

## **DECLARATION OF COVENANTS INDIAN PAINTBRUSH ESTATES SUBDIVISION**

DSB Investments, Inc., herein the "Declarant," hereby declares that all of the lands within the Indian Paintbrush Estates Subdivision, as more particularly described and laid out in that certain plat prepared by MC2 Engineering, P.C., approved by the County Commissioners of Sheridan County on \_\_\_\_\_, 2006, and recorded in the Office of the County Clerk of Sheridan County as Document No. \_\_\_\_\_ on \_\_\_\_\_, 2006, in Book \_\_\_\_\_ of Plats, page \_\_\_\_\_, shall be subject to the following easements, covenants, restrictions, and conditions:

**1. Lots Defined.** These Covenants shall apply to each and every of the twenty-two (22) numbered lots of Indian Paintbrush Estates Subdivision, as designated and shown on the aforesaid plat (herein referred to as "Lot" or "Lots"). Each covenant herein shall apply to each such Lot, shall be binding upon and run with the land.

**2. Subdivision.** No Lot shall ever be further divided, subdivided, split, or partitioned in any manner.

**3. Residential.** All Lots shall be used only for residential purposes, including any home business or home occupation use as permitted under the applicable zoning regulations of Sheridan County, Wyoming, as now in effect or as hereafter from time to time amended or promulgated. Provided, however, no sign denoting any such business shall be placed on the Lot greater in size than two square feet and no such sign shall be illuminated. Any such home business shall be operated exclusively within the interior of the home or within the interior of the garage/accessory building on the Lot and shall not result in any equipment, tools, or product being placed outside or visible to other Lot owners. Provided, further, such home business or home occupation occurring on a Lot may not result in an increase in vehicular traffic to that Lot which is above and beyond what would otherwise be reasonable if that Lot were used only for residential purposes. Nor shall any such home business increase noise, air, or water pollution that would be above and beyond what would otherwise be reasonable if that Lot were used only for residential purposes. No driveway surface shall exceed sixteen (16) feet in width and no parking lot area shall be allowed which is greater in size than would be reasonable for a residence. For purposes of illustration, permitted home business or home occupation may include, but shall not necessarily be limited to: the practice of a profession in an office located within the home, a quiet trade or operation which occurs exclusively within the home or garage/accessory building, or the operation of a sales office within the residence for the sale of a product which is not inventoried on the Lot or within the residence but is being sold off-site of the Lot.

#### **4. Construction.**

(a) **New Construction/Time for Completion.** Any building erected on the Lot shall be on-site new construction with new quality materials. Buildings shall not be placed on or within any area designated as a wetland on the Final Plat of the Indian Paintbrush Estates Subdivision. No owner of a Lot shall erect or place any mobile homes, factory constructed or other modular residential buildings on a Lot. Trailers shall not be used as a permanent residence during construction or thereafter. Notwithstanding any other provision contained in this Declaration of Covenants, trailers may be used for construction purposes during construction of the house or garage/accessory building. Once construction of a structure is commenced on a Lot, construction of that structure shall be completed within eighteen (18) months of commencement. Mobile homes shall not be used as temporary or permanent residences at any time. No building materials shall be stored on any Lot for more than ninety (90) days unless substantial construction of a building is actually in progress.

During the period of construction of any residence or other building upon any Lot of the subdivision, the said Lot and area shall be kept as neat and orderly as possible.

No structure on any Lots may be inhabited until it has been completely enclosed and substantially completed and sanitary facilities and utilities have been installed.

(b) **Compatibility of Improvements.** All buildings, fencing, and any other improvements constructed on a Lot shall be appropriate in character, design, color, and architecture in relation to the general area and to the other homes in the subdivision. No unusual design, styles, or construction methods shall be allowed (for illustration purposes only – there shall be no geodesic domes, no straw bale structures of inferior construction quality or design than what is typical in the area, and no underground homes).

(c) **Colors of Improvements.** All buildings and improvements will be painted, stained, sided, and roofed in primarily earth tone colors so that they shall blend with the land and the surrounding area and homes as much as possible.

(d) **Number of Buildings Per Lot.** No buildings shall be erected, altered, placed, or permitted to remain on a Lot other than one (1) detached single-family primary residential dwelling, with a private attached garage, and a maximum of one (1) additional accessory building for uses such as a barn,

studio, house, additional garage, workshop, recreation room, storage area, or any combination thereof.

