon such Owner's Lot by any vehicle or equipment belonging either to an Owner or to any person or entity using the roads within the Subdivision while engaged in any activity benefitting the Owner. Each Owner shall also be responsible for any damage caused by utility cuts in roads, washouts and run off damage caused by failure to install culverts properly and in a timely manner as may be necessary in connection with the construction of improvements upon or any other uses made by such Owner to his/her Lot.

5. IMPROVEMENT SET BACK, HEIGHT LIMITS, SIZE REQUIREMENTS AND GRADING.

(a) Set Backs. No improvement (excluding only perimeter fences, earth berms, landscaping and similar improvements which would not defeat the purpose of the set back) shall be constructed closer to the front or rear of any Subdivision Lot, or any stream, canal, pond, or irrigation ditch, than a distance of thirty (30) feet. No improvement (excluding only perimeter fences, earth berms, landscaping and similar improvements which would not defeat the purpose of the set back) shall be constructed closer to side of any Subdivision Lot than a distance of fifteen (15) feet. Eaves, steps and open porches of buildings shall not be considered as part of such improvement. Consideration shall be given to placing structures so as not to disrupt the view of other Lot owners and to provide continuity with the natural surroundings.

(b) Height Limits. The maximum building height for any structure or building is Thirty (30) Feet, for any roof slope. All height shall be measured at any cross section of the structure from the approved finished grade to the highest point of the structure immediately above. Minor projections such as chimneys or other structures not enclosing habitable space shall be excluded in determining the maximum height.

(c) Minimum Dwelling Size: Each primary residential dwelling unit shall have a minimum of One Thousand Eight Hundred [1,800] square feet of above-grade finished floor area on a combination of all levels, exclusive of the attached garage, decks, porches. No basement area will be considered a part of the finished floor area requirements.

(d) Maximum Dwelling Size: The maximum building size for the primary residential dwelling unit shall be 6,0000 square feet, exclusive of any and all accessory structures.

(e) Accessory Building Size. Any accessory building shall not exceed One Thousand [1,000] square feet on the ground level, and shall be of properly framed construction, and subject to those design requirements and restrictions as set forth in Sections 3, 4, 5, 6, 7 and 8 herein; provided further, an accessory building constructed on a Lot shall be constructed in a style that matches the primary residential dwelling unit constructed thereon, and the siding and roof materials and colors of both buildings shall be the same on the dwelling unit and accessory building/s.

(f) Grading. Finish grading on all buildings shall assure drainage of surface water from the buildings and avoid concentrating runoff onto adjacent properties. All buildings on all Lots shall provide a minimum grade decline of six (6) inches for the first ten (10) feet adjacent to the building's foundation.

6. ROOF REQUIREMENTS AND RESTRICTIONS.

(a) Ridge Lines. No roof ridge line shall extend more than Forty (40) feet without interruption by an intersecting roof line, secondary roof structure, or step down roof in order to break up the overall roof mass.

(b) Pitch. The minimum roof pitch shall be 5:12 for the major components of any roof. Any minor components or secondary roof structure [shed roof or dormer roof] may have a pitch as low as 4:12. No component of any roof constructed on a Lot shall have a pitch less than 4:12.

(c) Eaves, Soffit and Fascia. All major roof components shall have a minimum horizontal eave projection of Twenty-Four (24) inches measured from the finished wall. All roof edges shall have a minimum fascia of Six (6) inches in height.

(d) Roof Materials. Roofing material shall be asphalt shingles, shake shingles, or tile shingles. NO metal roof materials are permitted on the primary roof structure, with the exception that metal roof materials are permissible only if used on dormers and covered porches, and only so long as the metal roof materials are new. NO reclaimed metal or galvanized roofing materials are permitted in any instance. All roofing materials shall be of a non-glare variety, and NO bright paint colored or blue or bright red roofs are permitted at any time.

7. EXTERIOR WALLS AND SIDING REQUIREMENTS.

(a) Materials. All exterior wall constructions shall be real stone, brick, natural log, natural wood siding or stucco. NO vinyl siding, masonite siding, plywood siding, T-111 siding, false stone or faux log siding is permitted in any circumstance. Non-galvanized steel and patina tin shall be permitted as exterior wall features only if utilized for wainscoting features that do not exceed three [3] feet in diameter.

(b) Form. No wall shall consist of a single finish treatment for more than fourteen [14] horizontal feet without interruption by a wall projection or a different siding material, window, wall corner, chimney, wall recess, porch or other architectural form.

