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CLERK RECORDER

174268

MASTER PLAN DECLARATION  
AND FIRST AMENDMENT  
TO  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
TETON RESERVE

This Master Plan Declaration and First Amendment to Covenants, Conditions and Restrictions for Teton Reserve effective this 23<sup>rd</sup> day of January, 2006 is as follows:

WITNESSETH:

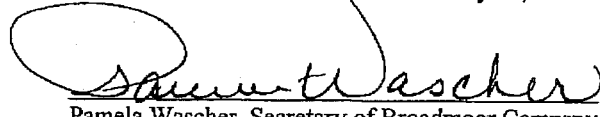
WHEREAS, heretofore, there have been established and recorded the Declaration of Covenants, Conditions and Restrictions for Teton Reserve on March 5, 2003, and which by this reference are hereby amended and superceded; and

WHEREAS, on January 23, 2006, the undersigned owner being the majority owner of record of the real property within Teton Reserve according to the official plat thereof on file and of record in the office of the Teton County Clerk and Recorder, is desirous of amending and clarifying said document. The original Declaration of Covenants, Conditions and Restrictions for Teton Reserve is hereby superceded by the Master Plan Declaration and First Amendment to Covenants, Conditions and Restrictions for Teton Reserve, and is hereby stated.

THEREFORE, from this 23<sup>rd</sup> day of January, 2006 forward, the Master Plan Declaration and First Amendment to Covenants, Conditions and Restrictions for Teton Reserve take precedence and become enforceable.

IN WITNESS WHEREOF, Declarant has executed this as the Master Declaration as of January 23, 2006.

DECLARANT:

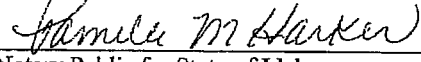
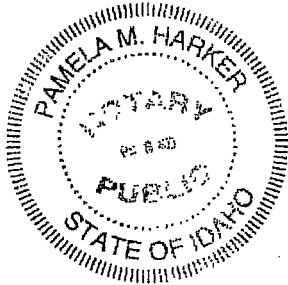


Pamela Wascher, Secretary of Broadmoor Company, Inc., General Partner of Teton Valley Golf Associates LP

State of Idaho )  
                  )ss.  
County of Teton )

The foregoing Master Plan Declaration and First Amendment to Covenants, Conditions and Restrictions for Teton Reserve was acknowledged before me, in the County of Teton and State of Idaho, this 23<sup>rd</sup> day of January, 2006, by as Pamela Wascher, Secretary of Broadmoor Company, Inc., General Partner of Teton Valley Golf Associates LP, an Idaho limited partnership.

WITNESS my hand and official seal this 23<sup>rd</sup> day of January, 2006.



Notary Public for State of Idaho

Residing at: *Velonia, Id*

My commission expires: *01-23-2007*

Instrument # 174268

DRIGGS, TETON, IDAHO

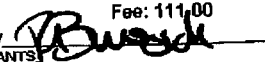
2006-01-25 10:51:57 No. of Pages: 37

Recorded for : TETON COUNTY TITLE

NOLAN G. BOYLE

Fee: 111.00

Ex-Officio Recorder Deputy  
Index to: DECLARATION OF COVENANTS



174268



**MASTER PLAN DECLARATION  
AND FIRST AMENDMENT  
TO  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
TETON RESERVE**

THIS MASTER PLAN DECLARATION AND FIRST AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS FOR TETON RESERVE (the "Declaration") is made by TETON VALLEY GOLF ASSOCIATES LP, an Idaho limited partnership ("Declarant").

**RECITALS**

A. On March 3, 2003, Declarant recorded the Master Plan ("Plat Map" or "Master Plan") for Teton Reserve Planned Unit Development, as instrument No. 153363, records of Teton County, Idaho (The real property contained within the Plat Map is hereinafter referred to as the "Property"). The Master Plan was subsequently amended by Teton Reserve Planned Unit Development Amended Master Plan / Phase Map, recorded September 2, 2004, as instrument No. 163218, records of Teton County, Idaho. Thereafter, Teton Reserve Planned Unit Development Snow Goose/Trumpet Swan/Perigrine was recorded November 23, 2005 as instrument No. 172907 and Instrument No. 172906, the legal descriptions and terms of which are incorporated herein, except to the extent amended hereby.

B. On March 5, 2003, Declarant recorded the original Declaration of Covenants, Conditions and Restrictions for Teton Reserve as instrument No. 153427.

C. Declarant is the majority owner of record of the real property within Teton Reserve according of the official Master Plan plat thereof on file and of recorded in the office of the Teton County Clerk and is desirous of amending the original Declaration of Covenants, Conditions and Restrictions for Teton Reserve and Design Guidelines.

D. This Declaration of Covenants, Conditions and Restrictions is adopted to promote the health, safety, and welfare, control the land use, and to promote the economic and aesthetic integrity of Teton Reserve. Declarant hereby declares that all of the lots and parcels defined herein as the Property shall be held, sold and conveyed subject to the following protective covenants, conditions, restrictions, limitations, reservations, liens, grants of easements, rights, rights of way, charges and equitable servitude, all of which are for the purpose of maintaining and protecting the desirability and attractiveness of the Property. These protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights of way, charges and equitable servitude, (i) create a Master Plan for development, sale and use of the Property as a "planned unit development" as approved and permitted by Teton County, Idaho, (ii) are for the benefit and protection of the Property and for the protection of the desirability and attractiveness of the Lots, Common Areas and other parcels of real property located therein, (iii) run with all the real property comprising the Property, as defined herein, and (iv) bind all parties having or acquiring any right, title or interest in the Property or any portion thereof, and their successors and assigns.

E. Declarant is in the process of developing the Property according to the recorded Master Plan as a planned community. Declarant reserves the right, but shall have no obligation, to annex to the Property from time to time additional real estate, not part of the Master Plan, and to develop such property as part of the planned community.

F. The Master Plan currently provides for three hundred eighty-four (384) residential units. This number does not include provision for operations and, maintenance facilities, clubhouse and recreational areas, storage or commercial uses which are permitted under the Teton Reserve Planned Unit Development as they are not classified as residential lots or units hereunder. It is the further intention of the Declarant to sell and convey some or all of the residential Lots within the Property to other Owners subject to the protective covenants, conditions, restrictions, limitations, reservations, liens, grants of easements, rights, rights of way, charges and equitable servitudes between Declarant and such Owners as set forth in this Declaration (and any duly adopted amendments thereto).

G. Teton Reserve Master Association, an Idaho non-profit corporation, has been, or will be, formed as a master association to exercise the functions set forth herein and to own, lease, hold, operate, care for manage certain property for the common benefit of Owners and Occupants of Lots and Units within, and of any other person acquiring an interest in, the Property.

