

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

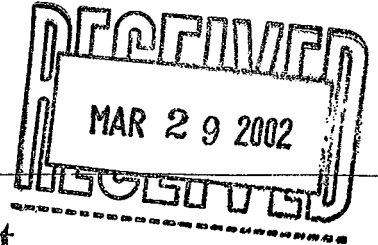
RECORDED - REQUEST OF

TITLEONE FEE

54- *W. Oberbiller*

2002 MR -5 PM 2:27

102026977



**This sheet has been added to document
to accommodate recording information.**

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

THIS DECLARATION Is made on the 5th day of March, 2002, by **Briarwood Corporation**, an Idaho corporation, and **New World Group Limited Partnership**, an Idaho Limited Partnership, hereinafter collectively referred to as "Declarant".

WHEREAS, Declarant is the Owner of certain real property in the County of Ada, State of Idaho, hereinafter referred to as the "Property", more particularly described as follows:

HAVENWOOD SUBDIVISION, according to the official plat thereof filed in Book 83 of Plats at Pages 9180, 9181 and 9182, Instrument No. 102025157, Records of Ada County, Idaho.

NOW, THEREFORE, Declarant hereby declares that the Property, and each lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, reservations, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and attractiveness of the Property. The terms, covenants, conditions, reservations, easements and restrictions set forth herein shall run with the land constituting the Property and with each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any lot, parcel or portion thereof; shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein, and shall inure to the benefit of and shall be binding upon Declarant, its successors in interest and each grantee or owner and his respective successors in interest, and may be enforced by Declarant or by any owner or his successors in interest.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's right to complete development of the Property and to construct improvements thereon, nor Declarant's right to maintain construction, sales or leasing offices or similar facilities on any portion of the Property, nor Declarant's right to post signs incidental to construction, sales or leasing.

ARTICLE I

Definitions

1.1 **"Beneficiary"** shall mean a mortgagee under a mortgage or beneficiary under a deed of trust, as the case may be, and/or the assignees of such mortgagee, beneficiary or holder, which mortgage or deed of trust encumbers parcels of real property in the Subdivision.

1.2 **"Building Lots"** shall mean and refer to any plot of land showing upon any recorded plat of the Property.

1.3 **"Common Areas"** shall mean the existing forty-five (45) foot wide permanent landscape and drainage easement on all lot lines common to the public right-of-way line.

1.4 **"Declaration"** or **"Supplemental Declaration"** shall refer to this Declaration as hereafter amended and supplemented from time to time.

1.5 **"Declarant"** shall mean and refer to **Briarwood Corporation**, an Idaho corporation, and **New World Group Limited Partnership**, an Idaho Limited Partnership, their successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped lot from the Declarant for the purpose of development and as a part of such conveyance, the Declarant assigns and transfers to such transferee the Declarant's rights with respect to such lots.

1.6 **"Easements"** shall mean those easements as shown on the plat or an designated herein.

1.7 **"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, driveways, sidewalks, curbs, landscaping, signs, lights, mailboxes, electrical lines, pipes, pumps, ditches, waterways, and fixtures of any kind whatsoever.

1.8 **"Lot"** shall mean and refer to a Building lot.

1.9 **"Mortgage"** shall mean and refer to any mortgage or deed of trust and **"Mortgagee"** shall refer to the mortgagee, or beneficiary under a deed of trust, and **"Mortgagor"** shall refer to the mortgagor, or grantor of a deed of trust.

1.10 "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.

1.11 "Plat" shall mean the recorded plat of Havenwood Subdivision, and the recorded plat of any other Properties annexed hereto.

1.12 "Properties" or "Property" shall mean and refer to the real property hereinbefore described, and such additions thereto as may hereafter be annexed and brought within the coverage of this Declaration as more particularly provided for herein.