8. EXTERIOR LIGHTING. All exterior lighting fixtures shall be downcast ninety (90) degree cut off fixtures and shall be free of glare and fully shielded such that no light rays are emitted by the installed fixture at angles above the horizontal plane, and so as to prevent any nuisance on or to adjacent roads and/or Lots. Lights cast upwards towards walls or trees shall not be allowed on any site. Exterior lighting, except downcast walkway and driveway lighting not more than three (3) feet above ground, shall not be used for extended periods, shall not be left on overnight, and shall not be used unless the site is occupied. The use of flood lighting is prohibited.

9. **UTILITIES.** All utilities and service lines installed on Lots shall be located underground. Propane tanks must be buried or screened from public view and blend with the adjacent building on the Lot.

10. **WASTE DISPOSAL.** The owner of each Lot shall adhere to local regulations for disposing of trash and garbage. No rubbish, debris, ashes or trash of any kind shall be placed or permitted to accumulate upon said Lot. All solid waste containers must be stored out of view except during reasonable periods prior to and after pick-up, and only on the day of pick-up.

11. **FENCING.** Any and all fencing on any Lot is limited to, and shall be One (1) or Two (2) Rail Post and Pole fencing, with or without wire, and shall be NOT be more than Forty (40) inches in height. No other fencing is permitted, specifically restricting chain-link, woven, vinyl and barb wire fencing.

12. **MAINTENANCE AND LANDSCAPING.**

(a) Each Lot, its yard and landscaped areas, and all improvements thereon shall be maintained in a neat, clean, safe and well-maintained condition. Service areas, storage piles and compost shall be appropriately screened from view. No haystacks or hay bales, troughs, unstacked firewood, lumber, metals, bulk materials, scraps, refuse or trash shall be kept, stored or allowed to accumulate on any Lot except behind the residence as viewed from the road. Firewood must be neatly stacked in such a way as to be substantially screened from view of the other Lots.

(b) Lawns and landscaping shall be maintained in a manner which shall not detract from the appearance and value of the adjoining lots or diminish the aesthetics of the Subdivision. Lawns, trees, and shrubs shall be irrigated with an automated, underground spray or drip system. Landscaping shall be limited to native grasses, trees, shrubs, and other vegetation suited to the area. Landscaping, including finished grading and seeding of a lawn, must be completed within one year following the date an occupancy permit has been issued by Teton County.

(c) **Owner Obligation to Curtail Noxious Weeds.** All Owners, prior to initiating development, shall maintain their lot(s) free of noxious weeds.

13. **DOMESTIC ANIMALS.**

(a) No livestock or domestic animals, such as horses, sheep, goats, pigs, roosters, cattle and llamas may be kept, cared for or maintained on any Lot. Each Lot shall be entitled to a reasonable number of Household Pets (the term Household Pet(s) means generally recognized Household Pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles, and including

not more than four female chickens), so long as such pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise, odor, or do not otherwise become a nuisance to other Owners. All Owners or Occupants with Household Pets shall keep such animals restrained and controlled on the Owner's Lot at all times so they do not cause a nuisance to others and do not harass or endanger wildlife. For purposes of this Section, "nuisance" means any noisy animal, any vicious animal, or any animal which chews, tears, digs or scratches, litters or soils, destroys, or in any other manner injures clothing, garbage containers, gardens, flower beds, lawns, trees, shrubbery, or any other personal or real property within the Properties. Excessive, continued, or untimely barking, molesting of neighbors, chasing vehicles, habitually attacking other animals, trespassing upon private property in such a manner as to damage property shall also be deemed a nuisance. For purposes of this Section, a "noisy animal" means any animal which habitually, constantly, or frequently disturbs the sleep, peace, or quiet of any person.

(b) The Association shall have, and is hereby given, the right and authority to take such action or actions as it deems reasonably necessary to remedy the violation, including requiring the owner or custodian of a nuisance pet to confine such animal indoors or otherwise remedy the problem, and in the absence of resolving such problem, to levy against the offending Owner a Specific Assessment of not more than \$25.00 per day, for each day the Lot Owner refuses to remedy the problem, and maintains a nuisance pet.

(c) The Owner of a Lot where a Household Pet is kept, as well as the legal owner of such pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by such pet, and for any clean-up of roads or other Lots necessitated by such pet.