H. Declarant desires and intends that the Owners, Mortgagees, Occupants and all other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements contained in this First Amended Master Plan and Declaration, as it may be amended from time to time by Supplemental Declaration or otherwise.

I. The initial Common Area and Common Facilities are to be maintained or owned by the Master Association and include: street lights, private streets, Open Space Common Areas and associated landscaping including common area irrigation. The Golf Course, while dedicated to Open Space, will not be maintained or owned by the Master Association. The Master Association will have no ownership interest in or control over any portions of the Teton Reserve development or the Golf Course, except as otherwise set forth in this Declaration.

J. Located within the Teton Reserve development are private areas which may be developed with commercial structures, golf course and clubhouse areas, recreational facilities, real estate sales offices or other improvements that may not be owned by the Master Association or be subject to this Declaration. Declarant is constructing a golf course within one of these private areas (the "Golf Course"). The Golf Course is owned and will be operated as a private club with an allowance for access by the public, rather than being owned, operated or controlled by the Master Association or any other property owners association. The Golf Course property shall not be subject to this Declaration, although the owner/operator of the Golf Course property enjoys certain easements and other rights hereunder, referred to herein. Membership in, or use of, the Golf Course is subject to the control of the Golf Course owner. In the future the Golf Course Owner may be a person or entity other than the Declarant.

## DECLARATION

NOW, THEREFORE, for the purposes set forth above and herein, Declarant, for itself and its successors and assigns, hereby declares that the Property, and all other property which becomes subject to this Master Plan Declaration in the manner hereinafter provided, and each part thereof, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, improved, altered, maintained and enjoyed subject to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations, exceptions, easements, privileges, rights and other provisions hereinafter set forth, for the duration hereof, all of which are declared to be part of, pursuant to, and in furtherance of a common and general master plan community, and all of which shall run with the land and be binding upon and inure to the benefit of: (i) the Property and every part thereof, (ii) Declarant and its successors and assigns, (iii) the Master Association and its successors and assigns, (iv) every Member of the Master Association, and (v) all Owners, Occupants and other Persons having or acquiring any right, title or interest in or to the Property or any part thereof, or any Improvement thereon, and their respective heirs, personal representatives, successors and assigns. Provided always, that the extent this Master Declaration provides that Declarant shall not be bound by or is exempt from the application of certain covenants, conditions and restrictions contained herein. Declarant shall not be considered subject to such covenants, conditions or restrictions. This Master Plan Declaration, and any amendments hereto, shall be recorded in Teton County, Idaho.

## ARTICLE 1 DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used in this Master Declaration shall have the meanings hereinafter specified.

**1.01 Allocated Interests.** "Allocated Interests" means the liability for Common Expense and the votes in the Master Association allocated to each Lot or Unit, which interests are allocated as follows:

- (a) The Common Expense liability for each Lot or Unit is calculated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of residential Lots or residential Units in the Property which, at the time of assessment, which has been formally platted and otherwise meets the requirements of applicable state law for conveyance to third parties. Such fraction is then multiplied by the Common Expense or the Assessment in question to determine that Lot's or Unit's allocable share thereof. The Common Expense or the Assessment in question is determined without reference to the size, location, value or use of the Lot or Unit's share thereof.
- (b) One (1) vote in the Master Association is allocated to each residential Lot or residential Unit in the Property. Currently there are 384 votes in the Master Association.
- (c) The foregoing allocations may not discriminate in favor of Lots or Units owned by Declarant or an affiliate of Declarant
- (d) If Lots or Units are added to or withdrawn from the Property or converted to Common Area, (i) the Common Expense liability for each Lot or Unit shall be reallocated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots and Units in the Property following the addition, withdrawal or conversion of such Lots or Units, and (ii) one vote in the Master Association shall continue to be allocated to each residential Lot or residential Unit in the Property following the addition, withdrawal or conversion of such Lots of Units.

**1.02 Application for Certificate of Compliance.** "Application for Certificate of Compliance" means a written application submitted by a Lot or Unit Owner to the Development Review Committee requesting the issuance of a Certificate of Compliance to the effect that the Improvements constructed by the Owner on its Lot or Unit have been completed in compliance with the development approvals granted therefor by the Development Review Committee. The procedures pertaining to such Application are more particularly set forth below.

**1.03 Articles of Incorporation.** "Articles of Incorporation" means the Articles of Incorporation of the Teton Reserve Master Association, an Idaho non-profit corporation, its successors and assigns, which have been or will be filed in the Office of the Idaho Secretary of State, as amended from time to time.

**1.04 Assessment.** "Assessment" means any Regular, Special or Reimbursement Assessment made or assessed by the Master Association against an Owner and its/ his/her Lot.

**1.05 Board of Directors or Board.** "Board of Directors" or "Executive Board" means the Board of Directors of the Master Association.

**1.06 Budget.** "Budget" means a written itemized estimate of the Common Expenses to be incurred by the Master Association in performing its functions under this Master Declaration and adopted by the Executive Board pursuant to this Master Declaration. The Budget may be adopted or modified from time to time in the discretion of the Executive Board.

**1.07 Building Envelope.** "Building Envelope" means that portion of any Lot which is depicted and designated as the Building Envelope on a building envelope map, if any. When the Building Envelope is designated on a building envelope map, all structural Improvements, including roof overhangs, shall be located within the Building Envelope on a Lot, except that with prior Development Review committee approval in each

instance, driveways, walks, decks, patios, pathways, other similar features, fences, underground utilities, irrigation and drainage systems, and landscaping may be located outside the Building Envelope.

**1.08 Bylaws.** "Bylaws" means the Bylaws of the Association; as such Bylaws may be amended from time to time.

**1.09 Clubhouse Area.** The Clubhouse Area is that portion of the Property owned by the Declarant, upon which the Clubhouse and related buildings and facilities are located.