**(e) Minimum Square Footage for Homes.** Every primary residential dwelling that is a single story home shall have a minimum of 1,600 square feet of above-grade finished living area. Every primary residential dwelling that is a two story home (above grade) shall have a minimum ground level floor area (i.e., footprint) of no less than 1,500 square feet of finished living area on the ground level. No primary residential dwelling shall exceed two stories above finished grade (not including a standard basement level). No basement area will be considered a part of the finished floor area requirements, and no basement shall extend higher than thirty-six (36) inches from the highest point of the finished grade elevation of the primary residential dwelling.

**(f) Accessory Buildings.** Accessory buildings shall not exceed 1,800 square feet on the ground level, shall be of properly framed construction, and shall be sided only with materials allowed in the following paragraph. No accessory building shall exceed a height of ten (10) feet at the highest point of the sidewall nor eighteen (18) feet at the roof peak. Provided, further, an accessory building constructed on a Lot shall be constructed in a style that matches the primary residential dwelling constructed thereon, and the siding and roof materials and colors of both buildings shall be the same.

In an effort to promote a higher quality look than an average pole-type barn, each accessory building shall have one or more architectural details that provide a higher than average appearance (examples of such intended details include but are not limited to varying or multiple roof lines, covered porch or landing, a roof cupola or other such architectural details). The architectural details required by this paragraph shall be subject to the approval of the architectural control committee.

**(g) Permitted Sidings.** Each primary residential dwelling, and all additional accessory buildings, shall be sided with the following materials:

- i. Properly painted, stained or treated cedar siding which shall be properly maintained after installation;
- ii. Properly stained, painted or treated logs with a minimum diameter or thickness of seven (7) inches which shall be properly maintained after installation;
- iii. Traditional stucco, Drivit or other high quality stucco-like siding;
- iv. Masonry (natural or cultured stone or brick);

- v. high quality manufactured/composite siding (examples of such permitted composite siding include CertainTeeds' "WeatherBoards," James Hardie's "Hardiplank Lap Siding" or "Hardisshingle Siding" and other such higher than average manufactured siding approved by the committee) that is in the form of a traditional lap siding or shake panels and which meets all of the following minimum criteria:
  - (a) the color warranty on the siding product is a minimum of fifteen (15) years;
  - (b) the durability warranty on the siding product is a minimum of fifty (50) years;
  - (c) the reveal of such a lap siding does not exceed six and a quarter (6-1/4) inches;
  - (d) the siding is properly installed according to manufacturer specifications; and
  - (e) there are no butt joints on any course of such lap siding on the elevation of the building facing Indian Paintbrush Road that require connectors/clips or caulking (i.e., all runs of lap siding shall be full-length runs at least on the elevation facing Indian Paintbrush Road).

**(h) Soffit and Fascia.** All soffit and fascia shall be considered a part of the siding and shall be installed using new quality material and in accord with the siding materials allowed in paragraph 4.g. above; provided, however, metal soffit and fascia may be used without requesting a variance so long as such metal soffit and fascia meets the following minimum quality specifications: all such metal shall be of a high quality and thickness and shall be properly installed; and fascia over seven (7) inches in height shall have a stepped appearance. Provided, further, whenever metal soffit and fascia is used, that area where the rake fascia board meets the horizontal soffit from the side of the house, that connection shall be finished by boxing in the connection so that it has a finished appearance.

**(i) Trim Boards / Window and Door Casing.** Should any building be sided with any material other than those permitted sidings listed in paragraph 4.g. (ii), (iii) and (iv) above, then all exterior windows and doors shall have a minimum of 3½-inch, and a maximum of 6-inch, trim boards which case all windows and doors and shall have corner boards with a

minimum width of 3½ inches, and a maximum of 6 inches, on each corner of the building.

**(j) Front Elevation – Masonry Requirement.** A minimum of twenty percent (20%) of the elevation of all primary residential dwellings and all accessory buildings that face Indian Paintbrush Estates Road shall be faced with masonry (i.e., either natural or cultured stone or brick).

The intent of this paragraph is to require a certain portion of all improvements that you see from Indian Paintbrush Estates Road to be faced with a better than average attractive and natural appearance. For purposes of calculating the 20% masonry requirement, the total area of the building that faces Indian Paintbrush Road shall be calculated by excluding the area of the windows, doors, garage doors, and gable ends of that elevation – the remaining area of the building's elevation shall be the total area of which 20% must be faced with masonry.