14. PARKING, STORAGE AND USE OF VEHICLES, MACHINERY AND EQUIPMENT.

(a) Vehicles which are not in running condition, which do not have valid and effective Teton County registration, or are in a state of disrepair, and any trailers, campers, boats, recreational vehicles, snowmobiles and other like vehicles, machinery and equipment shall NOT be used for habitation at any time on any Lot, and may be stored on a Lot ONLY so long as they are stored and enclosed in a garage, storage building or other covered structure. Private vehicles which are used on a daily basis do not need to be stored in such a manner.

(b) In the event that the Association shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this Section, a written notice of violation describing said vehicle shall be personally delivered to the Lot owner upon whose Lot the vehicle sits, and if the offending vehicle is not removed or otherwise properly stored or enclosed within seventy-two (72) hours thereafter, the Association shall have the right to levy against such Lot

Owner a Specific Assessment of not more than \$25.00 per day, for each day said vehicle remains on the Subdivision Lot.

(c) Motorcycles, motorized trail bikes, mini-bikes, dirt bikes, all-terrain vehicles, mopeds, snowmobiles and go-carts may not be used or operated in the Subdivision for recreational use. Notwithstanding the foregoing, motorcycles licensed for operation on public roads and snowmobiles may be used or operated in the Subdivision for access to and from the Subdivision.

15. NO MINING, DRILLING OR EXCAVATING. No Lot within the Subdivision shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing geothermal resources, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, sand, top soil, or earth. Nothing contained herein shall be construed to limit the rights of the owner of a mineral interest severed from the surface of any portion of the Subdivision prior to the recording of this Declaration, and nothing herein shall prevent the Declarant or its assigns from moving dirt, gravel, rocks and other soils necessary for the development of the Subdivision.

16. CREEK, IRRIGATION DITCH AND POND PROTECTION.

(a) Creeks, Irrigation Ditches and Ponds. It is imperative that any creeks and ditches located within the Subdivision shall flow freely. An Owner shall not take any action to affect, alter or impede the wetlands or the flow of any waters on a Lot or within the Subdivision. The Owner of any Lot upon which a ditch, creek or pond is located shall clean out any debris which collects in the water source located on such Lot. No pesticides or other noxious or dangerous chemicals shall be put into or allowed to enter any Subdivision Ponds, creeks or ditches.

(b) Fish. No species of fish shall be introduced into the water bodies of the Subdivision by any Lot Owner.

17. FIREARMS, FIREWORKS AND HUNTING. No firearm shall be discharged, and no fireworks shall be displayed or used, and, there shall be no hunting whatsoever, within the Subdivision.

18. HAZARDOUS, NOXIOUS, OR OFFENSIVE ACTIVITIES. No hazardous, illegal, noxious, or offensive activities shall be permitted within the Subdivision, nor shall anything be done or placed within the Subdivision Lots which is or may become a nuisance.

19. EASEMENTS .

(a) All dedications, limitations, restrictions and reservations of easements, including those for drainage, shown on the Teton County and Subdivision Plat/s are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth in this Restated Declaration.

(b) The Declarant hereby reserves for itself, so long as the Declarant's *Development Period* is in effect [as defined in Section 29(c) below], the right to grant to utility providers and the Association, perpetual easements in, on, under, over and across the Subdivision and its Lots, including easements ten (10) feet in width on each side of the boundary line along the entire perimeter of each lot in the Subdivision for the purpose of constructing, maintaining, operating, relocating, replacing, enlarging, and repairing electric, telephone, water, sewer, irrigation, and similar lines, pipes, wires, conduits, head gates, ditches, fences, and watercourses, and for purposes of inspecting, maintaining, repairing and replacing a roadway, pond, irrigation ditch and other such utilities and infrastructure to serve the Subdivision and its Lots; with such rights to be transferred to the Association at the end of the Development Period, or at such other earlier time as determined by Declarant;

(c) The Declarant hereby reserves for itself, so long as the Declarant's *Development Period* is in effect, the right to grant to third parties and the Association, perpetual non-exclusive maintenance easements in, on, under, over and across the Subdivision Common Areas, Common Roads and Pathways within the Subdivision for access to lots and areas as shown on such plat or as may hereafter be established by the Declarant, and for the purpose of installing, repairing, replacing and maintaining the roadways and the infrastructure for the irrigation ditches, ponds, creeks and including without limitation, walkways, pathway, trails and drainage systems, and the non-exclusive right and power to grant and record in the Public Records such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of the Subdivision property and Lots described in this Declaration; with such rights to be transferred to the Association at the end of the Development Period, or at such other earlier time as determined by Declarant;