**1.10 Common Area.** "Common Areas" means all real property interests (not just fee title and leasehold interests) within the Property and the Improvements and amenities and personal property thereon or therein or associated therewith which may from time to time be owned, leased or maintained by the Master Association or otherwise held by the Master Association for the use, enjoyment and benefit of the Owners and Occupants and such other users as may be authorized by this Master Declaration or by the Executive Board from time to time (the term specifically excludes the Golf Course, Clubhouse Area and other areas as provided herein). Also defined as Common Area are, or shall be:

- (a) any portion of a cluster home, duplex or town home conveyed to the Master Association and described as Common Area in a Declaration of Final Plat or Supplemental Declaration;
- (b) any parcels designated as Common Area Open Space on the Master Plan (but specifically excluding the Golf Course Open Space);
- (c) any portion of Future Phases described as Common Area in a Declaration of Final plat or Supplemental Declaration; and
- (d) any easement over a Lot which easement is conveyed to the Master Association by the Declarant before conveyance of the Lot to an Owner, when the easement area is for landscaping, utilities, signage or monumentation purposes, or for trails or golf course access; and
- (e) any water rights, ditch rights and/or water facilities (or interests therein) that may be owned or leased by the Master Association or which the Master Association may be entitled to use. With the exception of easements which are Common Areas, the Common Areas do not include the Lots, Units, or the improvements constructed thereon, and are subject always to all Permitted Exceptions. Notwithstanding that yards, residence exteriors, and roofs on certain Lots in the Property may maintained by the Master Association, such yards, exteriors and roofs are not Common Areas.

Unless the context clearly indicates a contrary intent, any reference to the "Common Areas" shall also include any Common Facilities located thereon.

**1.11 Common Expense.** "Common Expense" means any expenditures made or liabilities incurred, or to be incurred, by or on behalf of the Master Association, together with any allocations to reserves, including, but not limited to the following:

- (a) all expenses or charges incurred by or on behalf of the Master Association for the management and administration of the Master Association, including but not limited to, compensation paid by the Master Association to managers, accountants, attorneys and employees;
- (b) all expenses or charges incurred by or on behalf of the Master Association for maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area and Common Facilities;
- (c) all expenses or charges reasonably incurred to procure insurance for the protection of the Master Association and its Board of Directors to the extent required by this Declaration, but excluding insurance maintained by a Sub-association;
- (d) all other expenses and charges, costs, and expenses incurred by the Master Association in the performance of its duties and responsibilities under the Governing Documents;
- (e) unpaid assessments;
- (f) The costs of utilities and services (including, but not limited to, treated or untreated water, electricity, gas, sewer, trash pick-up and disposal and recycling), which are provided to the Master Association or the Property not individually metered or assessed to Lots or Units, landscaping maintenance, and other services which generally benefit and enhance the value and desirability of the Property and which are provided by or on behalf of the Master Association, but excluding any such utilities or services that may be provided by a Sub-association;
- (g) Reasonable reserves for contingencies, replacements and other property purposes as deemed appropriate by the Executive Board to meet anticipated costs and expenses including, but not limited to, maintenance, repair and replacement of those Common Areas or Limited Common Areas which must be maintained, repaired or replaced on a periodic basis;
- (h) The costs of maintaining all yards of residential Lots or residential Units and common areas, where such cost is incurred by the Master Association;
- (i) The costs of bonding the members of the Executive Board, the officers of the Master Association, and any professional managing agent or any other Person handling the funds of the Master Association;
- (j) Taxes paid or to be paid by the Master Association;
- (k) Amounts paid by the Master Association for discharge for any lien or encumbrance levied against the Common Area or portions thereof;

(l) The costs incurred by the Development Review Committee, and by any other committees that may be established from time to time by the Executive Board.

(m) The costs of any security systems or services that may be installed, operated or contracted for by the Master Association for the benefit of the Property;

(n) The costs of maintaining, operating and replacing recreational, cultural, health-related or similar facilities or enterprises available to or for the benefit of all or a portion of the Property and such other uses as may be authorized by this Master Declaration or by the Executive Board from time-to-time; and

(o) Other expenses incurred by the Master Association for any reason whatsoever in connection with the Common Areas, or the costs of any other item or service provided or performed by the Master Association pursuant to this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, or Master Development guidelines, or in furtherance of the purposes of the Master Association or in the discharge of any duties or powers of the Association.

**1.12 Common Facilities.** "Common Facilities" means the entry way, the private streets, the landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures and other facilities constructed or installed, or to be constructed or installed, or currently located within any portion of the Common Area.

**1.13 Condominium.** "Condominium" means any part of the Property in which portions of the real estate (i.e. Units) are designated for separate ownership and the remaining real estate is designated for common ownership in undivided interests solely by the Owners of said Units.

**1.14 County.** "County" means the County of Teton, State of Idaho, and its various departments, divisions, employees and representatives. If any portion of the Property becomes a portion of an incorporated city, then the term "County" shall be deemed to include the city in which that portion of the Property is located.

**1.15 Development Guidelines.** "Development Guidelines" means the rules, procedures, standards, guidelines and requirements promulgated from time to time by the Development Review Committee, and all amendments thereto, governing the review and approval or disapproval of proposed Improvements within the Property, the registration of builders, and such other matters as the Development Review Committee considers necessary or appropriate. The Design Guidelines have been developed to establish a set of guidelines and requirements, including without limitation, design review standards applicable to proposed improvements within Teton Reserve. The Teton Reserve Development Review Committee ("TRDR Committee") may make such amendments and additions to the Design Guidelines as such committee deems necessary or appropriate from time to time to accomplish the purposes of this Declaration of Restrictive Covenants and any modifications thereof or any Supplemental Declaration filed in connection therewith. A copy of the Design Guidelines are available from the Declarant or the Development Review Committee.

**1.16 Declarant.** "Declarant" means Teton Valley Golf Associates, LP, an Idaho limited partnership. The term "Declarant" shall also mean any successor or assignee of Declarant, if (i) a certificate, signed by Declarant and Declarant's successor or assign has been recorded in the County in which the successor or assignee assumes the rights and duties of Declarant as to some portion of the Property, or (ii) such successor or assignee acquires all of the Property and some remainder of the Teton Reserve development then owned by a Declarant, which must be more than one Lot. A Declarant shall cease being a Declarant when both of the following conditions exist: The Declarant no longer owns any portion of the Property and no Future Phases exist within the Teton Reserve Planned Unit Development subject to a right of final plat in favor of the Declarant.

**1.17 Declaration of Final Plat.** "Declaration of Final Plat" means a declaration annexing portions of the Teton Reserve development to the Property and subjecting the real property described therein to this Declaration.

**1.18 Development Plan.** "Development Plan" means that certain master plan for the development of the Teton Reserve development referenced above, as the same may be amended from time to time.

**1.19 Development Review Committee or TRDR Committee.** "Development Review Committee" means the Teton Reserve Development Review Committee (sometimes referred to as the "TRDR Committee") is appointed by the Executive Board and responsible for administration of the Development Guidelines.

