

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR HARLAN RANCH SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions (“Declaration”) is made to be effective the \_\_\_\_ day of \_\_\_\_\_, 2023, by Clear Springs Ranch, LLC, an Idaho limited liability company (“Declarant”).

WHEREAS, Declarant is the owner of certain real property in Teton County, Idaho, known as Harlan Ranch Subdivision, more particularly described as all that real property shown and described on the Final Plat for the Harlan Ranch Subdivision (the “Plat”), recorded as instrument number \_\_\_\_\_ in the office of the Clerk of Teton County, Idaho on \_\_\_\_\_, 2023, a copy of which is attached hereto and made a part hereof (hereinafter referred to as the “Subject Property”); and

WHEREAS, Declarant desires to provide for the preservation of the desirability and attractiveness of the Subject Property, through the covenants, conditions, restrictions and provisions as hereinafter set forth; and

WHEREAS, Declarant desires to subject the Subject Property to certain covenants, conditions, and restrictions to preserve scenic and recreational values on Subject Property.

NOW, THEREFORE, The Declarant hereby declares that the Subject Property, shall be held, conveyed, divided, encumbered, hypothecated, bonded, rented used, occupied and improved in accordance with and subject to the following provisions, covenants, conditions and restrictions (hereinafter sometimes collectively referred to as “Covenants”), all of which are for the purpose of enhancing and protecting the character, values, desirability and attractiveness of said real property. The covenants shall run with the Subject Property and shall be binding on all parties having or acquiring any right, title or interest in said real property, or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of the Declarant, and each Owner (as hereinafter defined) or person or entity deriving rights from an Owner. Any conveyance, transfer, sale, assignment, lease of sublease of said real property will be and hereby is deemed to incorporate by reference the provisions of this Declaration and the covenants herein contained.

**ARTICLE I**  
Definitions

As used herein, the following terms shall be defined as in this Article provided:

Section 1. Articles. The term “Articles” shall mean the Articles of Incorporation of the Association, as the same may from time to time be amended.

Section 2. Assessment The term “Assessments” shall mean and refer to any Assessment duly made and levied pursuant to Article VI hereof.

Section 3. Association. The term “Association” shall mean and refer to the Harlan Ranch Homeowner’s Association, Inc., an Idaho nonprofit corporation formed and incorporated to be and constitute the Association to which reference is made in this Declaration, and its successors and assigns, whether by way of merger, consolidation, transfer or otherwise. The Association shall include, when the context requires, its board of directors, officers and duly authorized representatives and agents as the same, or any of them, may from time to time be constituted.

Section 4. Board. The term “Board” shall mean and refer to the Board of Directors of the Association as the same may from time to time be constituted.

Section 5. Bylaws. The term “Bylaws” shall mean and refer to the duly adopted bylaws of the Association, as the same may from time to time be amended.

Section 6. Covenants. The term “Covenants” shall refer to this Declaration of Covenants, Conditions and Restrictions.

Section 7. Declarant. The term “Declarant” shall mean and refer to Clear Springs Ranch, LLC its successors and assigns, under an instrument specifically designating such successor or assign as a successor or assign under this Declaration.

Section 8. Excavation. The term “Excavation” shall mean and refer to any disturbance of the land (except to the extent reasonably necessary for planting) which results in the removal of earth, rock, trees or other substances.

Section 9. Fill. The term “Fill” shall mean and refer to any addition of rock or earth materials to the surface of land which increases the natural elevation of such surface.

Section 10. Improvements. The term “Improvements” shall include but not be limited to any buildings, roads, driveways, parking areas, fences, bridges, retaining walls, stairs, decks, hedges, windbreaks, patios, poles, signs, and any other structures of type or kind.

Section 11. Lot. The term “Lot” shall mean and refer to any parcel of real property comprising a part of the Subject Property shown on a recorded plat or map, or otherwise described in a recorded instrument, which is clearly identified as an individual lot to be used as a building site.

Section 12. Member. The term “Member” shall mean and refer to every person or entity who holds membership in the Association.

Section 13. Mortgage. The term “Mortgage” shall mean and refer to any security device encumbering all or any portion of the Subject Property and as used herein the term “mortgage” shall include a deed of trust.

Section 14. Mortgagee. The term “Mortgagee” shall mean and refer to the record owner of a beneficial interest under a Mortgage.

Section 15. Negative Covenant. The term “Negative Covenant” shall mean and refer to any provision, covenant, condition or restriction set forth in this Declaration limiting, restraining, prohibiting or otherwise negating any rights, activities, or omissions, of any person or entity.

Section 16. Owner. The term “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to a Lot, including contract sellers, but excluding those having an interest in the Subject Property merely as security for the performance of an obligation.