(d) All work associated with the exercise of the easements described in subsections (b), and (c) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the person or entity exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of

any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

(e) In addition to the easements and reservations set forth on the Subdivision Plat, Declarant reserves the right for itself, and on behalf of the Association and Owners, perpetual Sixteen feet (16') easements around each Subdivision pond, creek and irrigation ditch's high water marks for the purpose of maintenance and water/pond management. To effectuate the purpose of these pond and ditch easements, there shall be no fencing of the ponds, creeks or ditches within the easement area. Similarly, any and all landscaping within the easement area must first be approved by the Association so as to insure the proposed landscaping does not interfere with Association maintenance. Any Owner wishing to landscape around a pond must submit a landscaping plan, and obtain Association approval prior to initiating any landscaping project around the ponds, creeks or ditches.

(f) Title to the portion of the Roadway System that is contained within the boundaries of a Lot (the "Burdened Lot") shall be retained by the Owner of the Burdened Lot and shall be subject to the provisions of this Restated Declaration. Declarant hereby grants to each Owner and occupant, its successors and assigns and each of their guests or invitees a non-exclusive easement in, on, under, over and across the Roadway System for vehicular and pedestrian ingress, egress, access to and from their Lot and for private road purposes. The Association shall have the right to control vehicular circulation through the Properties by such means as establishing speed limits, by installing speed bumps or by any other means reasonably adopted by the Association.

20. TIMBERLINE SUBDIVISION ASSOCIATION.

(a) Creation. The Timberline Subdivision Association (hereinafter referred to as the "Association"), is hereby created as an unincorporated, nonprofit association under the Idaho Uniform Unincorporated Nonprofit Association Act, Sections 53-701, et. seq., Idaho Statutes, 2013 ed., to exercise the powers granted, and to perform the functions imposed, by these Covenants with regard to the Subdivision and Lots.

(b) Board of Directors of the Association. The management of the business and affairs of the Association, the management and maintenance of those parts of the Subdivision under the control of the Association, and the providing of Subdivision services shall be the sole responsibility of the Board of Directors.

(c) Purposes and Powers. The general purpose of the Association is to enforce these Covenants and to promote the health, safety, and welfare of the residents of the Lots. The Association, acting through its Board, shall also have the power to provide such additional services

for the Lots as the owners may from time to time approve. The Association is hereby empowered to, and the Board shall:

(i) Exercise all of the authority, powers, and privileges delegated to or vested in the Association by these Covenants or as may be reasonably implied as being necessary and proper hereunder, and to perform all of the duties and obligations established by these Covenants;

(ii) Fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to these Covenants, and to pay all expenses in connection therewith and all expenses incident to the conduct of the business of the Association;

(iii) Be obligated to and shall accept title to any real property or interest therein, including improvements thereon, or to any personal property or equipment existing in the Subdivision when, as and if granted or furnished by Declarant. The Association shall also be obligated to and shall accept the benefits and burdens associated with any water rights, licenses, easements or other instruments which Declarant conveys to Association. In each and every instance, the Association shall hold the title, interest or rights granted, furnished or conveyed for the benefit of its members and shall maintain and preserve the same for the benefit of its members. With respect to any such property or rights, and any other property or rights acquired or held by the Association, the Board shall be obligated insofar as applicable in the particular circumstance to pay all rents, fees, taxes and assessments relating to, and necessary to preserve therein, and provide for the best and highest quality care, operation, management, insurance, maintenance, repair and placement of the same; including but not limited to all roads, pathways, buildings (if any), park, utilities, and subdivision signs (if any);

(iv) Provide Common Services to benefit the Subdivision, and the Owners. The Board may also engage the services of a manager or such other contractors as it deems necessary or desirable to provide such Common Services. The Board is specifically authorized to provide Common Roads and Pathway maintenance and snow plowing, irrigation and weed control of common property, and maintenance and protection of the ponds. The Board is authorized to provide such services to individual Owner lots if the same is necessary, and the Owner otherwise fails to act;

(v) To the extent not assessed to or paid by Owners, the Board, on behalf of the Association, shall pay all real property taxes and assessments levied on Association property;

(vi) In order to minimize road damage caused by heavy construction vehicles, the Association may establish required routes for such vehicles within the Subdivision and may prohibit such vehicles from entering specified roads within the Subdivision;