**1.20 Executive Board.** "Executive Board" or "Board" means the Executive Board of the Master Association.

**1.21 Golf Course.** "Golf Course" means any portion of the golf course shown on the Master Plan, which from time to time is utilized for golf course purposes, including but not limited to roughs, fairways, greens, tee boxes, and ancillary buildings. The term "Golf Course" shall also include any property added by lot line adjustment, final plat, or record of survey, subsequent final plat or otherwise. While the Golf Course shall be dedicated Open Space it shall not constitute Common Area and shall be privately owned. Reference to Open Space herein shall not include the Golf Course. The Golf Course may be referred to separately as "Golf Course Open Space". The right of access and use by the Owners in the Golf Course shall be determined from time to time by the owner of the Golf Course in its sole discretion.

**1.22 Governing Documents.** "Governing Documents" collectively means and refers to this Declaration, the Articles of Incorporation, Bylaws of the Master Association and the Master Association Rules.

**1.23 Household Pets.** "Household Pets" means generally recognized household pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles.

**1.24 Improvements.** "Improvements" means any improvements, structural or otherwise, alterations, additions, repairs, excavation, grading, landscaping, or other work which in any way alters any Lot or Unit within the Property, or the improvements located thereon, from its natural or improved state existing on the date this Master Declaration or a Supplemental Declaration for such property was first Recorded, including, but not limited to, dwelling units, buildings, outbuildings, additions, swimming pools, patio covers, awnings, the painting or other change of any exterior surfaces of any visible structure, walkways, outdoor sculptures or artwork, sprinkler or irrigation systems, garages, carports, roads, driveways, parking areas, ponds, ditches, fences, screening walls, retaining walls, stairs, decks, flag poles, fixtures, landscaping (including the

addition, alteration or removal of any tree, shrub or other vegetation), hedges, windbreaks, plantings, planted trees and shrubs, gardens, poles, signs, tanks, solar equipment, wind harnessing or other energy generating equipment, exterior air conditioning, water softener fixtures, utilities, antennae and satellite dishes or receivers. Once an Improvement has been constructed or accomplished on a property within the Property, any subsequent material alteration of or addition to or removal of that Improvement shall also constitute an "Improvement" hereunder.

**1.25 Lease.** "Lease" means and refers to any agreement for the leasing, rental, use or occupancy of a Unit, a residential dwelling located on a Lot, or an Accessory Dwelling Unit, within the Property. Limitations applicable to Leases including required terms and procedures for Leases are more particularly set forth below.

**1.26 Limited Common Area.** "Limited Common Area" means a Common Area that is designated by this Master Declaration, by a Supplemental Declaration, on the Plat, or on a Supplemental Plat, for the exclusive use of one or more Lots in the Property but fewer than all of the Lots.

**1.27 Limited Common Elements.** "Limited Common Elements" means a portion of the Common Elements in a Condominium allocated by the Supplemental Declaration, or the Map by which said Condominium is created, for the exclusive use of one or more Units in the Condominium but fewer than all of the Units.

**1.28 Living with Wildlife Program.** "Living with Wildlife Program" is a special supplement to the Design Guidelines pertaining to those properties located near the eastern and southeast boundaries of Teton Reserve which may experience the occasional presence of native elk and deer. The supplement has been prepared in cooperation with Idaho Department of Fish and Game. The Development Review Committee may make such amendments and additions to the Living with Wildlife Supplement as such committee deems necessary or appropriate from time to time. A copy of the Living with Wildlife Supplement is available from the Declarant or the Development Review Committee.

**1.29 Lot.** "Lot" means any numbered residential lot included within any Phase of the Property and such definition includes, when appropriate within the context of this Declaration, the Residence and other Improvements constructed or to be constructed on a Lot. The term Lot and Unit are not synonymous.

**1.30 Map.** "Map" means any map that is incorporated in a Supplemental Declaration or amendment and that depicts a portion of the Property in three dimensions. A Map is required for any portion of the Property with Units having a horizontal boundary. A Map and a Plat may be combined in one instrument.

**1.31 Majority of a Quorum.** "Majority of a Quorum" means the vote of a majority of the votes cast at a meeting or by written ballot when the number of Members attending the meeting in person, or by proxy, or casting written ballots, equals or exceeds the quorum requirement for Member action, as specified by the Bylaws or otherwise by statute.

**1.32 Master Association.** "Master Association" means the Teton Reserve Master Association, an Idaho nonprofit corporation, its successors and assigns.

**1.33 Master Plan Declaration.** "Master Declaration" means this instrument and all Supplemental Declarations, as this instrument and such Supplemental Declarations may be amended from time to time.

**1.34 Master Rules and Regulations.** "Master Rules and Regulations" or "Rules and Regulations" means rules and regulations adopted from time to time by the Executive Board, as provided herein.

**1.35 Member.** "Member" means each Lot or Unit Owner, including the Declarant. Membership in the Master Association shall be appurtenant to, and may not be separated from, ownership of a Lot or Unit.

**1.36 Mortgage.** "Mortgage" means any mortgage, deed of trust or other security instrument, given voluntarily by the Owner of a Lot or Unit, creating a real property security interest in a Lot or Unit and Recorded in the records of the Clerk and Recorder of the County. "First Mortgage" means a mortgage which is first and most senior of the Mortgages on the same Lot or Unit. The term "Mortgage" does not mean a statutory, tax or judicial lien. The term "Deed of Trust" when used herein shall be synonymous with the term "Mortgage."

**1.37 Mortgagee.** "Mortgagee" means a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and includes the assignees of such Mortgagee.

**1.38 Mortgagor.** "Mortgagor" means the maker, obligor or grantor of a Mortgage. The term "Mortgagor" includes a trustor or grantor under a Deed of Trust.

**1.39 Notice and Hearing.** "Notice and Hearing" means a written notice and hearing before the Executive Board, or a panel appointed by the Executive Board, as set forth in the Bylaws.

**1.40 Occupant.** "Occupant" means any Person who is a tenant in a Unit, a residence on a Lot, pursuant to a Lease with the Owner thereof. "Occupant" also means any Person who is present within the Property as a family member, guest or invitee of an Owner, an Occupant, the Declarant, or the Master Association.

**1.41 Open Space.** "Open Space", means those portions of the Common Area that are designated on any plat map, Map or Master Plan plat map as "Open Space".

**1.42 Owner.** "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot. The term "Owner" shall include the Declarant for so long as the Declarant possesses any Lot within the Property and except where the context otherwise requires, the family, guests, tenants and invitees of an Owner.

**1.43 Owner of Record.** "Owner of Record" means any Owner to which title to a Lot is vested, as shown by the Official Records of the County.

**1.44 Permitted Exceptions.** "Permitted Exceptions" means all liens, encumbrances, reservations, restrictions, conditions, easements and other matters of record which encumber the title to all or any part of the Property, as of the date of this Master Declaration or a Supplemental Declaration is Recorded. This Master Declaration and any Supplemental Declaration shall be subject to such Permitted Exceptions.