Section 17. Record; Recorded. The term “record” or “recorded” shall mean, with respect to any document, that said documents shall have been recorded in the Office of the County Clerk of Teton County, State of Idaho.

Section 18. Residence. The term “Residence” shall mean a single family residential structure, but does not include such other improvements and structures as may be customarily incident thereto, on a Lot.

Section 19. Road. The term “Road” shall mean and refer to any graded and improved vehicular way now or hereafter located or constructed within or upon a portion of the Subject Property or the Common Area and designated as a private roadway on any recorded plat or map, or described in a recorded instrument, and shall include roads, drives, lanes, courts, circles, pathways, and places, all of which shall be dedicated to the Association for repair and maintenance responsibility.

Section 20. Structure. The term “Structure” shall mean and refer to anything constructed or erected on real property, the use of which requires location on the ground or attachment to something having location on the ground.

## ARTICLE II

### Provisions Applicable to Particular Land Classifications

Section 1. Lot Restrictions. Each Lot shall be used solely for single family dwelling purposes and such purposes as are customarily incident thereto. Furthermore, unless otherwise specified on a recorded plat or map covering the Lot, the following shall apply to each Lot:

- (a) Improvements. No Lot shall be improved except with a Residence and/or any ancillary buildings as permitted under applicable zoning. All main houses shall have a minimum footprint of 1,500 square feet of living space (excluding garages, patios, and decks) and all ancillary structures that contain living space shall have a minimum footprint of 1,000 square feet. No more than three (3) structures may be constructed on any Lot.

(b) Construction. Unless otherwise expressly approved in writing by the Board, no used Structure or Improvement constructed or erected upon other real property shall be moved from another location to any Lot. All construction on any Lot shall be first approved by the Board pursuant to Article III below, and shall be prosecuted diligently and continuously from the commencement thereof until completion. No manufactured homes, as defined by HUD, shall be allowed. The maximum height for all buildings is 30 feet or as otherwise approved by the Board.

(c) Grading and Landscaping. Grading, excavation or fill shall reflect the natural topography of the site and shall be replanted with plant materials which shall blend with the native vegetation. All landscaping shall be completed as quickly as possible but in no later than eighteen (18) months after commencement thereof.

(d) Undeveloped Lots. In the event that a “Change in the Existing State of Property” (as defined below), as to any Lot, is not approved within 18 months from the date of recordation of the Plat, the Owner of such Lot will be required to submit a vacant Lot maintenance plan to the Association for approval. The vacant Lot plan will, at a minimum, include plans to vegetate the Lot with native species grass and shrubs and mitigate against weeds. It will be the responsibility of individual lot Owners to maintain their vacant Lots according to the approved vacant Lot plans.

(e) Subdivision. No Lot may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in undivided or divided ownership.

(f) Combining Lots. Provided that the Owner elects to do so in writing and duly records same in the Office of the County Clerk, Teton County, Idaho, two or more adjoining Lots owned by a single Owner may be combined and developed as one Lot but shall thereafter be deemed one Lot, and may not thereafter be split and developed separately. Any Lots that are combined will always be assessed as separate Lots as if they were not combined.

(g) Common Area. All the area depicted on any plat of the Subject Property as an open space, common lot, or common area, including the Fire Pond Lot and the roads and pathways, will be considered Common Area and be open to the use and enjoyment of all Owners.

(h) Maintenance. Each Owner shall keep all Lots and the exteriors of Improvements thereon and the exteriors, landscaping and surrounding areas of all structures in good order and repair, and in a clean, safe, attractive and sightly condition. Each Owner will treat, mitigate, and prevent noxious weeds from growing on their Lot. Each Owner will maintain their septic systems in compliance with all applicable Eastern Idaho Public Health and Idaho Department of Environmental Quality recommendations.

(i) Drainage. The established drainage pattern from, on or over any Lot shall not be obstructed, altered or in any way modified, unless previous written consent is obtained from the Board.

(j) Horses and Pets. No livestock may be kept on any Lot except as follows. The keeping of horses on the property shall only be permitted by landowner's that own at least 4 contiguous acres. In this case, the lot owner shall be entitled to keep no more than a maximum combined four horses or goats, or a combination of 4 goats and horses, for personal (on-boarding) use (no stallions for breeding purposes) in a dry lot corral type structure. No domestic animals totaling more than three (3) generally recognized house or yard pets shall be maintained on any Lot. A total of 12 hen chickens and no rosters will be allowed per lot. No animal shall be permitted on any lot unless such animal shall be confined to such lot by barn, corral, or fence, so as not to trespass on any other lot. The owner of any lot from which such animal trespasses shall be strictly liable for any damages caused thereby. It is the owner's responsibility to keep all buildings, structures, and pastures for these animals properly cleaned, maintained and safe.

