

ACCOMMODATION

**MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
Whitecliffe Estates Subdivision**

THIS DECLARATION, made on the date hereinafter set forth by 943 W McMillen Road LLC, an Idaho limited liability company, hereinafter referred to as "**Declarant.**"

WITNESSETH:

WHEREAS, Declarant is the developer of a residential subdivision referred to as WHITECLIFFE ("Subdivision") in Meridian, Ada County, Idaho, and legally described as: The NE1/4 of the NW1/4 of Section 36, Township 4 North, Range 1 West, Boise Meridian, in Ada County, State of Idaho, ("Property"); and,

WHEREAS, The Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitudes set forth in this Declaration to: (i) insure the enhancement and preservation of Property values; (ii) provide for proper design, development, improvement and use of the Property and the subdivision by the Declarant and all other persons or entities who may subsequently acquire an interest in the subdivision; and (iii) provide for high quality residential development;

NOW, THEREFORE, Declarant declares that all of the Property shall be held, sold and conveyed subject to the following easements, covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real Property and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

As used in this Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

Section 1. "Architectural Control Guidelines" also referred to as ACG's, shall mean one of two documents given to the buyer of a Lot in the Subdivision that outlines the requirements necessary to build a home on said Lot. This document is not meant to replace these Covenants, Conditions and Restrictions ("CC&R's"), but to support them Buyer agrees to abide by both documents. The Declarant and/or the Architectural Control Committee, ("ACC"), shall administer and enforce the ACG's.

Section 2. "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.

Section 3. "Assessments" shall mean those payments required of Owners and Association Members.

Section 4. "Association" shall mean and refer to "Whitecliffe HOA, LLC", an Idaho limited liability company, its successors and assigns organized by the Declarant and comprised of Members and existing for the purpose of providing self-government for the Subdivision.

Section 5. "Advisory Committee" shall mean the duly elected and qualified Advisory Committee of the Association. Shall mean and refer to the three (3) person Advisory Committee elected by the Members at the annual meeting of the Association. The initial Advisory Committee shall have one member elected for a one (1) year term, one elected to a two (2) year term, and the third member elected to a three (3) year term. All subsequent members shall serve (3) year staggered terms. The Advisory Committee of the Association shall have the authority and power to hire and fire the Manager, with the consent of a majority vote of the Members, except to the extent that the Declarant has the right to appoint the initial Manager until such time as the Declarant relinquishes the right to hire and fire the Manager or no longer owns a Unit in the Property. All authority of the Manager shall be exercised in the name of the Association.

Section 6. "Building" shall mean a structure constructed on a Lot on a temporary or permanent basis and unless specified to the contrary, shall include all appurtenances and Improvements thereto or used in connection therewith.

Section 7. "Common Area" shall mean all real Property (including the Improvements

thereto) owned by the Association for the common use and enjoyment of the Owners.

Section 8. "Declarant" shall mean and refer to 943 W McMillan Road, LLC, an Idaho limited liability company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for their purpose of development succeed to the ownership of Declarant ' s interest in the whole of the Property.

Section 9. "Declaration" shall mean this Declaration as it may be amended from time to time. Declaration is from time to time also referred to as "CC&Rs" or "covenants."

Section 10. "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, including but not limited to buildings, fences, streets, drives, driveway, sidewalks, curbs, landscaping, signs, street signs, lighting, street lights, mail boxes, electrical lines, pipes, pumps, ditches, walkways, poles, swimming pools and other recreational facilities, storm water and or drainage facilities, and fixtures of any kind whatsoever.

Section 11. "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration including interest thereon as provided in the Declaration.

Section 12. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision map of the Property upon which Improvements may be constructed with the exception of any Common Area.

Section 13. "Manager" shall mean that person appointed by the Advisory Committee to manage the Association.

Section 14. "Member" shall mean each Person or entity holding a Membership in the Association.

Section 15. "Owner" shall mean the Person or other legal entity, including Declarant, holding fee simple interest of record to a Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation, but including any Mortgage (of any priority) or other security holder provided said mortgage or other security holder is in actual possession of Lot as a result of foreclosure or otherwise and any Person taking title through such Mortgage

or other security holder by purchase at foreclosure sale or otherwise.

Section 16. "**Person**" shall mean any individual, partnership, corporation or other legal entity.

Section 17. "**Phase**" Each parcel of land subdivided using the same name will be identified by a consecutive number beginning with No. 1 and will be known as a 'Phase.'

Section 18. "**Plat**" shall mean any Subdivision Plat covering any portion of the Property as recorded at the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.

Section 19. "**Property**" shall mean and refer to that certain real Property described above and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 20. "**Regular Assessment**" shall mean the portion of the cost of maintaining, improving, repairing, managing and operating the Common Areas and all Improvements located thereon, and the other costs of the Association, which is to be levied against the Property for and paid by each Owner to the Association, pursuant to the terms hereof or the terms of this Declaration.