**1.45 Person.** "Person" means a natural person, a corporation, a partnership, an association, a trust, or any other entity or any combination thereof.

**1.46 Phase.** "Phase" means any portion of the Property so designated by a name and identified in the recorded Master Plan plat map and thereby made subject to this Master Declaration.

**1.47 Planned Unit Development.** "Planned Unit Development" shall have the meaning set forth in the applicable ordinances of Teton County, Idaho. Within the Teton Reserve development there may be Phases developed as duplexes, bungalow homes or town home residences, being managed by an association comprised only of Owners of the duplex, bungalow homes or town home residences (i.e. Sub-Associations, as defined below).

**1.48 Plat.** "Plat" means the phased Master Plan plat which is inclusive of any and all Final Plats recorded in addition to the Master Plan plat, as may be recorded periodically, all in the Office of the Clerk and Recorder of Teton County, Idaho, as said Plats may be amended from time to time. By this reference, said Plats are incorporated in this Master Plan Declaration. The term "Plat" also means each Supplemental Plat Recorded by Declarant and all Recorded amendments thereto. A Plat and a Map may be combined in one instrument. Wherever used in this Master Plan Declaration or in any Supplemental Declaration, the term "Plat" also means any Map that may be so combined with a Plat, or any Map that may be Recorded instead of a Plat in order to depict a portion of the Property in three dimensions.

**1.49 Record or Recorded.** "Record" or "Recorded" means an instrument of record in, or the act of recording an instrument with, the office of the Clerk and Recorder of the County.

**1.50 Registered Builder.** "Registered Builder" means a general contractor that has been registered to perform work within Teton Reserve with the Development Review Committee pursuant to the guidelines and procedures set forth herein and in the Master Development Guidelines.

**1.51 Regular Assessment.** "Regular Assessment" means a charge against an Owner and the Owner's Lot or Unit for purposes of covering the annual costs of operating and administering the Master Association and all other Common Expenses. Regular Assessments are based on a budget adopted by the Executive Board in accordance with the provisions of this Master Plan Declaration, and are allocated to the Lots and Units in accordance with the Allocated Interests, except that Common Expenses that the Executive Board determines to benefit fewer than all of the Lots or Units shall be allocated exclusively to the Lots or Units benefited.

**1.52 Reimbursement Assessment.** "Reimbursement Assessment" means a charge against a particular Owner and the Owner's Lot or Unit for purpose of reimbursing the Master Association for costs and expenses incurred, or to be incurred, by the Master Association in connection with the enforcement of any provision hereof or the remedying of any violation by the Owner or an Occupant of this Master Declaration or any amendment hereto or any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, or Master Development Guidelines, or any approvals granted by the Design Review Committee, or for other purposes set forth in the Master Declaration, together with late charges and interest as provided for herein. Reimbursement Assessment shall include without limitation any Common Expense caused by the misconduct of any Lot or Unit Owner or of such Owner's Occupants.

**1.53 Reserves.** "Reserves" means those Common Expenses for which Association funds are set aside for funding the periodic painting, maintenance, repair and replacement of the major components of the Common Areas which would not reasonably be expected to recur on an annual or less frequent basis. The amounts required to properly fund Reserves shall be determined annually by the Board in accordance with the standards adopted by such Board.

**1.54 Residence.** "Residence" means a private, single-family dwelling constructed or to be constructed on any Lot. The term also includes duplexes, condominiums and town home residences.

**1.55 Rules or Association Rules.** "Rules" or "Association Rules" means the rules, regulations and policies adopted by the Executive Board, pursuant to this Declaration, as the same may be in effect from time to time. The Association Rules also include the Master Development Guidelines.

**1.56 Single Family Residential Use.** "Single Family Residential Use" means occupation and use of a Residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings in the County.

**1.57 Sub-Associations.** "Sub-Associations" means any Idaho nonprofit corporation, or its successor in interest, organized and established by Declarant pursuant to or in connection with any Supplemental Declaration. A Sub-Association shall be authorized pursuant to, or in connection with, the Recordation of a Supplemental Declaration.

**1.58 Sub-association Common Area.** "Sub-association Common Area" means all real property interests (not just fee title and leasehold interests) and the Improvements or amenities and personal property thereon which may from time to time be owned, leased or maintained by a Sub-association or otherwise held by a Sub-association for the use, enjoyment and benefit of the members of such Sub-association.

**1.59 Supplemental Declaration.** "Supplemental Declaration" means an amendment to this Master Declaration which annexes real property to the Property and subjects such real property to this Master Declaration, and sets forth such amendments to the Master Declaration and such additional covenants, conditions, uses and restrictions as may be applicable to the annexed property, executed by Declarant and Recorded in the Office of the Clerk and Recorder of the County, and any Recorded amendments thereto.

**160 Supplemental Plat.** "Supplemental Plat" means any land survey plat which is Recorded by Declarant for the purpose of annexing the real property described therein to the Property, and any Recorded amendments to such Supplemental Plat. Supplemental Plats shall include, without limitation, those final Plats of subsequent phases of Teton Reserve or those portions of such final Plats, as are made subject to this Master

Declaration from time to time by Supplemental Declaration.

**1.61 Teton Reserve.** "Teton Reserve" means the overall real estate development within the boundary of the Property.

**1.63 Voting Power.** "Voting Power" means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at any time a determination of voting rights is made. To be part of the Voting Power, a Member must be in good standing as defined in the Bylaws.

## ARTICLE 2

### Property Rights and Obligations of Owners

#### 2.1 Master Declaration Regarding Property.

(a) Conveyances Subject to this Master Declaration. Each conveyance, transfer, sale, assignment, lease or sublease made by Declarant of the Common Area and of any Lot within the Property shall be deemed to incorporate by reference all of the provisions of this Declaration. All present and future Owners, tenants and occupants within the Property shall be subject to and shall comply with each and every provision of the Governing Documents, as the same shall be amended from time to time unless a particular provision of the Governing Documents is specifically restricted to one or more classes of persons (i.e., Owners, tenants, invitees, etc.) or Phases. The acceptance of a deed to any Lot, the execution of a lease, sublease or contract of sale with respect to any Lot or the entering into occupancy of any Residence shall make the provisions of this Master Declaration binding upon said persons and they shall thereafter be obligated to observe and comply with all Governing Documents.