(vii) Shall maintain water levels, vegetation, and aquatic health, and shall be solely responsible for stocking and maintaining the health of fish (if any) in all ponds in the Subdivision. The Association may lower water levels or completely empty some or all ponds during any period

in the year when pond surfaces could be frozen or when irrigation or other water issues dictate such variations. Owners are prohibited from constructing any kind of structure and from depositing refuse or any other material or object in any pond in the Subdivision. Nothing in this section shall be interpreted to require Declarant or Association to stock or maintain fish in said ponds;

(viii) Shall regulate use of irrigation water, including but not limited to regulating hours and extent of use and types of irrigation apparatus. The Association and Declarant shall have full authority to negotiate with the Trail Creek Irrigation Company and agencies of the State of Idaho as necessary to insure a continuing supply of irrigation water. The Association shall oversee and insure that Irrigation Maintenance is timely performed, shall provide for the payment of Irrigation Maintenance Costs, and shall serve and act as the "water master" to both administer the distribution of irrigation water within the Subdivision and to serve as liaison between the Association, Trail Creek Irrigation Company, and/or the City of Victor.

(d) Number, Election, Tenure, and Qualifications of Board. The number of Board Directors of the Association shall be three (3). Initially, the Declarant shall appoint all three Directors in order to assure that Lot construction and Lot uses are in conformance with these Covenants, and to assure a high quality project. One member of the initial Board shall serve one (1) year, one, two (2) years, and one, three (3) years; thereafter, terms of Board Members shall be three (3) years. Until Declarant has sold and transferred title to sixty percent (60%) of the total number of Lots in the Subdivision to a non-related third party purchaser, Declarant shall have the sole right to appoint and remove all members of the Board, and to exercise the powers and responsibilities otherwise assigned to the Association Board. Not later than sixty (60) days after the conveyance of all lots in the Subdivision to non-Declarant Owners, the Lot Owners shall elect the entire Board of Directors. **The Board of Directors shall act at all times pursuant to majority vote.**

(e) Limited Liability of Board of Directors. Members of the Board and the officers, assistant officers, agents and employees acting in good faith on behalf of the Association:

(i) Shall not be liable to the Owners as a result of their activities for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith;

(ii) Shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such, except for their own willful misconduct or bad faith;

(iii) Shall have no personal liability in tort to any Owner or any person or entity, except for their own willful misconduct or bad faith.

(iv) Shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

(v) The Association shall indemnify every director and Board against damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding to which he or she may be a party by reason of being or having been a Board Member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under Idaho law.

(f) Meetings. The Members of the Association and the Board of Directors of the Association shall hold annual meetings. The first annual meeting shall be held in the month of January, 2015, as shall be called by Declarant. At such initial annual meeting, the members of the Association shall determine the preferred time, date and location for the annual meetings thereafter. Other special meetings of the Association may be called at any time by the written request of the Owners of any four (4) lots. Written notice of any and all meetings of the Association shall be sent to all Owners not less than fifteen (15) days and not more than thirty (30) days in advance of the meeting.

(g) Member Voting. Except as may otherwise be provided in this Restated Declaration, each Owner of a Lot shall have one vote to cast upon any matter that can be, or is delegated to be decided by a vote of the Members, except that each Lot owned by Declarant shall be entitled to three votes. If more than one person or entity owns a Lot, the vote of such member shall be cast as determined by the owners of such Lot. If the joint owners of a Lot are unable to reach agreement as to such Member's vote, the Board shall have the right to disqualify the vote on an issue to which such Member would otherwise be entitled to vote. Each Owner may vote in person or by proxy at all meetings of the Association. The presence of Owners or of proxies entitled to cast a majority of all the votes of the Association shall constitute a quorum. If the required quorum is not present, the Members present shall have the power to adjourn the meeting from time to time without notice other than the announcement at the meeting, until a quorum shall be present. If a quorum shall be present at such meeting held in lieu of the adjourned meeting(s), any business may be transacted at such meeting as set forth in the original notice thereof.

21. COMPLIANCE AND BOARD ENFORCEMENT WITHIN SUBDIVISION. Every Owner and occupant of a Lot shall comply with the restrictions and requirements set forth in this Restated Declaration. The limitations, restrictions and requirements for land use and development set forth in these Covenants shall be enforceable by the Declarant, by the Board, or by any owner of a Lot within the Subdivision. Any Lot Owner who uses or allows his or her lot to be used or developed or neglected in violation of these Covenants further agrees to pay all costs incurred by the Board or the Declarant or other Lot Owner in enforcing the terms, conditions and restrictions of this Restated Declaration, including reasonable attorney's fees. The Board may impose sanctions for violation of

this Declaration after notice and a finding made in accordance with the Board's rules and procedures, to include, without limitation:

(a) Levying Specific Assessments to cover costs incurred by the Association to bring a Lot or Lot Owner's violation of this Restated Declaration into compliance;

(b) Suspending an Owner's right to vote;

(c) Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(d) Exercising self-help or taking action to abate any violation of this Restated Declaration in a non-emergency situation;

(f) Requiring an Owner, as its own expense, to remove any structure or improvements on such Owner's Lot in violation of the requirements set forth in this Restated Declaration, and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) Without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Restated Declaration from continuing or performing any further activities on the Property; and

(h) Bringing suit at law or in equity to enjoin any violation or to recover monetary damages to both;

(i) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, the Association may record a notice of violation in the Public Records or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

(j) All remedies set forth in this Restated Declaration shall be cumulative of any remedies available at law or in equity. In any action to enforce these Covenants, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(k) The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision

at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

22. **ASSESSMENTS.** Each owner of any Lot 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 all assessments or charges duly established and collected as hereinafter provided. All such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Tract against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such Tract at the time when the assessment fell due.

(a) The annual or biannual assessments and special assessments, together with interest, costs, and reasonable attorneys' fees, shall constitute a continuing lien superior to all other liens and encumbrances except:

(i) Any assessment lien created or claimed under this Restated Declaration shall be subject and subordinate to the rights of any mortgagee or holder of a deed of trust under a duly recorded first or second mortgage or deed of trust made in good faith and for value and which was recorded before the date on which the assessment sought to be enforced became delinquent;

(ii) Liens and encumbrances recorded before the recordation of this Restated Declaration;

(iii) Liens for real estate taxes and governmental assessments against the Lot.

(b) The lien hereunder shall not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association.

(c) Recording of this Restated Declaration constitutes record notice of the terms and obligations herein.

(d) The Association's lien may be foreclosed in any manner provided by Idaho Law.

(e) Assessments shall be a personal obligation of each Owner, and suit to recover money judgment shall be maintainable without waiving the lien securing it.

(f) Annual Budget. At least thirty (30) days in advance of each annual or biannual assessment period, the Board shall prepare a budget estimate for Common Services and the administration of the Association, including taxes and insurance coverage as needed, and fix the amount of the assessment based on this estimate. The budget estimate may include a reserve for future contingencies.

(g) Special Assessments For Capital Improvements. In addition to the annual or biannual assessments, the Board may levy a special assessment for the purpose of defraying, in whole or in

part, the costs of any construction, reconstruction, repair or replacement of any improvement upon the Property or the Common Roads, paths and Open Space; provided that any such special assessment shall have the assent of a majority of the Member Owners who are voting in person or by proxy at a meeting duly called for this purpose.

(h) Notice and Quorum for any Special Assessment. Written notice of any meeting called for the purpose of special assessment shall be sent to all Owners not less than fifteen (15) days or no more than thirty (30) days in advance of the meeting. At the first such meeting, the presence of Owners or of their proxies entitled to cast votes for a majority of Lots in the Property shall constitute a quorum. Each Lot Owner shall be entitled to one (1) vote, including Declarant, for any such special assessment vote.

(i) Uniform Rate of Assessment. Both annual and special assessments shall be fixed at an equal rate for each Lot, including each lot conveyed or developed by Declarant, whether undeveloped or developed. Assessments shall be collected on an annual or biannual basis at the discretion of the Board.

(j) Initial Assessment / Date of Commencement of Annual or Biannual Assessment and Due Dates. Initially, all Lots shall be subject to an annual assessment amount of **Two Hundred Dollars [\$200.00]** ["Initial Assessment".] The Initial Assessment shall be subject to adjustment, increase or decrease, by the Association and its Board, as provided for herein. The assessments provided for herein shall commence as to all Lots as of the date of this Declaration, and shall be assessed and collected by the Association Board at such times as it determines for each assessment period, and as permitted annually or biannually herein. The Board shall operate on a calendar year basis. The Board shall fix the amount of the assessment against each Owner at least thirty (30) days in advance of each assessment period and written notice of the assessment shall be sent to every Owner, purchaser or mortgagee, and for a reasonable charge shall furnish a certificate signed by a member of the Board setting forth whether the assessments on a specified Lot has been paid.

(k) Interest. Effect of Nonpayment of Assessments. Remedies. Assessments which have not been paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring any action provided or permitted by law against an Owner delinquent in payment of assessments, either individually or to foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his Lot.