ARTICLE II

General Covenants, Conditions and Property Use Restrictions

2.1 Specific Requirements. The development of this property shall be in compliance with the Boise City Zoning Ordinance or as specifically approved by CUP01-00025. Lots 2 through 8, Block 1 shall require detailed conditional use permit approval by Boise City. Lot 1 may be utilized for an assisted living facility and Lots 2 through 8 are reserved as office, commercial, apartments or townhouses development Lots.

2.2 Signage. The Declarant may construct one (1) or more monument signs, which signs shall be placed within the existing forty-five (45) foot wide permanent landscape and drainage easement. Space on the monument sign or signs shall be allocated equally to the owners and/or occupants of Lots 2 through 8, Block 1, with each Lot receiving approximately the same amount of space on the monument sign or signs. Monument signs shall be owned and maintained by the Havenwood Owner's Association. All other signs upon any lot or building shall require architectural control approval as set forth herein. Lot 1, Block 1 shall have completely separate signage for said Lot.

2.3 Exterior Maintenance. No improvements shall be permitted to fall into disrepair, and each improvement shall at all times be kept in good condition and repair. Each Lot owner shall be responsible for maintenance of the building and structural improvements on the Lot. Landscaping maintenance shall be provided by the Association.

2.4 Improvements Location. No improvement shall be constructed in violation of setback requirements established by law, or by this Declaration as set forth on the recorded plat of the Subdivision.

2.5 Nuisances. No noxious or offensive activity, including without limitation, those creating an offensive odor, shall be carried on upon any lot nor shall anything be

done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2.6 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Property.

2.7 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, cared for or kept on any lot.

2.8 Garbage and Refuse Disposal. No rubbish, trash, garbage, refuse or debris shall be placed or allowed to remain on the Property except trash kept and maintained within the interior or a unit in sanitary containers. Owners may be required to share trash pickup receptacles, in which cases the cost thereof shall be split among all users of a common receptacle. All such material shall only be kept in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean, neat and sanitary condition. Garbage collection receptacles shall be provided, kept and maintained by the Association at locations determined in conjunction with the City of Boise. All Owners shall use the receptacles provide and individual trash pickup service will not be provided to each lot.

2.9 Water Supply. No individual water supply system shall be permitted on any lot.

2.12 Sewage Disposal. No individual sewage disposal system shall be permitted on any lot. All lots shall be subject to the sewer requirements of the City of Boise:

2.13 Antennae. No television antennae, satellite receivers larger than thirty inches (30") in diameter, or radio aerials shall be installed on the property, other than within the interior of a unit.

2.14 Unightly Articles. No unsightly articles shall be permitted to remain on any lot as to be visible from any other portion of the property. Without limiting the foregoing, no lumber, grass, shrub or tree clippings or plant waste, compost piles, metals, building or other materials or scrap or other similar material or articles shall be kept, stored or allowed to accumulate on any portion of the property except within an enclosed structure or appropriately screened from view. "Screened" is defined as being concealed or made non-visible from eye level, at grade, at all points within the property.

2.15 Lights, Sound - General. No light shall be emitted from any lot which light is unreasonably bright or causes unreasonable glare. No sound shall be emitted from any lot which is unreasonably loud or annoying, and no odors shall be emitted on any Property which are noxious or offensive to others.

2.16 Construction. During the course of actual construction of any permanent improvements, the restrictions contained in this Declaration and any supplemental declaration shall be deemed waived to the extent necessary to permit such construction, provided that during the course of such construction nothing shall be done which will result in a violation of these restrictions upon completion of construction and all construction shall be diligently prosecuted to completion, continuously and without delays.

2.17 Reconstruction. In any case where it is necessary to reconstruct a unit said reconstruction shall be prosecuted diligently, continuously and without delays from time of commencement thereof until such structure is fully completed and painted, unless prevented by causes beyond control and only for such time that such cause continues.

2.18 Maintenance and Repair. In the event the improvements on any lot shall suffer damage or destruction from any cause, the owner thereof shall undertake the repair, restoration or reconstruction thereof within ninety (90) days of such damage or destruction.