(b) Authority of Declarant to Approve Boundary Line Adjustments. At any time within five (5) years from the date that the first Lot in a Phase is conveyed to an Owner other than Declarant, the boundaries of any Lot or Common Area in that Phase may be altered by a lot line adjustment or other change reflected on a subsequently Recorded Record of Survey or Subdivision Map, provided that the altered boundaries are approved by Declarant, all Owners of the Property involved in the boundary adjustment (with respect to Property owned by the Master Association the term "all Owners" as used in this sentence shall refer to the Board), and the Teton County Planning Administrator. Any such alteration shall be effective upon Recordation of the Record of Survey or Subdivision Map. Upon such Recordation, the boundaries of the altered Lot or Common Area shall be altered for purposes of this Declaration to conform to the boundaries as shown on the Record of Survey or Subdivision Map.

## ARTICLE 3

### GENERAL RESTRICTIONS APPLICABLE TO THE PROPERTY

It is the intention of Declarant to establish and impose a plan for the improvement, development, use and occupancy of the Master Plan platted Property, in order to enhance the value, desirability, and attractiveness of the Property and to promote the marketing, development and enjoyment thereof. Accordingly, Declarant hereby declares that the entire Property, including but not limited to all Lots and Units, shall be owned, held, used, occupied, improved, altered, maintained, conveyed, leased, encumbered and enjoyed subject to the following covenants, conditions, restrictions, reservations, easements, rights and other provisions, and to the further requirements and restrictions set forth in the Master Development guidelines.

**3.1 Master Development Control.** Except as otherwise expressly provided in this Master Declaration or in any Supplemental Declaration, (i) no Improvements shall be made, done, permitted, located, altered or removed within the Property without the prior written approval of the Development Review Committee, (ii) no residence, building, structure, fence, wall, landscaping or other Improvement shall be commenced, erected, improved, altered, made or removed without the prior written approval of the Development Review Committee, and (iii) all subsequent additions to or changes or alterations in any residence, building, structure, fence, wall, landscaping or other Improvement, including exterior color scheme, and all changes in the grade of Lots, shall also be subject to the prior written approval of the Development Review Committee. No modifications from the approvals granted by the Development Review Committee shall be made without the prior written approval of the Development Review Committee. Notwithstanding the foregoing, in the event of an emergency or the sudden occurrence of unanticipated conditions which threaten the health, safety or physical well-being of Persons or property within the Property, the Executive Board and/or the Development Review committee shall have the authority (without the prior approvals described above), to take whatever remedial action may be necessary anywhere in the Property to protect persons and property until such time as applicable notice and/or approval procedures can reasonably be utilized. Further notwithstanding the foregoing, Development Review Committee approval shall not be required for Improvements made by Declarant.

**3.2 Violation of Law, Insurance, Etc.** No Owner, Occupant or Person shall do any act or cause or permit anything to be done or kept in or upon a Lot, Unit or the Common Areas which would result in the increase in cost of, or cancellation of, insurance maintained by the Master Association or would be in violation of any federal, state, city, or other law, ordinance, regulation or code of any governmental body having jurisdiction, or of any Master Rule or Regulation promulgated by the Master Association, or any provision of this Master Declaration.

#### 3.3 General Maintenance of Property.

(a) All property within the Property, including without limitation all Lots (including unimproved Lots, and Lots on which Improvements are under construction), Units, Common Areas, Improvements, and landscaping, shall be kept and maintained in a clean and attractive condition and in good order, condition and repair. Except as specifically set forth in this Section 3.3 or in a Supplemental Declaration, maintenance, repair, and upkeep of each Lot or Unit and the Improvements thereon (including adequate painting and finishing thereof) shall be the responsibility of the Owner of the Lot or Unit unless assumed in writing by the Master Association. With respect to a Lot, this maintenance obligation extends to all lands within the Lot lines, excepting areas or elements to be maintained by the Master Association as set forth below. Maintenance, repair, and upkeep of Common Areas, and the Improvements thereon shall be the responsibility of the Master Association. The Master Association shall also be responsible to maintain all landscaping on each Lot once constructed and accepted for maintenance by the Master Association in writing. The purpose of the assumption of such responsibility by the Master Association is to assure that a consistent maintenance standard is maintained. The individual Lot or Unit Owners and the Executive Board shall each use a reasonable standard of care in providing for the repair, management and maintenance of the properties for which they are responsible so that the entire Property will reflect a pride of ownership. If an Owner fails to perform any of such obligations within ten (10) days following receipt of a written notice from the Executive Board requesting the same, the Executive Board shall have the right to enter upon the Lot or Unit of the Owner to cure the violation or otherwise to cause compliance with this provision and to levy and collect a Reimbursement Assessment upon the Owner and its Lot or Unit for the costs and expenses incurred by the



Master Association in connection therewith. The Executive Board shall have no right to enter into the interior of a residence without the consent of the Owner except in the case of an emergency.

**3.4 Residential Use and Occupancy.** Each Lot or Unit shall be improved, occupied and used only for single-family residential purposes unless specifically designated for multifamily use on the Master Plan. Single-family occupancy shall mean and shall be strictly limited to occupancy of the residence on a Lot, or each Unit, by a family comprised of (i) no more than two (2) principal adults, (ii) the children of one or both of said principal adults, (iii) no more than two (2) additional family members (adults or children) who are related by blood to said principal adults, and occasional guests or tenants. Employees who care for the residence or Unit or who care for children may also occupy the residence or Unit. For purposes hereof, "related by blood" shall mean the following relationships, but no others: Grandparents, parents, brothers and sisters, aunts and uncles, and nephews and nieces. No structures whatsoever, other than those permitted by the Master Plan or by other applicable Teton County zoning regulations and approved in writing by the Development Review Committee, shall be erected, placed or permitted to remain on any Lot. No office, business and/or commercial structures shall be permitted within the Property except in those areas where such uses are allowed by applicable provisions of the Master Plan. No business, professional or other non-residential or commercial use shall be made of any Lot or Unit, or conducted in any Unit or in any residence constructed on a Lot, excepting in-home businesses or occupations which do not involve (i) more than one non-Owner, non-resident employee, (ii) the solicitation or invitation of the general public, or (iii) the servicing of customers, and which activities are conducted entirely within the Unit or residence or duplex side and do not cause any additional traffic or parking within the Property or otherwise create a nuisance for neighboring Lots or Units or the Property. No equipment or materials incident to any business or occupation (whether conducted within the Unit or residence of duplex or elsewhere) shall be kept or stored on any Lot or Unit except within the Unit, residence, duplex, garage, barn, or other outbuilding approved by the Development Review Committee.