(k) Unsightliness. No unsightliness shall be permitted on any Lot or on the exterior or other portions of a Residence visible from elsewhere on the Subject Property, Common Area, or any adjacent property. Without limiting the generality of the foregoing: (1) all unsightly Structures (as the same is determined in the sole discretion of the Board), facilities, equipment, objects and conditions shall be enclosed within an approved Structure or appropriately screened from view; (2) work related professional trailers, trucks, boats, tractors, vehicles, automobiles, campers whether or not on a truck, snow removal equipment and garden or maintenance equipment shall be kept at all times within an enclosed Structure, except when in actual use; (3) refuse, garbage and trash shall be kept at all times in a covered, noiseless container; (4) service areas, storage piles, compost piles grass, shrub or tree clippings or plant waste and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view; (5) all tanks shall be kept and maintained within an enclosed Structure or below the surface of the ground; (6) No lumber, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate; and (7) all rubbish, trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon, unless kept within an enclosed Structure.

(l) Motor Vehicles. All motor vehicles, including, without limitation, automobiles, trucks, motorcycles, dune buggies, all-terrain vehicles, snowmobiles and other types of recreational vehicles must have mufflers on their exhaust systems and shall be driven only on Roads. Such use of roads shall be limited to ingress and egress only. No motorcycles, trail bikes or snowmobiles shall be used on any of the property covered by the Covenants except strictly in accordance with rules promulgated by the Board.

(m) No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done, made or suffered or placed thereon which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices except security devices used exclusively to protect the security of any Lot, shall be placed thereon.

(n) No Hazardous Activities. No activities shall be done, made, suffered, or conducted on any Lot and no Improvements constructed thereon which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms, shall be discharged upon any Lot, and no open fires shall be lighted or permitted on any Lot except in a contained unit while attended and in use or within a safe and well-designed interior fireplace, or as otherwise specifically scheduled or approved by the Board.

(o) Fences. Fences shall be treated as improvements with approval of the Board required. No barbed wire or chain link fences are allowed.

(p) No Mining and Drilling. No Lot shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

(q) Short Term Leasing Prohibited. No leasing or rental of any Lot or Improvements for a leasehold term of less than thirty (30) days may be made.

Section 2. The Wildlife Habitat Overlay. The Wildlife Habitat Overlay is mapped through the western portion of Lots 13-16 with designations of Songbird/Raptor Breeding and Wintering Habitat and Priority Wetland Habitat. Using that criteria building envelopes have been placed on the plat of the Subject Property for Lots 13-16. No improvements may be constructed outside of the building envelopes depicted on the plat.

Section 3. Roads. Roads shall be used for roadway and street purposes subject to the rules and regulations of the Board and shall be maintained by the Association as hereinafter provided.

Section 4. Land Management Plan. The quality of habitat on the Subject Property will be maintained by the individual Lot Owners and the Association. Adequate funds for land management shall be maintained by the Association. When applicable, qualified professionals should be solicited to assist with proper management.

(a) Open Space Management –Areas within the Natural Resources Overlay in lots 13-16 will be monitored and maintained as habitat to conserve and enhance value for wildlife and protect water quality. It will be the responsibility of individual lot owners to control for state listed noxious weed species according to state laws and keep weed presence at a minimum. The use of herbicides in wildlife habitat areas during breeding season is prohibited and control measures that allow native plant species to persist shall be taken. Existing natural features that enhance the attractiveness and habitat quality on the Subject Property will be preserved, including the forested and shrub vegetative cover types.

(b) Lighting – Outdoor lighting will be designed to downcast. Bright lights detrimentally affect wildlife movement and hinder avian species navigation abilities. Motion detector lights are encouraged, but they shall meet the requirements for floodlights and when not needed (e.g. the residence is unoccupied), lights will remain off for the benefit of wildlife.

(c) Pet Control – Household pets (primarily dogs and cats) living on the Subject Property will be contained in a designated, enclosed area to prevent interactions with wildlife. Within lots 13-16, pets shall be kept away from the areas within the Natural Resources Overlay, through the use of reliable fencing or pens, to protect nesting birds. Domestic cats shall not be permitted to roam freely outdoors to prevent mortality of songbirds and waterbirds protected by Teton County, and particular caution should be taken to keep cats out of the wetland habitat on the western portions of lots 13-16.

### **ARTICLE III**

#### **Required Approval of all Changes**

Section 1. Change in the Existing State of Property. “Change in the Existing State of Property” shall mean and include, without limitation, the construction or reconstruction of any building, structure or other improvement, including utility facilities, the making or creation of any excavation, fill or similar disturbance of the surface of land including, without limitation, change of grade, stream bed, ground level or drainage pattern; the clearing, marring, defacing or damaging of trees, shrubs or other growing things; the landscaping or planting of trees, shrubs, lawns or plants; or any change, alteration or refinishing, including without limitation, any change of color, texture or exterior appearance, of any previously approved change in the existing state of the property, insofar as the same shall apply to any Lot of the Subject Property.