Section 21. "**Special Assessment**" shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments that are authorized and to be paid by each Owner to the Association, pursuant to the provisions of this Declaration.

Section 22. "**Subdivision**" shall mean Whitecliffe Subdivision.

ARTICLE II

GENERAL COVENANTS CONDITIONS AND RESTRICTIONS

Section 1. "**Approval of Plans**" - No building, fence, wall, structure, improvement, or obstruction shall be placed or permitted to remain upon any part of the Property, unless a written request for approval thereof containing the plans and specifications, including exterior color scheme, has been approved in writing by the ACC as provided herein. The decision to approve or disapprove proposed plans rests entirely with the ACC.

Section 2. "Floor Area" - The floor area on the ground floor of a residential home in the Subdivision shall not be less than 2,000 square feet in Phases One, Two and Three, with the exception of lots 4 through 10 block 1 phase three deemed no less than 1800 square feet on the ground floor. For the purpose of the CC&R's, eaves, steps, and open porches shall not be considered as part of a Building, provided, however, that this shall not be construed to permit any portion of a Building on a Lot to encroach upon another Lot. No split entry homes, mobile homes, or pre-built homes will be allowed. No shack, tent, trailer house, or basement only house shall be used within the Subdivision for living quarters, permanent or temporary.

Section 3. "Garages" - All houses shall have an enclosed garage, with a two (2) car garage minimum. All floor area requirements in Section 2 above shall be exclusive of the required garage area. Not all garages need to be attached, but shall match the construction standards of the house as well as be constructed of good quality material and workmanship.

Section 4. "Off-street Parking" - All Lots shall have a driveway that allows a minimum of two (2) off-street automobile parking spaces within the boundaries of each Lot.

Section 5. "Shops" - Outbuildings (detached garages that are approved by the ACC, and do not exceed the allowed square footage specified by the city of Meridian) will be allowed on only specified Lots, such Lots will be designated and determined by the ACC in their sole discretion.

Section 6. "Exterior Appearance" - Each house in this Subdivision shall have brick, stone, or stucco on the front exposure. As a minimum, 60% of the front elevation of the home shall be concrete siding or stucco, 40% brick or stone. (See the ACC's for additional requirements). It is encouraged that at least one of the following be included on the front elevation: decorative wood applications such as columns, corbels, crown and lentil molding and porches, boxed or returned soffits. Other features might include windows with rounded tops, bay windows, or pop-out box windows if they are incorporated into the roofline plans for each home will be reviewed individually for overall appearance of the elevation when the plans are submitted to the ACC. No vinyl or metal siding will be allowed. Use of different sidings is highly recommended. Glass

in front door, or glass sidelights are required.

Section 7. "Roofs" - Broken rooflines, gables, hip roofs, etc., are strongly encouraged. Roofs must be of at least 4/12 Pitch. Shingles must be a 35-year or comparable architectural relief shingle in black, teak or weathered wood or like color. No gravel roofs will be allowed. Roofs must be approved by the ACC along with the colors of the exterior of the Building.

Section 8. "Colors" - Exterior colors of earth tones, warm tones or grays shall be required for the body of the Building. Bright, bold or very dark body colors (i.e. blue, red, yellow) shall not be allowed. Approval of exterior colors must be obtained from the ACC.

Section 9. "Exterior Lighting" - All Buildings will have front yard lighting on a photocell with one or more of the following: soffit lighting with photocell, upgraded landscape lighting on photocell, or upgraded garage light fixture on photocell (no switch) all with a minimum bulb power of 40 watts. Completion is the specific responsibility of the builder.

Section 10. "Landscaping" - Landscaping of front yard and side Lots adjacent to the street must be completed within thirty (30) days (weather permitting) of home occupancy and shall include sod in the front yard. The front yard is to include sculptured planting area and at least 50% of the front yard landscaping to be sodded or turfed if applicable to lot configuration. Concrete slabs or decorative rock may be used to provide parking adjacent to driveways. If landscape requirements have been met, and an ACC has been submitted and approved. If access to the back yard for vehicle storage is desired, requests should be made to the ACC. Plants and materials used for such access must be approved by the ACC prior to installation. The landscaping of each Lot shall include two (2) large trees (a combination of deciduous, at least 2.5" caliper or pine trees of at least eight (8) feet in height) and ten (10) five-gallon plants/shrubs in the front yard. Grass or hydro-seed shall be planted in the back yard within ninety (90) days of home occupancy. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable time upon written approval of the ACC. Each Lot Owner shall be responsible for keeping their yard and landscaping in good condition. The Owner shall

provide adequate irrigation and maintenance of trees and landscaping, shall control weeds, and maintain the Owner's Lot in a clean and safe condition free of debris or any hazardous condition. Weeds shall be cut to less than four (4) inches. The Association will have the right to maintain the yard and landscaping on each Lot if it is not maintained by the Owner in accordance with these CC&R's. Costs incurred by the Association in connection with such maintenance will become a Limited Assessment upon the offending Owner and Lot.