Provided, further, certain architectural details that are faced with masonry shall apply in fulfilling this masonry requirement. That is, details like masonry porch columns or pillars, masonry retaining walls, fireplaces with masonry exposed to the exterior elevation, and other such masonry details, shall be applied toward this 20% requirement.

Provided, further, if a primary residential dwelling or accessory building has more than one elevation facing Indian Paintbrush Road, this requirement shall apply to that elevation that mostly faces the road only.

**(k) Prohibited Sidings.** No primary residential dwelling nor any accessory building erected on a Lot shall be sided with any of the following materials, which are prohibited as such are typically inferior and less than average in quality and appearance, to-wit:

- i. plywood or any wood sheet panel siding;
- ii. vinyl siding;
- iii. metal siding;
- iv. pressed board, hard board siding, or other such inferior grade composite siding;
- v. exposed unfinished cement or concrete block (no more than 30 inches of unfinished concrete for a basement/foundation wall shall be left exposed in its unfinished condition); or
- vi. any other inferior siding.

**(l) Roofing Requirements.** All major roof lines of any primary residential dwelling shall be pitched with at least a 6/12 pitch; provided, however, the roof pitch of porches, dormers, and other ancillary roof lines shall not be less than a 4/12 pitch. All buildings constructed on a Lot shall have a roof of at least eighteen (18) inch overhang. No roof of any other structure erected on a Lot shall be pitched less than a 4/12 pitch. Permitted roofing materials shall not be in any unusual color and are limited to: (i) tile or slate; (ii) asphalt shingles (provided, however, if asphalt shingles are used, they shall be the architectural design with the "shake" look and shall be of a quality with at least a 40-year rating, (iii) high quality composite shakes, (iv) real cedar shakes, (v) metal roofing with a baked enamel or high quality coated finish and in an architectural grade with concealed screws/fasteners, or (vi) other such higher than average quality roofing material.

**(m) Sheathing and Exterior Framing Requirements.** All construction shall use sheathing (except in types of construction where sheeting is not required, like logs) meeting at least the following minimum requirements: (i) all wall sheathing shall be at least 7/16" plywood, OSB or comparable sheathing product; (ii) all roof sheathing shall be at least 5/8" plywood, OSB or comparable sheathing product; and (iii) all subflooring shall be at least 3/4" plywood, OSB or comparable subflooring product. Additionally, all exterior stud walls shall be framed with studs on at least 16" centers. The purpose of these requirements is to ensure the quality of the exterior appearance of the buildings shall be long lasting and shall not sag or develop a lower quality appearance because of lesser construction products used for exterior sheathing/framing.

**(n) Fences.** There shall be no chain-link fences, no woven or barbed wire fences (except for the exterior fences of the subdivision for purposes of keeping livestock out, and as further described in Section 15), no concrete block fences nor any other unusual type of fence not common to the area on any Lot. All permanent fences to be constructed on a Lot shall be subject to approval by the Association, as such approval process is set forth herein. Provided, however, temporary fences (i.e., fencing to temporarily protect trees or vegetation) do not require such approval.

**(o) Other Improvements.** Any swimming pool (with the exception of children's wading pools not exceeding eight (8) feet in diameter), tennis courts, or other outdoor recreational facilities, which are to be constructed must have prior approval as to design and location.

No permanent clothesline posts will be erected on any of said Lots. Any clothesline posts or poles shall be of the removable type, and must be enclosed or screened from obvious view.

No television or other communication towers or structures shall be placed in front of the front line of the house, and any such tower or structure which exceeds three feet above the building roof line shall be first approved by the architectural committee.

Each Lot owner shall place a mailbox along Indian Paintbrush Road, in accordance with requirements set forth by the United States Postal Service.

**(p) Submission of Proposed Plans to Home Owners Association/Review Process.** No residence, building, fence, wall, or other structure shall be constructed, replaced, repainted, or altered on any Lot within the subdivision until the plans and specifications showing the location of the structure and the plans for construction have been approved by the Home Owners' Association as to the location (footprint) of all structures, quality of workmanship and materials, harmony of external design, including color, with the existing structures, location with respect to topography, finish grade, elevation, in compliance with the covenants and restrictions contained herein.