Section 2. Approval of Change in Existing State Required. No Change in the Existing State of Property shall be made or permitted, except by Declarant, without the prior written approval of the Association and without compliance with this Article III. The following paragraphs of this Article III shall not be applicable to any Change in the Existing State of Property undertaken by Declarant, or any duly authorized agent or representative of Declarant.

Section 3. Association Approval. The Association shall have complete discretion to approve or disapprove any Change in the Existing State of Property.

Section 4. Association Criteria. The Association shall adopt criteria by which it intends to exercise its discretion with regard to approval or disapproval of any change in the existing state of property. The Association criteria as formulated by the Association from time to time shall be set forth in writing which shall be made available to Owners of Lots.

Section 5. Prosecution of Work After Approval. After approval by the Association, any Proposed Change in the Existing State of Property shall be accomplished as promptly and diligently as possible and in substantial conformity with the description of the proposed Change in the Existing State of Property and with any plans and specifications therefor given to the Association. Failure to commence the Change in the Existing State of Property within one (1) year after the date of approval or to complete the proposed Change in the Existing State of Property (including completion of the landscaping) substantially in conformity with the description thereof and plans and specifications therefore within a reasonable period of time (not to exceed two (2) years after commencement of construction) shall operate to automatically revoke the approval of the proposed Change in the Existing State of Property, and, upon demand by the Association, the Property shall be restored as nearly as possible to its state existing prior to any work in connection

with the proposed Change in the Existing State of Property. If an Improvement is destroyed (whether totally or partially), the debris shall be removed promptly and the remainder of the Improvement shall either be removed within one-hundred and eighty (180) days or restoration commenced within said one-hundred and eighty (180) day period commencing on the date the destruction occurred. The Association and its duly appointed agents may enter upon any property at any reasonable time or times to inspect the progress or status of any Change in the Existing State of Property being made or which may have been made.

Section 6. Failure to Comply. If the Association shall find that any change in the existing State of Property shall have been undertaken without the approval of the Association in violation of the provisions of this Article III, it shall immediately notify the Declarant and the Association, any of which shall have the right to remove any such Change in the Existing State of Property at the sole cost and expense of the Owner or Owners of the Lot.

If the Association shall find that a Change in the Existing State of Property was not completed in substantial conformity with the description thereof and any plans and specifications therefor as approved by the Association, the Association shall notify the Owner or Owners of such noncompliance and require remedy of such noncompliance. If within one hundred eighty (180) days from the date of such notification, the Owner or Owners shall have failed to remedy the noncompliance, the Association shall notify the Declarant and the Association, any of which shall have the right, at its option, to remove the Change in the Existing State of Property or to remedy the noncompliance, in either case at the sole cost and expense of the Owner or Owners of the Lot. Every Owner agrees and recognizes that money damages are not a sufficient remedy to such a violation and agrees to be subject to injunctive relief of the courts enforcing remediation and removal of such violations.

Section 7. Certificates and Notices. The Association shall have the right and authority to record a notice to show that any particular Change in the Existing State of Property has not been approved or that any approval given has been revoked as provided above.

Section 8. Waiver. The approval of the Association of the plans and specifications for any Change in the existing State of Property shall not be deemed to be a waiver by the Association of its rights to object to any of the features or elements embodied in any other plans and specifications for another change in the Existing State of Property, nor shall such approval be construed as in any manner modifying, altering or waiving any of the Covenants of this Declaration or any Covenants, Conditions, and Restrictions.

Section 19. Presumption of Compliance. All of the Changes in the Existing State of Property heretofore or hereafter undertaken by Declarant or his agents or representatives on any Lot shall be conclusively presumed in compliance with the provisions of this Article III.

Section 10. Association Action. If any Owner is obligated to pay for or perform some act in accordance with the terms hereof, or with the terms of any rules promulgated pursuant to these Covenants, and such Owner fails to do so, the Association may cure such failure (but in on event whatsoever shall be obligated to do so) and may recover from the Owner all costs of such cure in addition to any other rights or remedies it may have hereunder. In no event, however, shall the



Association or any of its officers, employees or Committee members be liable in any way for its decision to cure same or not to cure same or for the partial or faulty cure of same.

## **ARTICLE IV**

### Association

Section 1. General Purposes and Powers. The Association will be formed as a nonprofit Idaho corporation by the filing of the Articles. Its affairs shall be governed by the Articles and By-Laws. The Association shall be obligated and shall assume and perform all functions and obligations imposed on it or contemplated for it under this Declaration and any similar functions or obligations imposed on it. The Association shall have all powers necessary or desirable to effectuate these purposes.