Section 11. "Fences".

(a) The ACC shall approve fence plans prior to fence construction. Fences shall be a six (6) foot vinyl fence installed by the contractor selected by the developer, of same color and manufacture in good quality and workmanship and properly maintained. Fences may not exceed six (6) feet and may be vinyl (color to match Subdivision fence) or wrought iron only on lots specified with wrought iron, (the color to match the Subdivision fence). All fence setbacks must meet Meridian City Code and ACHD vision triangle.

(b) Fences shall not be built closer to the front of the Lot than five (5) feet behind the front corner of the house on either side. Fences shall not extend closer than twenty (20) feet to the front street right of way. On corner Lots, fences shall not be built closer than eight (8) feet to any side street right of way without the express written approval of the ACC. No fences shall be higher than (6) feet. Six (6) foot privacy fences are allowed on Lots and Lot lines not adjacent to common areas.

(c) On Lots which are adjacent to parks and pathways, if a fence is desired along the park or the borders of the pathway, (excluding entrance or perimeter fencing), the fence must be four (4) foot wrought iron only. If the Declarant should provide any fencing, as may be done along some Common Areas, where required for safety, or for whatever reason, the Owner on whose Lot line the fence is built shall assume responsibility to maintain said fencing.

(d) The location of fences, hedges, high plantings, obstructions, or barriers shall be so situated as not to unreasonably interfere with other Owners' enjoyment and use of neighboring Lots and streets and shall not be allowed to constitute an

undesirable, nuisance, or noxious use. The determination of the ACC shall be binding on all parties as to whether an undesirable, nuisance, or noxious use exists.

(e) See "Dog Runs" (Section 14) as they pertain to fencing requirements.

(f) See "Vehicle Storage"(Section 12) as it pertains to fencing and the amount of setback required if the vehicle height extends above the fence.

Section 12. "Vehicle Storage" - Parking of boats, trailers, motorcycles, trucks, truck- campers, and like equipment, or junk cars or other unsightly vehicles, and like items, shall not be allowed on any part of the Subdivision nor on public ways adjacent thereto excepting only within the confines of an enclosed garage or other approved area. For the purpose of this Section, an approved area may be beside the house, but not on a street side, and screened with a six (6) foot solid vinyl or landscaping enclosure, which screening is approved by the ACC. Any variance to allow a deviation to these vehicle storage requirements must be approved in writing by the ACC and all surrounding Lot owners. The ACC shall be the sole and exclusive judge of approved parking areas.

Section 13. "Animals" - Keeping or raising of farm animals or poultry is prohibited. No more than three (3) domestic pet animals may be kept at one time, except that a litter of young may be kept until eight (8) weeks old. All of the Owner's dogs and cats or household pets within the Subdivision shall be fed and cared for and shall be adequately fenced and controlled so as not to annoy or trespass upon the use of the Lot of other Owners. Dogs and cats shall not be allowed to run at large.

Section 14. "Dog Runs" - Dog runs may be permitted along a side fence, but must be no closer than ten (10) feet away from the back Lot line if that Lot line is the boundary of a Common Area. Dog runs are only permitted outside of the Building/home set back area (Article II, Section 16). Dog runs must not be more than six (6) feet high and they must be screened from the view of other Lot Owners. Dog runs must be approved by the ACC in writing prior to construction.

Section 15. "Antennae and Satellite Dishes" - Regular local antennae must be in the garage attic. A satellite dish is allowed on the back of the home or the side of a home under the eaves if absolutely necessary for quality of reception. "Back of the home" is defined as the back of the house Garages with alternate rooflines closer to the front of the

home are not considered "Back of the home" A satellite dish mounted in an area of the home not approved by the ACC shall be relocated at the Owner's expense. The ACC may approve a satellite dish to be installed at other locations if screened from street view.

Section 16. "Setbacks" - Residence setbacks will meet Meridian City Code for zoning codes and ordinances for R4 zone.

Section 17. "Additional Easements" - There is a five (5) foot easement shown on the recorded Plat on each side of the interior side Lot lines for a permanent public utility, irrigation, and drainage easement. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities or which may change the direction of the flow of the water through drainage channels in the easements. The easement area of each Lot and all Improvements in it shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility is responsible.

Section 18. "Construction Time" - Construction of any residences in the Subdivision shall be diligently pursued after commencement thereof, to be completed within twelve (12) months. The Owner of a Lot will begin construction within twelve (12) months of the closing date or the Lot will be sold back to the developer at 50% of the original purchased price.

Section 19. "Outbuildings" - Only one (1) outbuilding per Lot will be allowed. All outbuildings shall be constructed of quality building material, completely finished with the same shingles, including color, that were applied to the house and painted on the outside to match the body color of the house, and shall be of quality and character that will be in harmony with the house on said Lot. All outbuildings will comply with Meridian City and/or Ada County codes and ordinances and are subject to ACC approval prior to construction.