23. VARIANCES BY BOARD. The Board may authorize variances from compliance with any of the Covenants as described in Sections 4, 5, 6, 7, and 8 of this Restated Declaration herein to an Owner upon the Owner's written request to allow the primary residential dwelling unit or

accessory building to be constructed, sided or roofed in some material other than those expressly permitted above. The Declarant acknowledges that there may be a type of construction, siding, roofing or other materials proposed that may have not been listed in Sections 4, 5, 6, 7 and 8, but because of the overall high quality of construction, appearance and style of the proposed residence or building, the Board may grant a variance; provided, however that such variance shall be authorized in conformity with the intent and purposes of this Restated Declaration, and provided further that in every instance such variance will not be materially detrimental or injurious to the other portions of the Subdivision Property or Owner's Lots as protected by this Restated Declaration. Such variances must be evidenced in writing.

24. **NO WAIVER.** The failure of the Board or its agents to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Restated Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment, for the future, of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Board or its agent of the payment of any assessment from an Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and duly signed by or on behalf of the Board.

25. **ENFORCEABILITY.** These Covenants may be enforced by the Association and its Board, the Declarant and the record owner of any Lot in the Subdivision, but shall not run to the benefit of any third party.

26. **ACCEPTANCE OF DECLARATION.** Every Owner shall be bound by all of the provisions of the restrictions, covenants and requirements as set forth in this Restated Declaration, and every Owner, through his or her purchase or ownership, expressly accepts and consents to the operation and enforcement of all of the provisions set forth in this Restated Declaration.

27. **SEVERABILITY.** Invalidation of any one of these Covenants by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

28. **DURATION OF DECLARATION.** All of the covenants, conditions and restrictions set forth herein shall continue and remain in full force and effect at all times against the Property and the owners and purchasers of any portion thereof, subject to the right of amendment as set forth

herein. This Restated Declaration is effective on the date of recordation in the Teton County, Idaho Clerk's Office. Unless sooner terminated in accordance with the provisions herein, this Restated Declaration and all the covenants set forth herein shall remain in full force and effect for an initial period of Twenty (20) years from the date of recordation hereof and thereafter, and unless revoked by the Association, shall automatically renew for successive periods of Twenty (20) years each.

29. AMENDMENT OR REVOCATION.

(a) Amendment of Declaration by Lot Owners. This Restated Declaration or any provision hereof, or any of the covenants, conditions or restrictions contained herein, may be restated, terminated, extended, modified, amended or repealed by the recording of a written instrument specifying the modification, restatement, amendment or the repeal and executed by not less than three-fourths (3/4 - 75%) of the Lot Owners; provided, however, that for so long as Declarant remains record owner of at least five (5) Lots within the Property, amendment shall require not less than three-fourths (3/4) vote of the Owners and the vote of the Declarant.

(b) Declarant's Reserved Right to Amend and Annex. During Declarant's *Development Period* as defined in sub-section (c) below, Declarant may, without the consent or concurrence of the Association Board, the Members, Lot Owners or any other party, (i) amend, modify or revoke this Declaration if reasonably necessary, in the sole discretion of Declarant, to conform to any requirement, law, ordinance, regulation, or policy of any governmental agency, department or body of the United States or the State of Idaho or in order to qualify for financing or insurance for mortgages under VA or FHA or other lending programs, (ii) establish, vacate, and relocate Lots, easements, and utility locations, (iii) annex additional land which is adjacent to or contiguous to the Property, on the condition that such parcels and future Lots be made subject to the terms and conditions of this Restated Declaration, (iv) restate, terminate, extend, modify, amend or repeal this Restated Declaration for any reason so as to benefit the Subdivision and its development, and (v) assign to the Association any and all rights to Trail Creek Irrigation Company water shares which are appurtenant to or attach to the Lots within the Subdivision.

(c) Declarant's Development Period Defined. The Declarant's *Development Period* shall be defined as a period commencing upon the recording of this instrument and ending upon the earlier of the seven [7] year anniversary of the date of this Restated Declaration's recordation with the Teton Clerk, OR until seventy-five (75%) of the Lots which are the subject of this Restated Declaration are sold by Declarant to a non-related third party. No special Declarant rights created or reserved under this section may be transferred except by an instrument, executed by the transferee, evidencing the transfer recorded in the Office of the County Clerk of Teton County, Idaho. Upon transfer of any special Declarant right, the liabilities and rights of the transferor Declarant and the rights, liabilities,

and obligations of the transferee Declarant shall be as provided by law. Declarant's ability to transfer its reserved and/or special rights shall be limited to the following circumstances:

(i) Should Declarant determine it necessary to transfer its property holdings to another entity which shares a mutual incorporator, member, partner or shareholder with Declarant.