Section 2. Duties of Association. The Association shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration have the obligations, duties and functions to do and perform each of the following for the benefit of the Owners, and members, and for the maintenance, administration and improvement of the Subject Property, and other property owned by the Association, any recreational facilities and Common Areas or any other property as may be required or appropriate.

Section 3. Powers and Authorities of Association. The Association shall have all of the powers of a nonprofit corporation organized under the laws of the state of Idaho, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, By-Laws or 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 hereunder, or by the Articles and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of its express powers, including the following which are listed without intent to limit the foregoing articulation:

- (a) Assessments. To levy Assessments, charges, fines and penalties on the Owners, and to enforce the payment of the same, all in accordance with the provisions of this Declaration and its Supplements, the Articles, By-Laws, rules and regulations of the Association.
- (b) Easements and Rights of Way. To grant and convey, to any third party, easements and rights of way in, on, over or under the Association's property or Common Areas owned by the Association for the purpose of constructing, erecting, generating or maintaining any Improvements, utilities or other facilities, subject to the prior written approval of the Association.
- (c) Employment of Manager and Employees. To employ the service of any person or firm as manager, together with employees, to manage, conduct and perform the business, obligations and duties of the Association as may be directed by the Board and to enter into contracts for such purposes. To obtain, and pay for, legal, accounting, engineering, management and other professional services as may be necessary or desirable.

(d) Right to Make Rules and Regulations. The Association shall be authorized to and shall have the power to adopt and enforce rules and regulations to regulate use of any and all facilities and property of the Association to assure fullest enjoyment and use by the persons entitled to enjoy and use the same, provided that such rules and regulations shall not be in conflict with this Declaration. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from property and facilities of the Association or otherwise. Each Owner, members of his family and his tenants, guests and invitees shall be obligated to comply with and abide by any such rules and regulations.

(e) Right to Prosecute Actions. The Association shall have the power and authority from time to time, in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits in law and in equity to restrain any breach or threatened breach of this Declaration, and to enforce, by mandatory injunction or otherwise, all of the provisions of this Declaration.

(f) Insurance. To obtain, maintain and pay for such insurance policies or bonds, whether or not required by any provision of the Declaration, or any By-Laws, as the Association shall deem to be appropriate for the protection or benefit of the Owners, their tenants or guests, including, but without limitation, fire and extended coverage insurance covering the Association's property, liability insurance, workmen's compensation insurance, malicious mischief insurance, automobile non-ownership insurance, and performance and fidelity bonds.

(g) Utility Service. To contract and pay for, or otherwise provide for, utility services, including, but without limitation, water, sewer, garbage, electrical, telephone and gas services over any of the Subject Property owned by the Association.

(h) Road Maintenance. To contract and pay for, or otherwise provide for, the construction, reconstruction, repair, maintenance, snow removal, replacement or refinishing of any roads, drives, pathways, or other areas upon any portion of the Subject Property owned by the Association.

(i) Protective Services. To contract and pay for, or otherwise provide for, fire and such other protective services, such as noxious weed mitigation, as the Association shall from time to time deem appropriate for the benefit of the Owners, their tenants and guests.

(j) General Contracts. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor as and to the extent the Association deems necessary.

(k) Liens. To pay and to discharge any and all liens from time to time placed or imposed upon any Common Area owned by the Association on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration.

(l) Implied Rights of Association. The Association shall have and may exercise any right or privilege given to it expressly in this Declaration, its Articles and By-Laws or, except to the extent limited by the terms and provisions of this Declaration, given to it by law, and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations, including, without limiting the generality of the foregoing.

(m) Right to Enter Upon Any Lot. The Association, or its duly authorized agents, shall have the right at any time, and from time to time, without liability to any Owner for trespass or otherwise, to enter upon any Lot of the Subject Property, or any structure or improvement thereon, for the purpose of (1) maintaining same in the event of default on the part of the Owner or Owners thereof, in the maintenance thereof; (2) removing any Change in Existing State of Property in violation of the provisions hereof; and (3) otherwise enforcing the Covenants contained in this Declaration; provided however, any entry into any structure shall require 24 hours advance notice by personal delivery or posting conspicuously on such structure.

(n) Fees and Fines. The Association, or its duly authorized agents, shall have the right at any time, and from time to time, without liability to any Owner have the authority to set the rate of fees for services to the Owners and to adopt a fine schedule for the violation of this Declaration. Prior to the issuance of any fines to an Owner the Association must invite the Owner to which such fine is directed to a hearing in front of the Board on the matter to which the fine is proposed all in accordance with the Idaho Homeowners Association Act.

## ARTICLE V

### Association-Member and Management

Section 1. Regular Membership. There shall be one (1) Regular Membership in the Association and one (1) vote for each Lot regardless of the size of such Lot, and regardless of the differences in the size or scope of Improvements thereon. Such Membership in the Association shall be mandatory. Each such membership shall be appurtenant to the fee simple title to such Lot.