2.19 Plat Conditions. All covenants, conditions and restrictions and other matters set forth on all plats are hereby incorporated by reference and notice is hereby given of the same.

ARTICLE III

Easements

3.1 Dedicated Easements. Easements for landscaping, drainage, public power, water, gas, telephone, stellar cable vision, Boise City drainage, and Boise City streetlights are reserved as shown on the recorded plat. Said easements shall run with the land. The easements cannot be dissolved without the express consent of the City of Boise.

3.2 Maintenance Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. 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 utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of 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 company is responsible.

3.3 Ingress, Egress and Parking Easements.

3.3.1 Creation of Easements. Easements for ingress, egress and parking shall be as shown on the recorded plat of the subdivision. In addition, that portion of Lot 7 consisting of a strip of land, which is 11.50 feet wide by 136.15 long, lying to the south of Lot 8, shall be a part of the ingress and egress easement area which is situated between Lots 6 and 8, and the ingress and egress easement onto E. Grand Forest Drive shall also include the strip of land which is a portion of Lot 2, which is 3.00 feet wide by 142.35 feet long, lying to the west of Lot 3.

3.3.2 Purpose of Easements. The easements for ingress, egress and parking shall be non-exclusive easements to permit mutual rights of ingress, egress and parking among the respective lots in the Subdivision on, over, along and across the easement areas to permit an encourage cross-circulation upon the property for the benefit, convenience and use by the owners, their respective tenants, contractors, employees, agents, customers, licensees and invitees and all other persons who enter upon and use said vehicular and pedestrian circulation lanes and the parking areas in connection with the commercial purposes and related uses existing or to be constructed upon the property, including emergency vehicles of all kinds. Such easements herein created shall be a covenant running with the land.

3.3.3 Non-Exclusive. The easements and rights herein created shall be non-exclusive and the use and enjoyment thereof by an authorized user shall be in common with the use thereof by all other authorized users. Neither a lot owner nor an authorized user using the easements and rights created hereby shall restrict, prohibit, interrupt or interfere with the free and unobstructed ingress and egress access and parking provided hereby, except as may be required on a temporary basis for maintenance, repairs or improvements.

3.3.4 Easements Appurtenant. The mutual and reciprocal easements created by and described herein shall be easements appurtenant to the dominant estate of each such easement.

3.3.5 Maintenance. Maintenance of the easement area shall be provided by the Havenwood Owner's Association through maintenance assessments as provided herein.

3.3.6 Prohibited Activities. No lot owner nor authorized user shall use, or permit to be used, any portion of the easement areas located on such lot owner or permitted user's property for any purpose or use which will interrupt, prevent, prohibit or make inconvenient the ingress, egress, circulation or parking intended by the easements. This restriction shall not limit or restrict the temporary interruption of ingress, egress, circulation and parking as may be required during

periods of repair and maintenance or otherwise to prevent a dedication to the public of the same.

3.3.7 Covenants Running With the Land. The easements herein created shall be easements, restrictions and covenants running with the land and shall inure to the benefit of and be binding upon each lot owner and their respective successors and assigns and all persons claiming under and through them.

3.3.8 Eminent Domain. In the event that all or any portion of the easements herein created and located on the property is taken by any government or quasi government entity under the power of eminent domain or sold in lieu of the exercise thereof, each lot owner shall be entitled to participate in the damages paid by reason thereof to the extent of each parties' interest therein as determined by a Court of competent jurisdiction. In the event of a partial taking, all sums awarded shall be used first to restore the remaining improvements located on the affected property and thereafter shall be distributed to the lot owners in accordance with their interest so determined.

3.3.9 Storm Drainage Easements and Maintenance. For all drainage facilities outside of the public right-of-way, the Declarant shall dedicate a storm drainage easement. All storm drainage easements which are outside of the public right-of-way shall be operated and maintained by the Association.

ARTICLE IV

Maintenance Assessments

Section 4.1 Covenant For Maintenance Assessments.