Whenever an owner of a Lot wishes to construct a primary residential dwelling, an accessory building, or any permanent improvement/construction, the Owner shall submit to the president of the Home Owners Association (herein "Association") three (3) full sets of building plans for such proposed construction. Such building plans shall show all exterior elevations of the proposed building(s) and shall designate all the materials and colors to be used for all exterior materials so that the Association has sufficient information to evaluate if the proposal meets the requirements set forth herein. Additionally, the owner shall submit color samples of all such materials for the Association's review process.

Upon receipt of such plans, the President shall call a special meeting of the Association for the purpose of reviewing the plans and samples submitted as soon as possible, but in no event shall such meeting occur later than twenty (20) calendar days from the date of the president's receipt of the plans and samples. The president shall attempt to circulate the plans and samples to the Lot owners before the meeting, if possible. At said meeting, each owner shall have the opportunity to comment on the plans and discuss the same. At the conclusion of the discussion, the Association shall vote on its approval of the proposed plans and samples. Each Lot shall be entitled to one vote, pursuant to the terms set forth in the Covenants. The Association shall issue a written

statement outlining the result of said vote and whether the Association approved or denied the proposed plans and samples. In the event the Association fails to approve or disapprove within thirty (30) days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. If denied, the Association shall further provide a written summary of the reasons for such denial and shall provide the same to the Lot owner who proposed the plans within ten (10) days from the date of said meeting. The person submitting the plans shall have the right to make application to the Association for review of its decision and may request a variance from the restrictions.

In the event the Association approves the preliminary plans and specifications, then, prior to construction, final plans and specifications must be submitted to the Association in complete and detailed form, to assure conformance of the final plans and specifications with the preliminary plans and specifications.

Those Lot owner(s) who are unable to attend said meeting may give another Lot owner his/her written proxy, as provided hereafter, or may submit a written vote for approval/disapproval of the proposed plans and samples to the President at or before said meeting and that written vote shall be deemed the vote of that Lot owner. In the event a Lot owner fails either to attend the meeting, vote by proxy, or by a written vote, the Lot owner shall be deemed to have voted for approval of the plans and samples.

No construction on the proposed building(s) shall commence until its plans have been reviewed by the Association.

Neither the Homeowners' Association, its Members, nor the Declarant shall be liable to any Owner or other person for any damage or loss suffered or claimed on account of (a) the approval or disapproval of any Plans, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved Plans, or (c) the development or manner of development within the Property. Approval of Plans by the Association shall not be deemed to be a representation or warranty that the Plans comply with applicable laws or regulations, including zoning ordinances and building codes.

**(q) Express Intent of Architectural Control and Possibility for Variance.** It is the intent of these Covenants to ensure that the homes and accessory buildings constructed within Indian Paintbrush Estates Subdivision

are higher than average homes in terms of quality, appearance, and styling. The Lot owners wish to promote a high quality of construction and appearance for each building to be constructed in the subdivision to protect each other's desired lifestyles and property values.

As further provided hereafter in the covenants, the Association, in exercising its architectural control of the subdivision, may grant a variance to an Owner, upon the Owner's written request, to allow the primary residential dwelling or accessory building to be constructed, sided or roofed in some material other than those expressly permitted above. The Association acknowledges that there may be a type of construction, siding, roofing, or other materials proposed that may be otherwise prohibited herein but because of the overall high quality of construction, appearance and style of the proposed residence or building the Association may desire, as a group, to allow such and grant a variance.

**5. General Improvement Setback.** No improvement shall be constructed closer to any property line than allowable under applicable county regulations. Consideration should be given to place structures so as not to disrupt the view of neighboring Lot owners and to provide continuity with the natural surroundings.

**6. Exterior Lighting.** Only standard residential lighting shall be used to illuminate a Lot. All outside lighting shall be arranged, directed, and/or shielded so as to prevent any such light shining onto or at the adjacent road and/or Lots.

**7. Utilities / Easements.** All utilities and service lines installed on Lots shall be underground. Propane tanks shall be buried, or, in the alternative, shall be screened from public view and the view of neighboring Lots, and said screen shall blend with the adjacent building. Easements are granted to and for the benefit of each Lot along those routes shown on the above-described Plat and designated therein as "Utility, Drainage and Irrigation Easement," said easements being fifteen (15) feet in width along the exterior boundary and the road frontage of each Lot (except along the south boundary of the subdivision where said easement is twenty (20) feet in width, and being ten (10) feet in width on each Lot where the boundary lines where two adjacent Lots meet, all as shown on said Plat. The purpose of this easement is to provide each Lot with the benefit of allowing utilities, drainage, and irrigation along such routes as may be necessary for each Lot.