**3.5 New Construction Required; No Temporary Buildings or Occupancy.** All Improvements constructed within or placed upon the Property shall be new. No used or temporary house, structure, or non-permanent out-building shall ever be placed, erected or allowed to remain within the Property except temporary structures or construction trailers used for construction purposes during the construction of a residence, which temporary facilities shall be removed immediately following completion of construction and in any event no later than eighteen (18) months following commencement of construction or remodeling unless a written extension is granted by the Development Review Committee. No trailer, incomplete residence or other structure other than a residence completed in accordance with approved plans, shall ever be used or occupied at any time for residential purposes, either temporarily or permanently. No completed residence on a Lot shall be occupied in any manner until all provisions of this Master Declaration and of the Master Development guidelines and all conditions of development approval have been complied with, and a Certificate of Compliance has been issued pursuant to Section 4.17 below. The work of construction, altering or remodeling any residence on a Lot, any Unit or any other Improvement within the Property shall be prosecuted diligently from the commencement thereof until the completion thereof. Notwithstanding the foregoing, buildings historically associated with, and at the time hereof located upon, the Property which is now the subject of this Declaration may remain or be relocated within the Property. In addition, used materials and/or structures may be permitted on a Lot or Unit if (i) the Owner makes a specific written request to the Development Review Committee for approval of such used materials and/or structures, and (ii) the Development Review Committee determines that the criteria set forth in Section 4.11 hereof have been met and specifically approves such request in writing.

**3.6 Building Envelopes.** See the above definition of this term for the general restrictions applicable to Building Envelopes.

**3.7 Master Development Guidelines.** All construction and landscaping activities within the Property shall be strictly governed by the procedures, standards, guidelines, restrictions and requirements set forth in the Development Guidelines. A violation of the Development Guidelines shall constitute a violation of this Master Declaration and may be enforced in accordance with the terms hereof.

**3.8 Annoying Light, Sound or Odor.** All exterior lighting installed or maintained on any Unit or on any Improvement located on a Lot shall be placed so that the light source is screened or shielded from all other Lots, from any other Residence or Unit, and from the Common Areas. No light shall be emitted from any part of the Property (including any Lot or Unit) which is unreasonably bright or causes unreasonable glare. Without limiting the generality of the foregoing, no spotlights, floodlights or other high-intensity lights shall be permitted within the Property without the prior written approval of the Development Review Committee. The Master Development Guidelines may contain standards for exterior lighting including, without limitation, standards for hue and intensity. No sound shall be emitted from any part of the Property (including any Lot or Unit) which is unreasonably loud or annoying, and no odor shall be emitted from any part of the Property (including any Lot or Unit) which is noxious or unreasonably offensive. Again without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells (excepting chimes), or other sound devices, other than security devices used exclusively for security purposes, shall be located or used within the Property except with the prior written approval of the Development Review Committee. The Executive Board, in its sole discretion, shall have the right and authority to determine the existence of any violation of this Section 3.8 including the reasonableness of any light, sound or odor.

**3.9 Noxious or offensive Activities; Nuisances; Construction Activities; Pesticides.**

No noxious or offensive activity shall occur or be allowed at any time within the Property, nor shall anything be done or placed therein which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to Owners, Occupants, Declarant or the Master Association, or which interferes with the peaceful enjoyment or possession and proper use of the Property, or any part thereof, by owners or Occupants. As used herein, the term "nuisance" shall not apply to any activities of Declarant which are reasonably necessary or appropriate to the development, improvement, maintenance, marketing and/or sale of the Property or any part thereof, nor to the operation and maintenance of the Golf Course provided that such maintenance and operation is typical in the golf course industry. The Executive Board, in its sole discretion, shall have the right and authority to determine the existence of any nuisance or unreasonable annoyance under this Section.

Each Owner shall comply with the Master Rules and Regulations and the requirements of all health authorities and other governmental authorities having jurisdiction over the Property. Normal construction activities and parking in connection with the building of Improvements on a Lot or Unit shall not be considered a nuisance or otherwise prohibited by this Master Declaration unless they are in violation of the Master Development Guidelines or other requirements of the Development Review Committee, but Lots, Units and Common Areas shall be kept in a neat and tidy condition during construction periods. Trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials shall be stored only in such areas as may be designated or approved by the Development Review Committee. In addition, construction equipment and building materials may only be kept only in areas approved by the Development Review Committee, which also may require screening of the storage areas. All such equipment and materials shall be removed immediately following completion of construction. Construction activities in connection with the construction or alteration of Improvements on a Lot or Unit shall only be conducted between the

hours of 7:00 a.m. and 7:00 p.m. on weekdays, between the hours of 8:00 a.m. and 6:00 p.m. on Saturdays and national holidays, and between the hours of 11:00 a.m. and 6:00 p.m. on Sundays. The Development Review Committee may designate an area for parking of all contractors and their employees in which case all contractors and their employees shall park their vehicles in the designated areas. This requirement will be enforced by the Development Review Committee with defined penalties for infractions.

Before the Association, a Sub-association, or any Lot or unit owner or Occupant broadcasts and/or sprays any non-prohibited pesticides or herbicides within the Property, at least twenty-four (24) hours advance notice thereof must be conspicuously posted on the area to be treated. A list of pesticides and herbicides that will be permitted for residential use within the Property will be maintained by the Development Review Committee. The Development Review Committee shall from time to time revise the list to ensure that the list is based on current information regarding pesticides and herbicides.

**3.10 No Hazardous or Unsafe Activities.** No activity shall be conducted on, and no Improvement shall be constructed on, any property within the Property that is unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, and except as allowed below, no explosives, gasoline, or other volatile and/or incendiary materials or devices or any materials deemed hazardous substances under applicable environmental laws, rules, or regulations shall ever be kept, stored, permitted to remain or be released on any Lot or Unit or elsewhere within the Property. Gasoline or fuel for an owner's lawn mower, snow blower, and the like may be maintained on an incidental basis on a Lot or Unit in an amount not to exceed five (5) gallons. Similarly, gasoline, fuel and other products necessary in connection with the maintenance of the Common Areas may be stored in enclosed structures on the Common Areas.

**3.11 Outside Burning; Fire Hazards, Wood Burning Fireplaces/or Stoves.** No exterior fires shall be lighted or permitted within the Property except in a contained barbecue unit or outdoor fireplace while attended and in use. No Lot or Unit Owner shall cause or permit any condition on his Lot or Unit which creates a fire hazard or is in violation of fire prevention regulations, or which would increase insurance rates for the Common Areas or for other Lot or Unit Owners.

**3.12 No Firearms or Hunting.** The discharge of firearms on any part of the Property (including the Lots and Units) is expressly prohibited. Hunting on any part of the Property is expressly prohibited.