4.1.1 Creation of Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay (1) regular annual or other regular periodic assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with interest, costs of collection and reasonable attorney's fees, shall be a charge upon the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successors in title, unless expressly assumed.

4.1.2 Purpose of Assessments. The assessments shall be used exclusively for the operation, improvement, repair and maintenance of the permanent landscape and drainage easement, storm drainage easements as set forth in Section 3.3.9, parking areas, easements for ingress and egress, monument signs, paved areas, trash pickup receptacles, driveways and sidewalks. In addition, the assessments shall be used to provide for the maintenance of all landscaping on each Lot, including the sprinkler system, lawn mowing and fertilization, pruning and trimming of trees and shrubs, maintenance of flower beds and weed and pest control.

4.1.3 Regular Annual Assessments.

4.1.3.1 Amount to be Fixed by Declarant. Until such time as eighty percent (80%) of the Lots in the Property have been initially conveyed by Declarant, the Declarant shall fix the amount of the regular annual assessments. The Declarant shall fix the amount of the initial annual assessment beginning the first day of the month following the conveyance of the first Lot by Declarant. Thereafter, the Declarant shall fix the amount of the regular annual assessments 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 Declarant.

4.1.3.2 Amount to be Fixed by the Association. At such time as eighty percent (80%) of the Lots in the Property have been initially conveyed by Declarant, the Association shall fix the amount of the regular annual assessments 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 Association.

The assessment provided for in this Article and this Declaration shall not be levied against Declarant, but shall commence as to a Lot sold on the first day of the month following the initial conveyance of the said Lot by Declarant, and not before. Declarant shall therefor not be liable for any assessments on Declarant's Lots. The first annual assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year.

4.1.4 Special Assessments for Capital Improvements. In addition to the regular 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 an improvement relating to the property common areas. Any such special assessment shall be payable over such a period as the Association shall determine.

4.1.5 Rate of Assessment. Assessments shall be assigned to the individual lots according to the following percentages:

Lot 1	37.8%
Lot 2	9.4%
Lot 3	9.4%
Lot 4	9.4%
Lot 5	9.4%
Lot 6	5.8%
Lot 7	9.4%
Lot 8	<u>9.4%</u>
Total	100.00%

4.1.6 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of a Lot.

4.1.7 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Mortgagees are not required to collect assessments. Failure to pay any assessment shall not constitute a default under an insured 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 payment 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.

4.1.8 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

4.1.8.1 All property expressly dedicated to and accepted by a local public authority;

4.1.8.2 All properties owned by the Declarant; and

4.1.8.3 All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

4.2 Havenwood Owner's Association.

4.2.1 Organization of Association. The Havenwood Owner's Association shall be an Idaho non-profit corporation and shall be charged with the duties and invested with the powers prescribed by law and set forth in this Declaration.

4.2.2 Membership. Each Owner of a Lot subject to this Declaration, including Declarant, by virtue of being such an Owner and for so long as such ownership is maintained, shall be a member of the Association, and consents to such membership by virtue of ownership of a Lot. No Owner shall have more than one (1) membership in the Association, except as hereinafter set forth with respect to voting. Memberships in the Association shall not be assignable, except to the successor-in-interest of the Owner, and all memberships in the Association shall be appurtenant to the Lot owned by such Owner. The memberships in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to a Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

4.2.3 Voting. The Association will have two (2) classes of voting memberships.

4.2.3.1 Class A. Class A members shall be the Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members, with the vote for such Lot being exercised as they collectively determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

4.2.3.2 Class B. The Class B member shall be the Declarant. Upon the recording hereof, Declarant shall be entitled to four (4) votes for each Lot of which Declarant is the Owner. The Class B membership shall cease and be

converted to Class A membership at such time as eighty percent (80%) of the Lots within the Property are deeded to Owners.

4.2.4 Management. The affairs of the Association shall be conducted by the Board of Directors, who may from time to time designate one owner or other individual or entity as Manager. A majority vote shall be required for all Association business except as otherwise provided in this Declaration or in the Articles of Incorporation or By-Laws.