**8. Water Storage Tanks.** No surface or above-ground water storage tanks or containers shall be allowed within the subdivision.

**9. Parking of Vehicles, Machinery and Equipment.** No parking is allowed on Indian Paintbrush Road. Off-street parking for at least two vehicles shall be provided on each Lot. Private vehicles which are used on a daily basis and are used regularly do not need

to be stored in the manner described below. Vehicles which are not in running condition or are in a state of disrepair, and machinery and equipment shall not be placed or stored anywhere on a Lot unless enclosed in a garage or accessory building and out of the view of other Lot owners. Trailers, RVs, campers, boats, recreational vehicles, and other like vehicles shall not be placed or stored anywhere on a Lot unless enclosed in a garage or accessory building and out of the view of other Lot owners, provided that one RV, motorhome, camper trailer, or fifth-wheel trailer (but not boats, boat trailers or other like vehicles) will be exempt under the following conditions: 1) the vehicle is parked on a designated pad constructed of gravel, concrete, or pavement; 2) the designated pad is adjacent to the accessory building (if there is one, or if not, to the house); 3) the vehicle (or any combination of vehicles) is parked or stored on the designated pad for no more than seven months in any one calendar year; and 4) any vehicle parked under this provision and the designated pad shall be fully operational and maintained in a manner reasonably fitting with the character of the entire subdivision.

**10. Livestock and Pets.** No livestock of any nature shall be kept, raised, or maintained on a Lot ("Livestock" shall include but not be limited to horses, ponies, burrows, mules, donkeys, cattle, sheep, pigs, goats, llamas, peacocks, turkeys, chickens, and any other such animals not customarily kept as household pets in the area). Commercial animal husbandry shall not be practiced in any form, and all pets shall be maintained for personal and family use only. Dogs and cats shall not be permitted to run at large and shall be kept controlled by the owner thereof on an owner's Lot in a reasonable manner and shall at all times be kept from creating a nuisance or disturbance to other Lot owners within Indian Paintbrush Estates Subdivision, or from harassing wildlife.

**11. Firearms, Fireworks and Hunting.** Hunting is not allowed, no firearm shall be discharged, and no fireworks shall be displayed or used within the Indian Paintbrush Estates Subdivision.

**12. Hazardous, Noxious, or Offensive Activities.** No hazardous, illegal, noxious, or unreasonably loud or offensive activities shall be permitted within the Indian Paintbrush Estates Subdivision, nor shall anything be done or placed within the Indian Paintbrush Estates Subdivision which is or may become a nuisance.

**13. Fuel Storage.** No gasoline, diesel, or other type of fuel (not including propane) should be stored in tanks or containers located above or on the surface of the ground.

**14. Irrigation of Yards/Landscaping.**

(a) **Irrigation.** Ownership of all direct flow water rights attached to any part of the Property shall be administered by the Homeowners' Association through a common distribution system for the benefit of all Tracts.

The Association, as defined in paragraph 19 below, shall have the authority to ensure that all appropriated irrigation water that is available to Indian Paintbrush Estates Subdivision, and to each Lot thereof, is properly delivered to the subdivision boundary. Any ditch company stock shall be held by the Association, and not by individual Lot owners. After such irrigation water is delivered to the boundary of the subdivision, each Lot owner shall be responsible for the maintenance, operation, and cost of the ditch as it crosses his/her Lot and shall be allowed to divert his/her share of such irrigation water and shall be responsible for ensuring that the remainder of the irrigation water flows through his/her Lot to the other downstream Lots on that ditch. Each Lot may improve the means and location of the ditch conveyance of such irrigation water through his/her Lot so long as such improvement does not impair downstream users of such water. The irrigation ditch system of Indian Paintbrush Estates Subdivision provides for approximately equal shares of available irrigation water to each Lot, as is set forth in that Water Rights Distribution Plan for Indian Paintbrush Estates Subdivision prepared by MC2 Engineering, P.C. and filed with the Wyoming State Engineer's Office. Said available irrigation water is intended to provide water to irrigate the yards and landscaping of each Lot, as the appropriated irrigation water appurtenant to Indian Paintbrush Estates Subdivision is available from time to time and from season to season. Pumps capable of pumping more than 20 gpm are prohibited. Nothing herein shall create any claim against or liability of the Declarant for failure to supply or use water.