Section 20. "Nuisances" - No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property including Lots, Common Area or vacant Lots, and no odor shall be permitted to arise there from 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, as described by city or county ordinances, as amended from time to time, shall be permitted to exist or operate upon any portion of the Subdivision. No party or other

activity in a Common Area or Lot which makes or causes to make noises which might tend to unreasonably interfere with the peace and quiet of Owners or occupants of the Subdivision shall be allowed. No Owner shall permit any party or other activity in the Common Area or such Owner's dwelling unit which makes or causes to make noises which might tend to unreasonably interfere with the peace and quiet of the other Lot Owners or occupants. No radio or other sound system shall be operated within the Subdivision except at a low sound level. No offensive noise, language or behavior is allowed. The use of any type of firearms on the Property is strictly prohibited and is subject to formal complaint to the Police Department.

Section 21. "Conducting Business on Properties" - No business shall be conducted on the Property that cannot be conducted within the residence of the Owner as permitted by law. No signs shall be installed to advertise said business. No oil or mineral exploration or development of any nature or kind or mining exploration, development or structure shall be permitted upon the Lots in the Subdivision.

Section 22. "Water for Lawn and Yard Sprinkling" - The water source for sprinkling of lawns and other outside areas will be pressurized irrigation water, which will be provided to each Lot. This pressurized water will not be potable or drinkable and will not meet safe drinking water standards established, from time to time, by federal, state, and/or local governments. The Subdivision is in the Settlers Irrigation District. Assessment from the Settlers Irrigation District will be made in total to the Association and paid by Association dues.

Section 23. "Sewer Locations" - All bathroom, sink, and toilet facilities shall be located inside the dwelling house or other suitable appurtenant Building and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each Lot.

Section 24. "Signs" - No sign of any kind shall be displayed to public view on any Building or Building site on said properties except a professional sign of not more than five (5) square feet advertising the Property for sale by an Owner to advertise the Property. If a Lot is sold, any sign relating thereto shall be removed immediately, except that a "Sold" sign may be posted for a reasonable period following the sale. Notwithstanding any provision to the contrary, signs of any and all

sizes and dimensions may be displayed by the Declarant, without limitation thereto, on Lots owned by said Declarant. The Declarant or the Association may display a sign of any size and dimension, without limitation thereto, for Subdivision identification. No real estate signs, or signs of any kind, except for Subdivision identification, may be displayed on any Common Area except for the developer's designated marketing agent for that Subdivision, if there is one.

Section 25. "Waste Disposal" - No Lot or Building site included within this Subdivision shall be used or maintained as a dumping ground for waste material. Incinerators are not permitted. Receptacles for storage of trash, garbage, etc. shall be maintained in a sanitary and clean condition.

Section 26. "Construction Equipment" - No machinery, Building equipment or material shall be stored upon a Lot or within the Subdivision until the builder is ready and able to immediately commence construction. Such Building materials must be kept within the Lot lines of where the Building is to be constructed.

Section 27. "Damage to Improvements" - It shall be the responsibility of the builder of any Building in this Subdivision to leave street, curbs, sidewalks, fences, tiled irrigation lines, if any, and utility facilities free of damage and in good and sound condition at the conclusion of the construction. It shall be conclusively presumed that all such Improvements are in good sound condition at the time Building is begun on each Lot unless the contrary is shown in writing at the date of conveyance or by date of possession, whichever date shall first occur, which notice is addressed to a Member of the ACC.

Section 28. "No Hazardous Activities" - No activities shall be conducted on the Property and no Improvements constructed on any Property which are, or with reasonable foreseeability could be, unsafe or hazardous to any Person or Property.

Section 29. "Unsightly Articles" - No unsightly articles shall be permitted to remain on any 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 areas approved by the Association Board of Directors. Trash-Recycle containers may be placed curbside for pick up but may not remain curbside for more than twenty-four (24) hours. No clothing or fabrics shall be hung, dried or aired in such a way as

to be visible to other Lots, and no equipment, 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 Lot except within an enclosed structure or as appropriately screened from view. Holiday lights must be removed no later than March 30. Decorative lights if desired for a specific function occasion should be removed within 14 days. No vacant residential structures shall be used for storage of Building materials.

Section 30. "Exemption of Declarant" - Nothing contained in these CC&R's shall limit the right of Declarant to subdivide or re-subdivide any portion of the Property to grant licenses to reserve rights-of-way and easements with respect to Common Area 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 Declarant, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Property so long as any Lot in the Property remains unsold. Such right shall include, but shall not be limited to, erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Declarant's business of completing the work and disposing of the same by sales, lease or otherwise. Declarant shall have the right at any time prior to acquisition of title to a Lot by a purchaser from Declarant to grant, establish and/or reserve on that Lot additional licenses, reservations and rights-of-way to Declarant, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. Declarant may use any structures owned by Declarant on the Property as model home complexes or real estate sales or leasing offices. The rights of Declarant hereunder may be assigned by Declarant to any successor in interest in connection with Declarant's interest in any portion of the Property, by an express written assignment recorded in the Office of the Ada County Recorder.