4.2.5 Powers and Duties of the Association.

4.2.5.1 Powers. The Association shall have all the powers set forth in this Declaration. It 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 the Declaration, and to do and perform any and all acts which may be necessary or proper for, or incidental to the proper management and performance of the other responsibilities herein assigned, including without limitation:

4.2. 5. 1. 1 Assessments. The power to levy assessments (annual, special and limited) on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

4.2. 5. 1. 2 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the By-Laws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise, all provisions hereof.

4.2. 5. 1. 3 Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager. Neither the Association nor the Owners shall be liable for any

omission or improper exercise by the manager of any such duty or power so delegated.

4.2. 5. 1. 4 Association Rules. The power to adopt, amend and repeal by majority vote of the Owners such rules and regulations as the Association deems reasonable and which are consistent with this Declaration (the Association rules). A copy of the Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said Association rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

4.2. 5. 1. 5 Emergency Powers. The Association or any person authorized by the Association may enter upon any Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association.

4.2.5.2 Duties of the Association. In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agent, if any, shall have the obligation to conduct all business affairs of common interest to all Owners, and to perform each of the following duties:

4.2. 5. 2. 1 Operation and Maintenance. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of all common areas, and all landscaping and exterior maintenance, other than buildings, on each Lot.

4.2. 5. 2. 2 Taxes and Assessments. The Association shall pay all taxes, federal, state or local, including income or corporate taxes levied against the Association.

4.2 5. 2. 3 Insurance. Obtain, if the Owners so elect, from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect casualty, liability and/or other insurance as the Owners deem appropriate.

4.2. 5. 2. 4 Rule Making. Make, establish, promulgate, amend and repeal the Association rules.

4.2.6 Restrictions on Dissolution. The Association shall not be dissolved without the express written consent of the City of Boise.

ARTICLE V **Architectural Control**

5.1 Architectural Control. No improvement or landscaping shall be commenced, built, constructed, placed, or maintained upon any lot, nor shall any exterior addition, change or alteration of any existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location and such other detail as the Architectural Control Board may require, shall have been submitted to and approved in writing by the Board as to the harmony of the external design and location in relation to surrounding structures and topography and as to conformity with the requirements of this Declaration. In the event the Board fails to approve, disapprove or specify the deficiency in such plans, specifications and location within thirty (30) days after submission to the Board in such form as it may require, the same shall be deemed approved.

5.2 Discretion of the Board. The Board shall have the right to refuse to approve any design, plan or color for improvements, construction or alterations which, in its opinion, are not suitable or desirable for any reason, aesthetic or otherwise. In so passing on such design, the Board shall have the privilege in the exercise of its discretion to take into consideration the suitability of the proposed structure or alteration, the materials of which it is to be built, and the exterior color scheme in relation to the site upon which it is proposed to be erected. The Board may also consider whether the design of the proposed structure or alteration is in harmony with the surroundings, the effect of the structure or alteration when viewed from the adjacent or neighboring property, and any and all other factors which, in the Board's opinion, shall affect the desirability of such proposed improvement, structure or alteration. Actual construction shall comply with the plans and specifications approved.

5.3 Rules. The Board is hereby authorized to adopt rules and regulations to govern its procedures and the requirements for making submissions and obtaining approval as the Board deems appropriate and in keeping with the spirit of due process of law. The Board is further hereby empowered to adopt such rules and regulations as it

shall deem appropriate, consistent with the provisions of this Declaration, pertaining to matters of design, materials, colors, and aesthetic interests. Any such rules and regulations may be amended from time to time, in the sole discretion of the Board. The failure of the Board to adopt any such rules and regulations shall not form the basis for an attack upon the exercise of the Board's discretion, it being the intent of this Declaration to provide the Board with as broad discretion as is permissible under the law.

5.4 Waivers. The approval of any plans, drawings or specifications for any structure, improvement, or alteration, or for any matter requiring the approval of the Board, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications, or matters subsequently submitted for approval.