All Lot owners are prohibited from placing any structure or causing any change that will interfere with ditch flow. It is further acknowledged that other ditch owners have the right to water from the ditch pursuant to their water rights and that they have the right to enter and maintain the ditch, as allowed under Wyoming law.

**(b)** Landscaping, including the introduction and planting of grasses, shrubs, and trees, is permitted and encouraged; provided, however, the entire Lot, including all such landscaping, shall be reasonably maintained and manicured. Each Lot shall be kept reasonably clear and free of noxious weeds. Any area disturbed or destroyed as a result of construction on the Lot must be landscaped or restored to its original condition within one year of the substantial completion of the construction. Trees and shrubs should be planted in accordance with consideration to wildlife as specified in paragraph 15 of these covenants.

**(c)** Fertilizer, Pesticide and Herbicide Use. It is the intent of these Covenants to ensure that the use of fertilizers, pesticides and herbicides within the Indian Paintbrush Estates Subdivision are as environmentally friendly as

reasonably possible. All Lot owners are encouraged to use organic-type fertilizers, pesticides, and herbicides in place of chemical-based products, and then, only as reasonably necessary.

**15. Wildlife Considerations.** It is the intent of these Covenants to ensure that the impact on indigenous wildlife species within the Indian Paintbrush Estates Subdivision be reduced as much as reasonably possible. All boundary fences must be reasonably “wildlife-safe” and shall not unreasonably interfere with the movement of wildlife. Woven wire fences are prohibited for use as subdivision boundary fences. Brush piles and the accumulation of construction and other debris which attracts scavengers such as skunks and raccoons are prohibited

**16. Septic Systems.** All septic systems must be designed by a qualified professional engineer licensed by the State of Wyoming and meet any standards set forth in the Final Plat of the Indian Paintbrush Estates Subdivision, as well as any applicable federal, state, and local statutes and regulations.

**17. High Water Table Construction.** All building shall be constructed in accordance with the current buildings standards of the nearest incorporated city or town of the county that has adopted building standards. In addition, Lot owners shall retain a professional civil engineer licensed in the state of Wyoming and knowledgeable in the principles of geotechnical engineering to evaluate the soils and groundwater level to determine the structural engineering needs of any proposed construction.

**18. Lots with 100-Year Flooding Potential.** Even though Lots 8, 12, and 19 are not located in a FEMA-designated flood plain, they have been identified as being at risk for flooding in the event of a 100-year flood where the two foot supplemental berm constructed along the north side of Jones Draw is somehow compromised. Lot owners for these Lots shall account for this possibility when constructing at these locations.

**19. Indian Paintbrush Estates Subdivision Homeowners' Association.**

(a) **Creation.** The Indian Paintbrush Estates Subdivision Homeowners' Association (herein referred to as the "Association") is hereby created as an unincorporated, nonprofit Association under the Wyoming Unincorporated Nonprofit Association Act, Wyoming Statutes, to exercise the powers granted, and to perform the functions imposed, by these Covenants with regard to the Lots.

(b) **Purposes and Powers.** The general purposes of the Association are to:

- i. Enforce these Covenants, as set forth herein and as may be amended;
- ii. Govern, administer, and pay for the private maintenance and repair of Indian Paintbrush Estates Road, which shall be kept clear of snow and driveable at all times;
- iii. Ensure the proper delivery of the available appropriated irrigation water through the Colorado Colony and Metz Ditches to the boundaries of Indian Paintbrush Estates Subdivision;
- iv. Serve as an architectural control committee to protect the generally required characteristics of construction described above and to prohibit any construction in violation of such requirements.
- v. Generally promote the health, safety, and welfare of the residents of the Lots. The Association shall also have the power to provide such additional services for the Lots as the owners may from time to time approve.

For these purposes, the Association is hereby empowered to:

- i. Exercise all of the authority, powers, and privileges delegated to or vested in the Association by these Covenants, by Wyoming Statutes, or as may be reasonably implied as being necessary and proper hereunder, and to perform all of the duties and obligations established by these Covenants;
- ii. Elect officers to carry out the administrative duties authorized by the Association's members from time to time. Officers shall include a President, Vice President, Secretary/Treasurer, and Irrigation Water Supervisor unless otherwise provided by the Association;
- iii. Fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to these Covenants, and to pay all expenses in connection therewith and all expenses incident to the conduct of the business of the Association, specifically including the costs associated with repairing, maintaining, and operating Indian Paintbrush Road; and

- iv. Employ such firms or persons to perform any or all of the duties and obligations of the Association.

