

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by RED CLIFF RANCH DEVELOPMENT COMPANY, ("REDCO"), hereinafter referred to as Declarant.

WITNESSETH:

WHEREAS, Declarant is the owner of and contract purchaser of certain real property located in Blaine County, State of Idaho, which is more particularly described as:

SOUTHERN COMFORT SUBDIVISION, as found on the official plat thereof on file in the office of the County Recorder of Blaine County, Idaho.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, 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 described properties or any part thereof.

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean and refer to SOUTHERN COMFORT ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Lot 13, SOUTHERN COMFORT SUBDIVISION, as found on the official plat thereof on file in the office of the County Recorder of Blaine County, Idaho.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to MICHAEL A. McNEILLY, his successors and assigns.

## ARTICLE II.

### PROPERTY RIGHTS

#### Section 1. OWNERS' EASEMENTS OF ENJOYMENT.

Every Owner shall have a 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 suspend the voting rights and right to use the Common Area by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(B) The Common Area (Lot 13) shall not be further subdivided at any time.

Section 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment of the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

#### ARTICLE III.

##### MEMBERSHIP & VOTING RIGHTS

Section 1. 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.

Section 2. The Association shall have one (1) class of voting membership. One (1) vote per Lot.

#### ARTICLE IV.

##### MEETINGS

Section 1. ANNUAL OWNER'S MEETING. The first annual owner's meeting shall be held upon the Common Area at 5:30 p.m. on June 1, 1977, or such other reasonable place and time as designated in written notice as herein provided to the Owners by the Board of Directors. There shall be a meeting of the Owners on the first Saturday of June of each year following the first meeting at 5:30 p.m. on the Common Area.

Section 2. SPECIAL OWNER'S MEETINGS. Special meetings of the owners may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the owners or for any other reasonable purpose. Said meetings shall be called by written notice as herein provided and signed by a majority of the Board, or by the owners having

one-fourth (¼) of the total votes, which notice shall specify the date, time and place of meeting, and matters to be considered thereat.

ARTICLE V.

BOARD OF DIRECTORS

Section 1. ELECTION. At each annual meeting, the Owners shall elect a Board of Directors for the forthcoming year, consisting of three (3) owners. The initial Board of Directors shall be appointed by the Declarant or its successors. Thereafter, the Board shall be elected as provided herein; provided however, that the Declarant or its successors shall retain the right to appoint a majority of the members of the Board until thirty (30) days after the close of escrow on seventy-five per cent (75%) of the lots in the subdivision.

Section 2. TERM. Members of the Board of Directors shall serve for a term of one (1) year and until their respective successors are elected or until their death, resignation or removal; provided however, that if any member ceases to be an Owner, his membership on the Board of Directors shall thereupon terminate. Any member may be removed from membership upon the Board by vote of the owners; provided that unless the entire Board is removed, an individual member shall not be removed if the number of votes cast against his removal exceeds twenty-five per cent (25%) of the owners.

Section 3. QUORUM. Two (2) members of the Board of Directors shall constitute a quorum and if a quorum is present, the decision of the majority of those present shall be the act of the Board of Directors. Meetings of the Board of Directors may be called, held and conducted in accordance with such regulations as the Board of Directors may adopt. The Board of Directors may also act without a meeting by unanimous written consent of its members.

Section 4. FIRST BOARD OF DIRECTORS. Until the first election of the Board of Directors, the rights, duties and functions of the Board of Directors shall be exercised by the Declarant or its appointees.

Section 5. AUTHORITY. The Board of Directors for the benefit of the owners, shall enforce the provisions hereof and shall have all the powers accorded to directors of corporations duly organized and authorized by the State of Idaho.

#### ARTICLE VI.

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS 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:

- (1) annual assessments or charges, and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be 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. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Board of Directors of the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. MAXIMUM ANNUAL ASSESSMENT. Until June 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum amount of annual assessment shall be TWO HUNDRED & 00/100 DOLLARS (\$200.00) per Lot.

(A) From and after June 1, of the year immediately following conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five per cent (5%) above the maximum assessment for the previous year without a vote of the membership.

(B) From and after June 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five per cent (+5%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Board of Directors of 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, reconstructions, 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 two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3. or 4. shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. UNIFORM RATE OF ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and will be collected on a monthly basis.

Section 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following conveyance of the Common Area. 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 signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten per cent (10%) per annum. The Board of Directors of the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien upon the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.



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 effect 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 become 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.

ARTICLE VII.

DESIGN COMMITTEE

No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by a design committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII.

GENERAL PROVISIONS

Section 1. ENFORCEMENT. The Association, or any Owner, 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. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than eighty per cent (80%) of the Lot Owners and thereafter by an instrument signed by not less than seventy per cent (70%) of the Lot Owners (based on one (1) vote per Lot). Any amendment must be recorded.

ARTICLE IX.

SPECIFIC RESTRICTIONS

Section 1. RESIDENTIAL USE. Such Lots, and each and every one thereof, are for single-family residential purposes only. No building or structure intended

for or adapted to business purposes and no apartment house, rooming house, or other multiple-family dwellings shall be erected, placed, permitted, or maintained on such premises, or on any part thereof. Only one (1) single-family dwelling may be erected upon each Lot.

Section 2. MAINTENANCE. Each Lot and all improvements thereon shall be maintained by the Owner thereof in good condition and repair.

Section 3. PETS AND ANIMALS. Only a reasonable number of recognized house or yard pets shall be permitted. Approval in writing is necessary by the Board of Directors of the Association for pets and animals in addition to one (1) horse, two (2) dogs or two (2) cats.