5.5 Non-Liability of Board Members. Neither the Board nor any member thereof, nor its duly authorized representatives, nor the Declarant, shall be liable to any owner or grantee for any loss, damage or injury arising out of or in any way connected with the performance of the Board's duties hereunder, unless due to the willful misconduct or bad faith of the Board. The Board shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the property generally. The Board shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building, zoning or other codes.

5.6 Designation of Architectural Control Board. The Architectural Control Board shall consist initially of the Declarant, who shall exercise such control until all of the lots within the property are deeded to owners. At such time as all of the lots are deeded to owners, the appointment of an Architectural Control Board shall be within the duties and powers of the Association.

ARTICLE VI **General Provisions**

6.1 Enforcement. The Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all conditions, covenants, restrictions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant 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. The prevailing party shall be entitled to reasonable attorney's fees in the event of any legal action to enforce these Covenants.

6.2 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

6.3 **Interpretation.** The terms, covenants and conditions hereof are to be read and interpreted consisting and in a manner to protect and promote property values.

6.4 **Term and 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, restated, replaced, terminated or superseded by an instrument signed by sixty percent (60%) of the owners of lots covered by this Declaration, provided, however, that if Declarant is still the owner of any lots this Declaration may not be amended without the written consent and vote of Declarant.


IN WITNESS WHEREOF, The undersigned, being the Declarant herein, has hereunto set its hand and seal this 5th day of March, 2002.

Briarwood Corporation



By **David E. Leader, President**

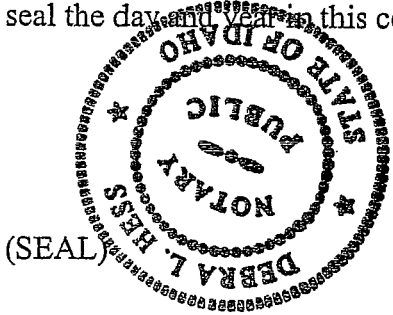
**New World Group Limited Partnership,
New World Group Corporation, General
Partner**

By 
David E. Leader, President

STATE OF IDAHO)
 :ss
County of Ada)

On this 5th day of MARCH, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared **David E. Leader**, known or identified to me to be the president of **Briarwood Corporation**, the corporation which executed the instrument or the person who executed the instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Debra L. Hess

Notary Public For Idaho

Residing at Boise, Idaho

My Commission Expires: 7/21/2003

STATE OF IDAHO)

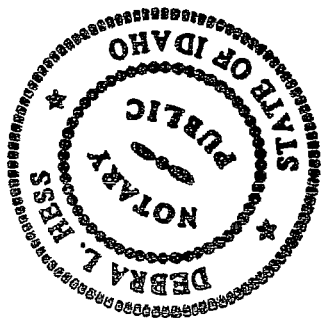
:SS

County of Ada)

On this 5th day of MARCH, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared **David E. Leader**, known or identified to me to be the president of **New World Group Corporation**, the corporation which executed the instrument or the person who executed the instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)



Debra L. Hess

Notary Public For Idaho

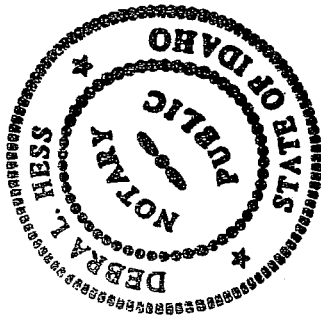
Residing at Boise, Idaho

My Commission Expires: 7/21/2003

STATE OF IDAHO)

County of Ada)

On this 5th day of March, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared **David E. Leader**, personally known to me or proved to me on the basis of satisfactory evidence, to be the President of the **New World Group Corporation**, a general partner of the **New World Group Limited Partnership**, an Idaho Limited Partnership who subscribed said partnership's name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership's name.



Debra L. Hess
Notary Public For Idaho
Residing at Boise, Idaho
My Commission Expires: 3/31/2002

(SEAL)