(c) **Membership.** Every person who is an owner of a Lot shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from the ownership of the Lot. An owner shall become a member upon conveyance of record to him of his Lot and shall cease being a member upon his conveyance of record of such Lot. No certificate or document, save and except a recorded conveyance to a Lot, shall be required to evidence such membership.

(d) **Voting Rights.** Each owner shall be entitled to one vote for each Lot owned, save and except that the voting rights of any owner who is more than 30 days past due on the payment of any assessment to the Association shall be automatically suspended until such assessment, together with interest, costs, and reasonable attorney's fees, is paid in full. The voting rights of any owner against whom an enforcement issue is being voted upon by the Association shall be suspended for the vote on that enforcement issue only. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast on behalf of one Lot.

(e) **Action.** Except as otherwise provided, an action of the Association, or any approval required of the owners under these Covenants, shall require the affirmative vote of at least fifty-one percent (51%) of all Lots eligible to vote, cast in person or by proxy, at a duly constituted meeting of the Association, or, without a meeting by written approval of such action.

(f) **Meetings.** The Association shall have an annual meeting. The first annual meeting shall be held in the month of \_\_\_\_\_, 200\_\_, as shall be called to order by Declarant. At such initial annual meeting, the members of the Association shall determine the preferred time, date, and location for the annual meetings thereafter. Other special meetings of the Association may be called at any time by the written request of the owners of any three (3) Lots. Written notice of any and all meetings of the Association shall be given by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each other, addressed to the owner's address last appearing on the books of the Association, or supplied by such owner to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and the purpose of the meeting. Each owner may vote in person or by proxy at all meetings of the Association. All proxies shall be in writing. Every proxy shall be revocable and shall automatically cease upon conveyance by the owner of his Lot.

(g) **Books and Records.** Upon prior written request, the books, records, and papers of the Association shall be subject to inspection at a reasonable time and place by any owner and by a mortgagee holding a duly recorded mortgage against a Lot.

(h) **Principal Office.** The Association shall designate a principal office from time to time.

(i) **Dissolution.** The Association may be dissolved upon the written approval of all of the owners of all of the Lots. Upon dissolution of the Association, the assets of the Association shall be distributed to the owners of the Lots within Indian Paintbrush Estates Subdivision in equal shares, or, if all owners agree, dedicated to an appropriate public agency or nonprofit organization to be used for purposes broadly similar to those for which this Association was created.

(j) **Limitations.** No part of the net earnings of the Association shall inure to the benefit of, or be distributed to, the owners, except that the Association shall be authorized to pay reasonable compensation for services rendered.

(k) **Service.** Until such time as 17 Lots have been sold, DSB Investments, Inc. shall act and serve as "the Association," and thereafter the Owners of the Lots shall then serve as "the Association." In addition, Declarant reserves the right to turn over the right to act and serve as "the Association" to the Owners of the Lots at any time before 17 Lots are sold.

## 20. Assessments.

(a) **Authority.** Except as otherwise provided, the Association shall have the power and authority to determine all matters in connection with assessments, including the power and authority to determine where, when, and how assessments shall be paid to the Association, and each Lot owner shall be required to comply with any such determination.

(b) **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to pay the obligations imposed upon the Association by these Covenants and to promote the health, safety, and welfare of the residents of the Lots.

(c) **Annual Assessments.** The Association shall establish annual assessments to meet its obligations under these Covenants, including specifically the obligations to maintain Indian Paintbrush Road and to satisfy

the operating expenses of the Association. The Association shall have the power to include within the annual assessment amounts to meet the costs of any other service duly approved by the Association.

**(d) Special Assessments.** In addition to the regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only.

**(e) Approval of Assessments.** All assessments under this paragraph 20 shall be subject to the approval of the Association, as provided herein. It is Declarant's intention that the initial annual assessment for the year 200\_\_ shall be set in accord with (c) above at its first annual meeting in \_\_\_\_\_, 200\_\_.

**(f) Uniform Rate of Assessment.** Both annual and special assessments must be fixed as a uniform rate for all Lots, except that Lot 16 will not be subject to assessments relating to the maintenance of Indian Paintbrush Road.