Section 4. TREES. Only those trees of the Poplar, Fir and Pine families and Indigenous shrubs may exceed a height of six (6) feet. No tree over three (3) inches in diameter or over ten (10) feet can be removed without prior design committee written approval. (Any tree over three (3) inches in diameter or ten (10) feet in height shall be replaced by a tree belonging to the Poplar, Fir or Pine families.)

Section 5. SIGNS. No sign shall be permitted except residential identification signs of not more than two (2) feet square in area, nor maximum height in excess of four (4) feet high, and with a further exception that the Declarant may erect a subdivision advertising sign in conformance with the Blaine County Zoning Ordinance.

Section 6. HOUSE TRAILERS AND MOBILE HOMES. No house trailers, mobile homes, permanent tent, or temporary structure shall be permitted.

Section 7. TRAILER, BOATS AND REPAIR. The construction, repairing, or maintaining of a trailer of any type, truck, camper, or boat is permitted only if it is adequately screened from neighboring property and from the main driveway.

Section 8. SERVICE YARD. Each residence shall contain a fenced service yard enclosing all above-ground garbage and trash containers, clothes lines and other outdoor maintenance and service facilities.

Section 9. FIRES. Exterior fires are permitted only in barbecue pits or outdoor fireplaces.

Section 10. EXTERIOR COLORS AND FINISHES. Colors of all exterior building surfaces shall be of natural tones which harmonize with the existing landscape. A limited use of strong accent color will be allowed as approved by the design committee. No reflective finishes shall be used with the exception of hardware and detail items.

Section 11. ROOFS. Tar and gravel shall not be used as a finished roofing material, except on flat roofed structures where the surface is not visible from any road or adjoining structure. Non-reflective metal roofs shall be allowed subject to approval of color and finish by the design committee.

Section 12. PARKING. At least two (?) parking spaces shall be provided for each residential lot. One (1) parking space for a permanent vehicle and a minimum of one (1) guest parking space may be located in an exposed parking area. Additional parking for permanent vehicles shall be in an attached or detached garage, in a carport, or in an exterior parking area enclosed on at least two (2) sides by a fence at least five (5) feet in height.

Section 13. FENCES. All fences, screens, and similar exterior structures shall be constructed of wood, except for hardware, fasteners and footings, and shall require design committee or Board of Directors approval.

Section 14. SEWAGE DISPOSAL. Septic tanks shall be installed and maintained on the Lot by the Owner. Leeching fields shall be installed by the Owner in accordance with the Idaho State Health and Environmental Services. Prior to installation, Owner must furnish written proof of compliance with Idaho State Health and Environmental Services to the Board of Directors of the Association.

Section 15. WATER SYSTEM. All water systems shall be installed and maintained by the SOUTHERN COMFORT ASSOCIATION in accordance with Article VIII.

Section 16. EXTERIOR LIGHTING. The light source of any exterior lighting fixtures shall not be visible from neighboring property or the main road.

Section 17. ANTENNAS. Antennas and similar devices shall be installed so as not to be visible from roads or adjoining properties.

Section 18. UTILITIES. All power, gas, telephone and other service lines shall be located underground. All meters and service access devices shall be located within the service yard or concealed from view of adjoining properties and main road.

Section 19. HEIGHT LIMIT. No structure or part thereof shall exceed a height of thirty-five (35) feet.

Section 20. LOT COVERAGE. The area covered by any structure (including garage and carports) shall not exceed thirty per cent (30%) of the total Lot area, without prior written approval of the design committee or the Board of Directors.

Section 21. SETBACKS. No setbacks shall be required. However, structures built in proximity to the exterior boundaries of the Common Area must conform to Blaine County Ordinance No. 71-2, and any amendment or replacement thereof. The design committee may require setbacks on all Lots as it deems necessary to protect adjoining Lots.

Section 22. SUBDIVISION OF LOTS. No Lot shall at any time be further subdivided.

#### ARTICLE X.

##### WATER SYSTEM

Section 1. SYSTEM TO BE CONSTRUCTED. A complete water supply and distribution system to serve the SOUTHERN COMFORT SUBDIVISION and the Lot shall be constructed by the Declarant, which shall provide culinary and domestic water to the Lots. It is each Lot Owner's responsibility to provide adequate piping from the water main to his lot.

Section 2. The water system shall consist of one (1) or more wells, a pumping, storage and/or pressure system, main distribution, all capable of providing potable water of standards acceptable to the Idaho Department of Health.

Section 3. Upon completion of the water system, the Declarant shall deed the system to the Association, and all obligations and rights in connection with the system shall evolve upon the Association, which obligation shall include that of maintenance, repair and capital improvement and which rights shall be in common.

ARTICLE XI.

ROADS

Section 1. CONSTRUCTION OF ROADS. The road to serve the subdivision shall be constructed by the Delcarant, and shall be a part of the Common Area.

Section 2. MAINTENANCE. The Association shall have the obligation of maintenance of the roads in the subdivision including but not limited to snow removal and surface repair.

ARTICLE XII.

CENTRAL SEWER

Section 1. In the event governmental authority shall require the installation of a central sewer system within the subdivision, the Owners of Lots within the subdivision shall each pay his proportionate share of the cost and expense of installing the sewer system. This proportionate share will be computed by the total number of Lots served by the sewer system or section of such sewer system and dividing the total number of Lots served into the total cost of such system. All buildings must be connected to the sewer system, if any, as soon as constructed and thereafter further use of septic tanks or other sanitary disposal system shall be prohibited. Owners of Lots shall pay a reasonable monthly minimum charge for the use of the sewage system.

Section 2. In the event of a formation of a water and sewer district, or other governmental authority providing central sewer service and the subsequent requirement by such district that individual or small central sewer systems be abandoned and hookup is made mandatory to the district central sewer system, each Owner in the subdivision shall pay his