Section 31. "The Architectural Control Committee's" decision is final and binding on all issues.

Section 32. "Common Area" - The Common Area to be owned and maintained by the Association at the time of the conveyance of the first Lot is described as follows:

Whitecliffe HOA

Section 33. "Annexation" - It is intended that additional Phases of the Subdivision may be annexed or included within the jurisdiction of this Declaration by Declarant without approval of the Lot Owners. Common Areas included in annexed Phases are for common use of Lot Owners in all Phases of the Subdivision and will be maintained by the Association.

ARTICLE III

ARCHITECTURAL CONTROL

Section 1. "Architectural Control Committee" - A committee of two (2) Persons shall act as an Architectural Control Committee, ("ACC"), and shall, prior to any new construction, be furnished with one set of detailed plans and specifications of any proposed Improvement and shall be allowed fifteen (15) days to review said plans, drawings, and specifications. If the ACC shall approve the proposed Improvement, or any modification or alteration thereof, they shall so indicate by the dating and signing of the set of plans by a Member of the Committee, and their approval shall be construed as full compliance with the provisions of these CC&R's. The ACC shall have sole discretion to determine what shall be substantial compliance with these CCR's. No Building shall occupy any portion of said Subdivision without the prior written consent of the ACC.

Section 2. "Discretion of Committee" - The decision to approve or disapprove proposed plans rests entirely with the ACC. The ACC is authorized to issue rules and conditions relating to the implementation of these CC&R's, including governing the design, construction, location, and appearance of all Improvements and landscaping in the Subdivision.

Section 3. "Committee Membership" - The initial ACC shall be appointed by Declarant and shall consist of the following Persons:

- A. Todd Amyx
- B. Clyde Brinegar
- C. Sidney Kerbs

A simple majority of the ACC is all that is required for ACC decisions. If an ACC member is unable to act or fails or desires not to act, the remaining ACC Members shall appoint an Owner of a Lot in said Subdivision to serve on said Committee. All ACC members shall serve without compensation. Upon the sale of the last Lot of the last Phase in said Subdivision, the work of the initial ACC shall be deemed completed and said ACC Members shall then be automatically released from all responsibilities related thereto. After the Declarant has sold all Lots in the Subdivision (and not before), the then-seated Directors of the Association may automatically become the ACC members, amending this instrument shall not affect this provision. If there is not an Association for the Subdivision, it is the responsibility of the Owners to select among themselves an ACC.

ARTICLE IV

GENERAL PROVISIONS

Section 1. "Enforcement" - Any Owner, the Association, the Manager or Declarant shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Enforcement against any Person or Persons violating or attempting to violate any covenant herein may be commenced after ten (10) day notice thereof in writing served on the offending party. In the event of judgment against any Person for such, the Court may award an injunction against any Person for such violation, require such compliance as the Court deems necessary, award such damages, reasonable attorney's fees, and Court costs as may be suffered or incurred, and such other or further relief as may be deemed just and equitable. Failure 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. In the event that an attorney is employed for the collection of assessment or enforcement of the Declaration of CC&R' s, each Owner agrees to pay any reasonable fee assessed by the Association in addition to attorney fees, and any other remedy obtained against any such Owner.

Section 2. "Severability" - Invalidation of any one of these CC&R's by judgment or Court order shall not affect any of the remaining provisions, which shall remain in full force

and effect.

Section 3. "Amendment" - This Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners, In order to be valid, any amendment to this Declaration must be recorded within ten (10) days after its effective date.

Section 4. "Time Extension for Covenants" - The CC&R's set forth in this Declaration shall run with the land and shall be binding on all Persons owning a Lot(s) under them for a period of thirty (30) years from the date of this recording thereof, after which time such Covenants shall be automatically extended for successive periods of ten (10) years, unless at any time after the initial recording of this instrument an instrument signed by sixty-seven percent (67%) of the Lot Owners of this Subdivision has been recorded agreeing to terminate the CC&R's, in whole or in part.

Section 5. "Annexation of Additional Phases" - It is intended that additional Phases of the Subdivision may be annexed or included within the jurisdiction of this Declaration by Declarant without approval of the Lot Owners. Common Areas included in annexed Phases, as well as the Common Areas included in this Declaration, are for common use of Lot Owners in all Phases of the Subdivision and will be maintained by the Association. Owners of future Phases will pay dues and Assessments to the Association which will be used for maintenance of all Common Areas and other reasonable, ordinary and customary Association expenses.