**(g) Commencement of Annual Assessments.** The annual assessments provided for herein shall commence as to all Lots on such date as shall be established by the Association under subparagraph e. The Association shall fix the amount of the annual assessment against each Lot at least 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 Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**(h) Effect of Nonpayment of Assessments.** Any assessment not paid within 30 days after the due date shall thereafter bear interest from the due date at the rate of twelve percent (12%) per annum. Upon the failure of a Lot owner to pay the assessment when due, the Association will provide written notice to the violating Lot owner by delivering the notice by certified mail. Such delivery shall be deemed effective on the date notice is mailed by the Association. The violating Lot owner shall have thirty (30) days from the date the notice is deposited in the mail to pay, in full, the unpaid assessment, interest thereon, and costs. If payment is not received by the Association within said 30 day period, the Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the Lot which is created herein by such nonpayment. The lien created

herein shall be foreclosed in the manner provided for the foreclosure of real estate mortgages in the State of Wyoming, and may be, at the Association's discretion, accomplished by advertisement and sale as provided in the Wyoming Statutes. In the event of such collection and/or foreclosure, the nonpaying Lot owner shall be liable for all attorney's fees and costs incurred by the enforcing party in such collection. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of his Lot.

(i) **Subordination of Lien to Mortgages.** The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a first mortgage 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.

**21. Variance.** The owners of Indian Paintbrush Estates Subdivision shall have full power and authority, upon an affirmative vote of at least seventy percent (70%) of Lot owners eligible to vote, to grant a variance from these Covenants for good cause shown in order to prevent undue hardship on an owner subject to the Covenants. The variance, if granted, shall not violate the overall theme and appearance of the property subject to these Covenants and shall be in writing. Nothing herein relieves any Lot Owner from obtaining from Sheridan County any variance that may be required by County rules or regulations.

**22. Enforceability.** These Covenants may be enforced by the record owner of any Lot or parcel in the Indian Paintbrush Estates Subdivision or by the Association, but shall not run to the benefit of a third party, except as otherwise specifically provided below. Declarant and its successors shall have the sole and exclusive right and authority to determine compliance with the Covenants contained herein, and allocate and assess the costs for the improvement, maintenance, and repair of the common areas. Upon the violation of any covenant, a written notice of such violation or failure shall be directed to the violator who shall then have ten (10) days after receipt of the said notice to correct the violation. If said violation is not so corrected, Declarant or its successor, may reenter and take possession of the violator's premises and correct the violation and charge all costs of such correction to the owner. In addition, damages may be assessed against the violator at the rate of \$25.00 per day for each day the violation continues after the 10-day notice. In the event suit is required to collect any sums due, or to enjoin the violation of any of the covenants contained herein, violator, in addition to any of the other penalties provided herein or which may be assessed by a court, shall be liable for all attorney's fees and costs incurred by owner or the Association in bringing such action.

**23. Exceptions for Lot 16.** At the time of these Covenants, an existing house (the "Home") and shop (the "Shop") are located on Lot 16 of the Indian Paintbrush Estates Subdivision. The existing Home and Shop do not currently comply with all of these Covenants. As such, variances are granted such that the Home and Shop in their current state are granted a "grandfathered" status except that:

(a) The propane tanks on Lot 16 will only be allowed to remain as they are until natural gas utility service becomes available. At that time, Lot 16 shall be subject to paragraph 7.

(b) Any additions to, remodeling of, or substantial change in the Home or Shop will only be allowed so long as the style and construction materials can be matched to the existing style and materials. Further, any proposed addition, remodel, or substantial change under this provision shall be subject to the procedures outlined in paragraph 4(p).

(c) When the Home receives a new roof, only permitted roofing materials shall be used. When the Shop receives a new roof, only permitted roofing materials shall be used.

**24. 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.

**25. Non-Waiver.** Except as otherwise provided in this Declaration of Covenants, any failure to promptly enforce a violation of these Covenants shall not be deemed a waiver of the right to so enforce whatsoever.

**26. Covenants Run with the Land; Amendment.** This Declaration of Covenants shall run with the land and shall be binding upon all parties and shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least seventy percent (70%) of Lot owners eligible to vote repeals or amends this Declaration of Covenants.

Executed by Declarant this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

DSB INVESTMENTS, INC.

By: \_\_\_\_\_  
D. Scott Bliss, President

STATE OF WYOMING            )  
  ) ss.  
COUNTY OF SHERIDAN        )

The foregoing Declaration of Covenants was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by D. Scott Bliss, President of DSB Investments, Inc.

Witness my hand and official seal.

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

My Commission Expires:

\_\_\_\_\_