(ii) Should Declarant sell more than Fifty Percent (50%) of the total Lots it owns at the time of sale, and which then exist in the Property, to a single individual, partnership, general partnership, limited liability company, or corporation.

(d) Development Rights. No rule or action by the Association or Board shall impede the Declarant's right to develop the Property, Subdivision Lots or any property annexed into the Property as provided for herein.

30. IRRIGATION WATER AND ASSIGNMENT OF SHARES TO ASSOCIATION.

(a) Use of Irrigation Water. Trail Creek Irrigation Company is the umbrella legal governing body in control of Kearsly Canal, and has a water master tasked with managing the use and flow of water within the Subdivision, and who [under the supervision of the Idaho State Water Master], shall work with the Association and Declarant to coordinate the use and flow of water to and within the Subdivision. The Association shall regulate use of irrigation water, including but not limited to regulating the hours and extent of use and types of irrigation apparatus. The Association and Declarant shall have full authority to negotiate with the Trail Creek Irrigation Company and agencies of the State of Idaho as necessary to insure a continuing supply of irrigation water. The Association shall oversee and insure that Irrigation Maintenance is timely performed, and shall provide for the payment of any and all Irrigation Maintenance Costs and Irrigation Company assessments. The Association shall at all times utilize this water in a beneficial manner for application to all Lots, Common Areas and other properties within the Subdivision.

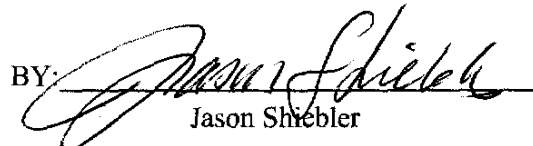
(b) Assignment and Title to Irrigation Shares. Declarant hereby reserves any and all rights, title and ownership of those Trail Creek Irrigation Company shares that it owns and which are appurtenant to the Lots and Subdivision properties described above, for itself and for the Association, with such rights and ownership to be transferred to the Association at the end of the Development Period, or at any such earlier time as determined by Declarant. At any such time that Declarant transfers ownership of any Lot within the Subdivision to a third-party, any and all Trail Creek Irrigation Company shares shall automatically be assigned, by virtue of the transfer and grant of property, to the Association, for the Association to own, manage and administer on behalf of the Subdivision. Every Owner, through his purchase or ownership of a Lot in the Subdivision, expressly accepts and consents to the terms and conditions of this assignment, accepts the assignment of any and all Trail Creek Irrigation Company shares which are appurtenant to any Lot to the Association,

and authorizes and assigns to the Association all rights and authority to vote and manage those rights and obligations which arise from the ownership or transfer of those irrigation shares.

31. **RUNS WITH LAND.** All covenants, conditions, restrictions and agreements herein contained are made for the direct, mutual and reciprocal benefit of each and every Lot of the Subdivision; shall create an equitable servitude upon each Lot in favor of every other Lot; shall create reciprocal rights and obligations between the respective Owners of all Lots and privity of contract and estate between all grantees of said Lots, their heirs, successors and assigns; and shall, as to the Owner and occupant of each Lot, his heirs, successors and assigns, operate as covenants running with the land, for the benefit of all other Lots, except as provided otherwise herein.

Executed by the undersigned Declarant this 10th day of October, 2014.

TREE TOPS TIMBERLINE, LLC

BY: 
Jason Shiebler
Its Managing Member

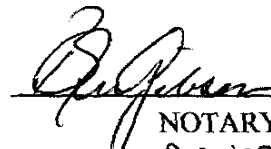
STATE OF IDAHO)
) ss.
COUNTY OF TETON)

On this 10 day of October, 2014, the foregoing RESTATED DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR TIMBERLINE RANCH was acknowledged to before me by Jason Shiebler, who appeared before me and was personally known to me, and who, being by me duly sworn, did say that he is the respective Managing Member of Tree Tops Timberline, LLC, an Idaho Limited Liability Company, and that said instrument was signed on behalf of said company by authority of its Members and Managers and that Jason Shiebler, as its Managing Member, acknowledged said instrument to be the free act and deed of said company.



With my hand and official seal.

My Commission Expires 11/9/19


NOTARY PUBLIC
Walrus, Idaho