ARTICLE V

COMMON AREA PROPERTY RIGHTS

Section 1. "Owner's Easement of Enjoyment" - Every Owner shall have the right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge Assessments as provided herein;
- (b) The right of the Association to charge a setup fee and/or a transfer fee to an Owner when title to a Lot passes from the Grantor to an Owner other than the Grantor;
- (c) The Owner's voting rights and the Owner's right to use the Commons Areas shall be subject to suspension by the Association for the period of time that: (i) any accrued and

past due assessment against such Owner's Lot remains unpaid; or (ii) the Owner and/or the Owner's Lot remains in default of these CC&R's.

(d) 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 agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of Members has been recorded in the appropriate county records, agreeing to such dedication or transfer; provided that the public agency accepts such dedication or transfer.

(e) The right of the Association to prohibit the construction of structures or Improvements on the Common Area.

Section 2. "Delegation of Use" - Any Owner may delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the properties.

Section 3. "Damages" Each Owner shall be fully liable for any damage to any Common Area which may be sustained by reason of the negligence or willful misconduct of the Owner, or their tenants, contract purchasers, family, invitees, agents and guests, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited Assessment against the Lot and may be collected as provided for in this Declaration for the collection of other Assessments. No Owner shall be liable for any amounts greater than is legally allowable under Idaho law.

ARTICLE VI

HOMEOWNERS' ASSOCIATION

Section 1. "Organization of Whitecliffe HOA, LLC." Declarant intends to organize an entity to be known as Whitecliffe HPA, LLC, an Idaho Limited liability Company, (the "Association"), and shall file Articles of Organization and adopt an Operating Agreement, which Operating Agreement shall be incorporated into and made a part of this Declaration by reference. The Association's duties and Member's and Owner's rights may be more particularly described or supplemented in the Operating Agreement, but the basic duties and rights of the Declarant, Members, Lot Owners and the Manager as set forth in this Declaration shall not be altered by the Operating Agreement.

Section 2. "Membership" - Every Owner of a Lot, which is subject to assessment, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment. Every Person or entity who is a record Owner (including contract sellers) of a fee or undivided fee interest in any Lot located within said Property shall, by virtue of such ownership, be a Member of the Association. When more than one Person holds such interest in any occupied Lot, all such Persons shall be Members. The foregoing is not intended to include Persons or entities that hold an interest merely as security for the performance of an obligation. The Association shall maintain a Member list and may require written proof of any Member's Lot Ownership interest. The financial reports, books, and records of the Association may be examined, at a reasonable time, by any Member of record.

Section 3. "Voting Rights" - The Association will have two (2) classes of voting Memberships.

(a) Class "A" Membership: Class "A" Members shall be the Owners of Lots, with the exception of the Declarant. Each Member shall be entitled to cast one (1) vote or fractional vote as set forth herein for each Lot in which the Owner holds the interest required for Membership. Only one (1) vote shall be cast with respect to each Lot. The vote applicable to any Lot being sold under a contract of sale shall be exercised by the contract vendor, unless the contract expressly provided otherwise and the Association has been notified, in writing, of such provision. Voting by proxy shall be permitted.

(b) Class "B" Membership: Class "B" Members shall be the Declarant. The Declarant shall be entitled to six (6) votes for each Lot of which Declarant is the record Owner.

Section 4. "Overview of Association Management" - The Association's Articles or Certificate of Organization forming the Association shall declare that the Association shall be "Manager-managed" rather than be "Member-managed". The purpose and intent of choosing this style of Association management is to provide for more efficient administration in conducting the business operations of Association operations and duties, recognizing that the Association's duties and operations will expand and change beyond the immediate needs for operating and maintaining Common Areas in the Subdivision to include other future Subdivision Phases as they are platted, annexed and included by Supplemental Declaration.

The Manager style of management is also better suited to administer and collect membership assessments, and to co-ordinate the operation of the pressurized irrigation water system and to provide maintenance and replacements for the Common Areas, common systems and common fences, to purchase appropriate insurance policies, and in general, to provide for other Association business, duties and responsibilities as indicated in this Declaration, including any future Supplemental Declarations. The Association shall have an Advisory Committee who advises the Manager and provides oversight. The Advisory Committee shall have the power to hire and fire the Manager with the consent of a majority vote of the Members.

Nevertheless, this Manager-management style will allow the Class "A" Members, to take care of other homeowner Member responsibilities such as the regulation or enforcement of general homeowner obligations under this Declaration, including by way of example, improper parking, improper use of recreational vehicles, the failure of a homeowner Member to provide proper maintenance to a homeowner Lot after a residence has been constructed, and the formulation of rules to control personal conduct in a Common Area developed and used for recreational purposes. The Manager may, and most likely will, elect to form a membership committee of Class "A" Members to deal with those types of matters. Furthermore, Class "A" Members of the Association will always be free to form Membership committees as provided in the Operating Agreement. Except as otherwise required by this Declaration, Class "A" Members will not vote upon or participate in the business management affairs of the Association, it being understood that the Manager shall have the full authority to make and implement those business decisions as the Manager sees fit.