Section 2. Board of Directors. The affairs of the Association shall be managed by a Board of Directors consisting of five (5) persons. In all events, the Board of Directors may, however, delegate any portion of its authority, by resolution, or to an Executive Committee, or to an Executive Manager or Director for the Association. Members of the Board of Directors, shall be elected annually by the members. Vacancies in the Board may be filled by the action of a majority of the remaining Board Members.

Members of the Board and their officers, assistant officers, agents and employees acting in good faith on behalf of the Association:

a) 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;

- b) 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;
- c) shall have no personal liability in tort to any Owner or any person or entity, except for their own willful misconduct or bad faith; and
- d) 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 official capacity.

Section 3. Voting of Members. Each Member shall have one vote for each Lot as provided in Section 1 herein above, in the election of members of the Board of Directors of the Association, and in all other matters submitted to the vote of Members. In all voting by Members, voting by proxy shall be allowed and permitted, and in all voting for members of the Board cumulative voting shall be allowed and permitted. When one or more persons hold an interest or interests in any Lot the vote shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. Until 67% of the Lots have been sold and title transferred to Owners other than Declarant, whichever occurs first, the Declarant reserves the right to appoint and remove all members of the Board and to exercise the powers and responsibilities otherwise assigned by the Declaration to the Association. Notwithstanding the foregoing, by express written declaration, Declarant shall have the option to at any time turn over to the Association, and its members, the total responsibility for electing and removing members of the Board.

Section 4. Notices of Meetings. A member shall be entitled to at least thirty (30) days' notice of all meetings in which a vote of the Members is to be taken and when the amount of all Assessments which the members are obligated to pay will be determined. Notice shall be considered given when written notice is mailed or telegraphed to a Member addressed to the Member under the name and address for the Member furnished by the Member to the Association and, in any event shall be deemed given on the earlier of actual receipt or three (3) days after mailing or telegraphing. If a Member fails to furnish a name or address to the Association to which notices may be mailed, the Association shall be entitled to give notice by mail, telegraph or deliver of a written notice to the address of such member's property, addressed "Care of Owners".

Section 5. Quorum. A quorum shall consist of fifty-one percent (51%) of the Members.

## **ARTICLE VI**

### Assessments

Section 1. Operating Fund. The Association, acting by and through the Board, shall collect and deposit to an account in the name of the Association all moneys paid to it by way of assessment, by way of fees or charges for the use of the Common Area and the Recreation Facilities, or otherwise and from which the Association shall make disbursements in performing the functions which the Association performs under this Declaration.

Section 2. Maintenance Assessment. Not later than thirty (30) days prior to the commencement of each calendar year, the Association shall estimate the costs and expenses to be incurred by it during such year in performing its function, including reasonable provisions for defraying expenses attributable to ownership, maintenance, operation and furnishing of Common Area and the Improvements thereon and for contingencies, reconstruction and replacements and for alterations, modifications and improvements thereto, including but not limited to the payment of taxes of the Association, the payment of taxes levied on or with respect to the property owned by the Association, the payment of utility charges, maintenance expenses for the utility installations and Roads and snow removal therefore, Board expenses, expenses of enforcement of this Declaration and professional fees. In so estimating, the Association shall take into consideration the anticipated balance in the operating fund as of the start of such year and the estimated receipts of all assessments, charges, fees, and other payments to be collected during the year. The net estimate determined by the Association as being necessary and required shall be divided and assessed by it as of January 1 of each year as an assessment for such year against all Owners of Lots (each Lot being treated the same as all other Lots regardless of differences in size, regardless of whether improved or unimproved, and regardless of differences in size, degree or nature of the Improvements) in proportion to the number of Lots owned by each Owner.

Section 3. Supplemental Assessment. If at any time and from time to time during any year it shall appear that the assessment is or will be inadequate for any reason, including nonpayment by any Owner of his share, the Association may levy a further assessment to all Owners in the amount of such actual or estimated inadequacy.

Section 4. Payment of Maintenance Assessment. The assessments shall be due and payable by the Owners to the Association in equal quarterly installments in advance on or before the thirtieth (30th) day of each January, April, July and October, or in such other manner as the Association shall designate, but not in advance in an amount in excess of the estimate for the full year.

Section 5. Special Assessments. The Association may also levy a special assessment against any Owner where, as a direct result of said Owner's acts or failure or refusal to act or otherwise to comply with this Declaration the By-Laws, the Covenants, and any rules prescribed by the Board of Directors, moneys were or will have to be expended from the fund by the Association in performing its functions or enforcing the Covenants under this Declaration, the By-Laws, the Covenants, or any rules prescribed by the Board of Directors. Such special assessment shall be in the amount to be expended or so expended therefor and shall be due and payable to the Association when levied and shall include without limitation, engineers', architects', attorneys' and accountants' fees reasonably incurred by the Association.