The Manager-management style can be changed to a member-management style, but only by a seventy percent (70%) membership (Class "A" and Class "B" votes combined) vote in favor of such change, or alternatively if the Declarant voluntarily executes a written waiver of the Manager-management style in favor of a member-management style and if fifty-one percent (51%) of the Class "A" Members vote in favor of such change. (This alternative procedure being an exception to the general method of amending the Declaration) Furthermore, a Manager can be removed for cause upon thirty (30) days written notice by Declarant, or upon ninety (90) days written notice after fifty-one percent (51%) of the membership (Class "A" and Class "B" combined votes) have voted in favor of removal for

cause. In the initial instance, the Declarant shall appoint the Manager for the Association for such term as the Declarant determines reasonable, but not to exceed a term of more than two (2) years under each contract term. The Operating Agreement shall not be amended or interpreted in a manner that is inconsistent with this overview.

Section 5. "Suspension of Voting Rights" - The Association shall have the right to suspend any voting rights for any period during which any assessment against said Member's Lot remains unpaid; and for any period in which said Member's Lot is in default of these CC&Rs or the Association's published rules and regulations.

Section 6. "Association Powers" - The Association shall have the powers of a limited liability company under the Idaho limited liability company act subject only to such limitations upon the exercise of such powers as are expressly set forth in the Operating Agreement 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, the Operating Agreement and this Declaration 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 Declarant, and affairs and the performance of the other responsibilities herein assigned, including without limitation.

Section 8. "Association Duties" – In addition to duties necessary and proper to carry out the power delegated to the Association by this Declaration and without limiting the generality thereof, the Association or its Manager, 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. Storm water facilities are included in the common areas. The primary purpose of these areas is for the handling of storm water. Please refer to the O&M Manual for Whitecliffe Estates Subdivision No. 1 dated November 20, 2019 (attached). Storm drainage facilities within the Property are located within the ACHD rights-of- way and/or within the Common Area. Maintenance of all storm drainage facilities within the public rights-of-way shall be the responsibility of ACHD. In addition, the traffic-calming devices shown as “bulb-outs” with vegetation are also within the ACHD right-of-way. Surface maintenance (grass, trees, shrubs, etc.) of the storm drainage facilities outside the

public rights-of-way is the responsibility of the Association. All storm water areas are subject to ACHD easements, if any, shown on the Plat. All recreation, aesthetic and other uses of such 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 Property, including the use of liens and/or assessments of maintenance costs against the Lots. The Association shall maintain a "Maintenance and Operation Manual" containing a stamped and approved construction plan for the Property showing the location of all storm water areas, a copy of the Plat, engineering drawings showing the detail of each storm water facility that receives ACHD drainage and stating 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 and a statement describing the primary purpose of each facility to be used to control storm water. The Maintenance and Operation Manual shall also state that any additions to or improvements within the storm drainage facilities, such as park benches or additional landscaping, should be considered temporary and may be removed when heavy maintenance of the storm drainage facilities is required and that the replacement of those items shall be the financial responsibility of the Association. Any changes or modifications of the storm water areas above and beyond the improvements shown on the ACHD approved storm drainage plans for the Property, as set forth in the Operation and Maintenance Manual, shall require the prior approval of ACHD and any other governmental entity having jurisdiction of the Property.

(b) Maintenance of Berms, Retaining Walls and Fences. The Association shall maintain or provide for the maintenance of any and all berms, retaining walls, and the exterior of fences, if any, within and abutting the Common Area.

(c) Taxes and Assessments. Pay all real 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 are

paid or a bond insuring payment is 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;

(d) Water and other utilities. Acquire, provide and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone and gas and other necessary services for the Common Area;

(e) Insurance. If desired, 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, all risk insurance and comprehensive public liability insurance, the extent of which coverage shall be determined by the Manager;

(f) 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, or the Operating Agreement, including without limitations, the recordation of any claim of lien with the Ada County Recorder, as more fully provided herein.

Section 9. "Personal Liability" - No Member of the ACC, Advisory Committee, or Member of any committee of the Association, or any officer of the Association, or the Declarant, 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 other representative or employee of the Association, the Declarant, or any committee, or any officer of the Association or the Declarant, 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.

Section 10. "Meetings of Association" - Each year the Association shall hold at least one (1) meeting of the Members, according to the schedule for such meetings established by the Operating Agreement or the Manager, such meeting shall occur in the

Fall around the month of November once a year. Members shall be entitled to attend Association meetings, and all other persons may be excluded in the discretion of the Manger.