Section 6. Special Assessments for Capital Improvements. In addition to the annual assessments the Association may levy a special assessment for the purpose of paying part or all of the costs of construction, re-construction or replacement of any capital improvements located upon the Common Area, including necessary fixtures or personal property related thereto. Any special assessment shall apply only to the year in which it is set. Any special assessments shall require the prior approval of two-thirds (2/3) of the members. There shall be a development fund into

which the Association shall deposit all monies paid to it as special or capital development assessments and income and profits attributable to investment of the development fund and from which Association shall make disbursements in performing the functions for which such assessments are levied.

Section 7. Obligation of Payment. Each assessment (maintenance, supplemental, special or development) shall be a separate, distinct and personal debt and obligation of the Owner against whom it is assessed, at the time the assessments is made, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it be so expressed in such deed, is deemed to covenant and agree to timely pay the same to the Association. If the Owner does not pay such assessment, or any installment thereof, when due, the Owner shall be deemed in default, and the amount of the assessment not paid, plus interest at on and one-half percent (1 1/2%) per month (not to exceed, however, the highest rate permitted under Idaho law) and costs, including reasonable attorneys' fees, shall be and become a lien upon the Lot or Lots of such Owner, effective upon and as of the recordation of a notice of default. Such notice of default shall set forth the amount of the delinquent assessment and other charges, a description of the Lot against which the same has been assessed and the name of the record holder thereof, and shall be signed by any officer of the Association, and shall be mailed to Owner at least ten (10) days prior to the recording of a lien. Such lien shall be prior to all other liens filed. Such lien may be foreclosed by the Association in like manner as a Mortgage of real property, and the Association shall have the power to bid on the Lot at a foreclosure sale and to acquire and thereafter hold, lease, mortgage and convey the same. The foregoing remedies shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation. Upon payment of any such delinquent assessment, interest and charges in connection with which such notice of default has been so filed, or other satisfaction thereof, the Association shall cause to be filed a further notice stating the satisfaction and release of the lien thereof.

Section 8. Estoppel Certificate. On request by any proposed purchaser, Mortgagee or transferee of a Lot, the Association shall execute and acknowledge a certificate stating the amount of the assessment secured by any lien upon such Lot, or that there is no outstanding assessment, as the case may be. Such certificate shall be conclusive upon the Association and the Owners in favor of all persons who rely thereon in good faith as of the amount of such indebtedness or the absence of any indebtedness as of the date of the certificate. The Association may charge a reasonable fee for the issuance of such certificate.

Section 9. No Owner subject to assessment, charges, fines, or penalties hereunder may exempt himself from liability for same, nor release his Lot or any portion thereof from the liens thereof, by waivers of the use and enjoyment of the property and facilities promoted by such assessments, charges, fines and penalties or by abandonment of his Lot or any portion thereof.

## **ARTICLE VII** Property Rights

Section 1. Drainage. There is hereby reserved to Declarant a non-exclusive easement for drainage of surface waters from portions of the Subject Property across other portions of the

Subject Property. Said drainage shall conform to a development plan as it is developed by Declarant. Drainage shall be limited to reasonable amounts of water and shall be so designed and constructed so as not to materially interfere with the development, use and enjoyment of the portions of the property onto which such water drains. The drainage as established shall not be altered, modified or changed as to any part of the Subject Property without the consent of the Owners who will be affected by any such alteration, modification or change.

Section 2. Roads. Each Owner of a Lot, as well as Declarant, shall have a non-exclusive easement appurtenant to his property of ingress and egress over and on all Roads. Each Owner may delegate his right under said non-exclusive easement for the benefit of his family, his tenants, servants, employees, agents, guests and invitees, and any transferee by way of lease assignment or contract for purchase of the property to which said non-exclusive easement is appurtenant.

Section 3. Members' Easements of Enjoyment. Subject to (i) the applicable rules and regulations (ii) existing easements and reservations of rights, and (iii) requirements of applicable law, every member of the Association shall as Owner of one or more Lots, together with Declarant, have a right and non-exclusive easement of use and enjoyment in and to all property owned by the Association, property interest, and recreational facilities owned or held by the Association. Such right and easement shall be appurtenant to and shall pass with the title to every Lot subject to the right of the Association to limit the number of guests, and to adopt Association Rules regulating the use and enjoyment of the same.

Section 4. Delegation of Use. The Owner of any Lot may delegate to any occupant of the same the right to the use and enjoyment of the said facilities and any privilege appurtenant to such Lot on which the same is located.

Section 5. Parking Rights. The use of parking areas (if any) within the Association's properties, together with the terms and conditions with regard to such use, shall be subject to and at all times governed by the Association's rules as the same are in effect from time to time.

## **ARTICLE VIII**

### **Miscellaneous**

Section 1. Effect of Provisions of Declaration. Each provision, covenant, condition and restriction contained in this Declaration:

- (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property subject to this Declaration is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument;
- (b) shall, by virtue of any person's or entity's acceptance of any right, title or interest in any parcel of property subject to this Declaration, be deemed accepted, ratified, adopted and declared as a personal covenant of such person or entity and, as a personal covenant of such person or entity shall be binding on such person or entity and such person's or entity's heirs, personal representatives, successors and assigns and, if a personal covenant of a

person or entity other than the Association or Declarant shall be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of the Association and, if a personal covenant of the Association, shall be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of each Owner of Property subject to this Declaration;

(c) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude running, in each case, as a burden with the title to each parcel of property now or hereafter subject to this Declaration and, both as a real covenant and an equitable servitude, shall be a burden upon and binding on each such parcel of property and upon each person or entity owning any right, title or interest in such parcel of property for so long as such person or entity owns any such right, title or interest, and, with respect to any property of a person or entity other than the Association, or Declarant, shall, both as a real covenant and an equitable servitude, be deemed a covenant and servitude for the benefit of any property now or hereafter owned by Declarant subject to this Declaration, and for the benefit of any property now or hereafter owned by the Association which is subject to this Declaration and for the benefit of any and all property which is subject to this Declaration;

(d) shall be deemed a covenant, secured by alien binding, burdening and encumbering the title to each parcel of property which is subject to this Declaration and, with respect to any property or entity other than the Association of Declarant, shall, as a lien, be deemed a lien in favor of Declarant and the Association and, with respect to any property owned by the Association, shall, as a lien, be deemed a lien in favor of Declarant; and

(e) shall be deemed a condition subject to which title to each parcel of property which is subject to this Declaration is and shall at all times be held.

Section 2. Enforcement and Remedies. The covenants contained in this Declaration, the Association or property of the Association shall be enforceable by Declarant, by the Association, or by any Owner of property subject to this Declaration by a proceeding for a prohibitive or mandatory injunction. The covenants contained in this Declaration with respect to a person or entity or property of a person or entity or the Association or Declarant shall be enforceable by the Declarant or the Association by a proceeding for prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid or, in the discretion of the Association or the Declarant, for so long as any person or entity fails to comply with any such provision, covenant, condition or restriction, by exclusion of such person or entity and such person's or entity's guests or invitees from use of any property or facility owned or held by the Association and from enjoyment of any function undertaken by the Association. In addition to the remedies stated above, if, with respect to any property subject to this Declaration, conveyed to the Association or to any other person or entity by Declarant, there is a violation or breach of or failure to comply with, any of the provisions, covenants, conditions or restrictions contained in this Declaration, then Declarant shall be deemed to have and shall have a power of termination and the right immediately or at any time during the continuation of any such violation, breach, or failure to re-enter and take possession of the real property and, upon exercise of this right of re-entry, title to the property shall thereupon vest in Declarant. If court proceedings are instituted in connection



with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

Section 4. Limited Liability. Neither Declarant, the Association, the Board of Directors of the Association, nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith.

Section 5. Successors and Assigns. This Declaration shall be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of the Association, Declarant, Owners, lessees, guests, invitees, and all other persons or entities deriving rights therefrom, whether voluntary or involuntary by operation of law or otherwise.

Section 6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this Declaration.

Section 7. Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any covenant contained in this Declaration.

Section 8. No Waiver. Failure to enforce any covenant in this Declaration shall not operate as a waiver of any such covenant or of any other provision, restriction, covenant or condition.

Section 9. Notice. Except as otherwise provided, any notice permitted or required to be delivered may be done so either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered four (4) days after a copy of same has been deposited in the United States Mail, postage prepaid, addressed to the person at the address given by such person to the Board of Directors of the Association for the purpose of service of such notice, or to the property of such person which is subject to this Declaration if no address has been given to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors of the Association.

Section 10. Amendment. The provisions of this Declaration may be amended at any time by the vote of those holding at least two-thirds (2/3) of the votes of the members in the Association. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the Secretary of the Board. As long as the Declarant owns at least 3 Lots the Declarant may amend the provisions of this Declaration by recording an amendment to this Declaration.

[signature page to follow]

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

Clear Springs Ranch, LLC

By \_\_\_\_\_  
Name: Travis Bush  
Title:

STATE OF IDAHO            )  
  ) SS.  
COUNTY OF TETON        )

The foregoing Declaration of Covenants, Conditions and Restrictions for Harlan Ranch Subdivision was acknowledged before me by \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2023.

Witness my hand and official seal.

SEAL

\_\_\_\_\_  
Notary Public