Section 11. "Notice and Quorum to Conduct Business of the Neighborhood Association" - Written notice of any meeting of the Association called for the purpose of taking any action as specified in this Declaration shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting, setting forth the place, date and hour of the meeting and nature of the business to be conducted. The presence of Members, of proxies, or written or absentee ballots from Members entitled to cast sixty percent (60%) of the total votes of the Membership shall constitute a quorum to transact routine business and set annual Assessments. If the required quorum is not present, the meeting may be rescheduled, and at the rescheduled meeting, the presence of Owners or of proxies entitled to cast ten percent (10%) of the total votes shall constitute a quorum. No written notice of the rescheduled meeting shall be required and official business of the Association shall then be conducted.

Section 12. The Association shall not be dissolved or relieved of its responsibility to maintain the Common Area and facilities contained therein without the prior written approval from City of Meridian. The Association and all Lot Owners by accepting title to a Lot agree that all Lot Owners within this Subdivision are benefited Property Owners of such maintenance.

ARTICLE VII

ASSESSMENTS

Section 1. "Creation of the Lien and Personal Obligation of Assessments" - The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) an initial assessment of two-hundred fifty dollars (\$250.00) for each Lot payable at closing; and (b) a transfer fee, which is an assessment of one-hundred dollars (\$100.00) on the closings of a Lot that follow the initial

closing; and (c) annual Assessments or charges; and (d) special Assessments and such Assessments to be established and collected as hereinafter provided. The 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 Property 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 Property at the time when the assessment fell due. However, the personal obligation for delinquent Assessments shall pass to his successors in title. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Declaration to enforce the liens created hereby. A suit to recover a money judgment for an unpaid assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

Section 2. "Regular Assessments" - All Owners, including Declarant, are obligated to pay regular Assessments to the Treasurer of the Association on a schedule of payments established by the Board. See Section below "Maximum Annual Assessments" for the amount of the assessment.

(a) Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association including legal and attorneys' fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, Improvement, utilities, protection, maintenance, repair, management and operation of the Common Area, including all improvements located on such areas owned and/or managed and maintained by the Association, and an amount allocated to an adequate reserve fund to be used for repairs, replacement maintenance and Improvement of those elements of the Common Area, or other Property of the Association that must be replaced and maintained on a regular basis, (collectively "Expenses").

(b) "Maximum Annual Assessment" - For the year \$600, the maximum assessment shall be \$600 dollars (\$600 per year) per Lot prorated to the end of the calendar year and billed annually, quarterly, or as otherwise decided by the Association.

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more

than 15% above the maximum assessment for the previous year without a vote of the Membership.

(d) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 15% by a majority vote of a quorum of Members who are voting in Person, by proxy, or by written or absentee ballot at a meeting of the Owners.

(e) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 3. "Limited Assessments" - Notwithstanding the above provisions with respect to Regular and Special Assessments, a Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member's Lot into compliance with the provisions of the governing instruments for the Subdivision.

Section 4. "Special Assessments for Capital Improvements" - In addition to the annual Assessments 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 two-thirds (2/3) of the votes of each class of Members who are voting in Person or by proxy at a meeting duly called for this purpose.

Section 5. "Uniform Rate of Assessment" - Both annual and Special Assessments must be fixed at a uniform rate for all Lots in each class of Membership and may be collected on a monthly, quarterly, or annual basis at the discretion of the Board.

Section 6. "Date of Commencement of Annual Assessments: Due Dates" - The annual Assessments provided for herein shall commence at the time of the conveyance of each Lot to an Owner. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established

by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate by an officer of the Association setting forth whether the Assessments on the specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. "Effect of Non-payment 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 18% per annum. The Association, or any Owner, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.


Section 8. "Right to Enforce" - The Association has the right to collect and enforce its Assessments pursuant to the provisions of this Declaration.

Section 9. "Subordination of the Lien to Mortgages." - The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments, which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 10. "Property Exempt from Assessments" - The following Property subject to this Declaration shall be exempt from the Assessments created herein: (i) all Lots or properties within the Subdivision expressly dedicated to and accepted by a local public authority; (ii) all Lots or properties within the Subdivision owned by the Association; and (iii) all Lots or properties within the Subdivision owned by the Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have executed this instrument and make it effective on this 23 day of May, 2023.


943 W McMillan Rd, LLC

By: 
Todd Amyx, Manager

STATE OF IDAHO)
 ss.
COUNTY OF ADA)

On this 23 day of May, 2023, before me, the undersigned Notary Public in and for said State, personally appeared Todd Amyx, known or identified to me to be the Manager of 943 W McMillan Rd LLC, the Idaho limited liability company that executed the foregoing instrument and the person whose name is subscribed to the within instrument, and acknowledged to me that said limited liability company executed the same.

IN WITNESS WHEREOF, Declarant has hereunto executed this Declaration effective as of the date below.



NOTARY PUBLIC, State of Idaho
Residing at Meridian
Commission expires: 4-8-2027

GREG GRIDLEY
COMMISSION #39786
NOTARY PUBLIC
STATE OF IDAHO
MY COMMISSION EXPIRES 04/08/2027