**3.13 No Obstruction.** There shall be no obstruction or interference with any easements or drainage, irrigation or water feature systems located upon any Lot or Unit or Common Areas, except such obstruction or interference as may be reasonably required in connection with the construction, maintenance or repair thereof. The Master Association shall promptly take such action as may be necessary to abate or enjoin any such obstruction or interference, and shall have the right to enter upon a Lot or Unit for purposes of removing the same, and any costs incurred by the Master Association in connection with such abatement, injunctive or corrective activities shall be assessed to the responsible Lot or Unit Owner or Owners in the form of a Reimbursement Assessment.

**3.14 No Unsightliness; Clothes Drying; Sporting Equipment; Children's Recreational Equipment.** All unsightly structures, facilities, equipment, objects, and conditions, including sporting equipment (e.g., skis, snowboards, bikes, mountain bikes, kayaks, etc.), and snow removal, garden or maintenance equipment, except when in actual use, shall be kept in an enclosed structure or in a screened area approved by the Development Review Committee. No laundry or wash shall be dried or hung outside any residence, except on clotheslines that are approved by the Development Review Committee and which are effectively screened from view from other Lots or Units and from Common Areas and other public areas including streets, bike trails, and the Golf Course.

Large equipment intended for children's recreation use, such as swing sets and slides, must also be approved in advance by the Development Review Committee. Such equipment need not be screened if it is constructed of natural materials such as wood, stone, metal and natural hemp and if it is painted or stained in earthen tones (natural woods, greens, browns, black, etc.). If such equipment is constructed of non-natural materials such as plastic, or if the equipment is other than earthen tone in color, it must be effectively screened from view from other Lots or Units and from Common Areas and other public areas including streets, and the Golf Course. Playground equipment that is treated with hazardous preservatives, including without limitation arsenic, lead, copper, and chromium is prohibited within the Property.

**3.15 Garbage and Trash and Compost Containers.** No refuse, garbage, trash, grass, shrub, or tree clippings, plant waste, scrap, rubbish, or debris of any kind shall be kept, stored, maintained or allowed to accumulate or remain on any Lot or Unit or on the Common Areas except temporarily within an enclosed structure within the Building Envelope approved by the Development Review Committee, except that any approved container containing such materials may be placed next to the street on the designated morning of garbage collection and must be returned to its enclosed structure that same day, and except that appropriate public trash receptacles shall be permitted within the Common Areas. No garbage containers, trash cans or receptacles shall be maintained in an unsanitary or unsightly condition, and except when placed for pickup they shall not be visible from another Lot or Unit or the Common Areas. All such refuse, garbage, trash, plant waste, scrap materials, rubbish and debris shall be promptly removed from the Property and shall not be burned thereon. Compost structures and containers may be placed on a Lot, Unit, or Common Area in locations and in containers approved by the Development Review Committee, provided that no such structure or container shall be larger than fifty-five (55) gallons.

**3.16 Vehicle Parking, Storage, Operation and Repair.** The following parking and vehicle restrictions shall apply within the Property:  
(a) **Authorized Vehicles.** Only the following vehicles can be parked on a regular basis within the Property: standard passenger vehicles, trucks not to exceed three quarter tons in gross carrying capacity, family-type vans (i.e., vans that are designed and marketed for family, rather than commercial use), station wagons, motorcycles, and truck vehicles with an enclosed passenger compartment. Any vehicle that does not meet the definition of an authorized vehicle may only be parked within the Property in accordance with subparagraph (c) below. The Executive Board may change the list of authorized vehicles in order to reflect changes in design and technology.

(b) **Restriction on Parking in Common Areas.** No Owner or resident shall use the Common Areas (including the streets within the Property) for the parking or storage of any automobile, truck, trailer, boat or vehicle of any type. Visitors and guests of residents within the Property may use common parking areas, if any, or facilities as may be designated for authorized short term guest and visitor use. No more than four (4) permitted vehicles (passenger automobiles and/or one ton or smaller pick-up trucks) shall be parked at any time in the driveway of any Lot or Unit, except during special occasions and then only for the duration thereof.

(c) Restrictions Relating to Boats, Trailers and Recreation Vehicles. Except for authorized vehicles identified in subparagraph 3.16 (a) above, no boats, trucks, vans, trucks rated for more than three quarter tons of gross carrying capacity, house trailers, campers, recreation vehicles or other vehicles containing living quarters shall be parked within the Property (except within an area specifically designated therefore by the Declarant or the Master Association) unless the vehicle, boat or trailer can fit entirely within the owner's garage with the garage door closed.

(d) Restrictions Relating to Repairs. No boat or vehicle of any type (including motorcycles) shall be permanently or semi-permanently parked on streets within the Property, or on any Lot or driveway for the purpose of accomplishing repairs thereto or the reconstruction thereof except for emergency repairs and then only to the extent necessary to enable towing or similar movement of the vehicle, except that routine maintenance of vehicles that can be accomplished in less than three hours shall be permitted on Lots.

(e) Driveway and Garage Door Maintenance. All driveways shall be maintained in a neat and orderly condition and free of oil spills. Garage doors shall be closed at all times except during the time needed for vehicles or people to enter or leave or for periods when the Owner or Occupant is physically present in the garage and the door must be open to provide ventilation, or access to and from the garage.

(f) Right to Tow Vehicles. In the event that the Executive Board or the Development Review Committee shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this Section 3.16, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Executive Board or Development Review Committee (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the Owner of the Lot or Unit on which the vehicle is located, and to enter upon an Owner's Lot or Unit for such purpose, all without liability on the part of the Executive Board or the Development Review Committee.

(g) Authority of Association to Adopt further Parking Regulations. In order to prevent or eliminate parking problems within the Property or to further define and enforce the restrictions of this Section the Master Association Board shall have the authority to establish additional rules, restrictions and penalties, including the imposition of fines or towing procedures for recurrent violation of the parking regulations.

(h) Limitation on Use of Certain Vehicles on Property. Snowmobiles, motorcycles, and motorized trail bikes, minibikes, dirt bikes, all-terrain vehicles, mopeds and similar motorized vehicles shall not be used or operated but may be transported on trailers within the Property except as expressly approved in the Master Rules and Regulations and except those motorcycles or other vehicles properly licensed for operation on public roads may be used on roads within the Property. Motorized vehicles used specifically for maintenance or transportation of guests which are operated under the authority of the Declarant are permitted on the roads and elsewhere within the Property.

**3.17 Animals.** Except as specifically permitted below or by the Master Rules and Regulations, no animals, reptiles, fish, fowl or insects of any kind shall be kept, raised, bred, maintained or boarded within or upon any part of the Property. Notwithstanding the foregoing, each Lot, and each Unit shall be entitled to a maximum of no more than two (2) dogs or cats (or one of each) and a reasonable number of other Household Pets, so long as such pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise or odor, or do not otherwise become a nuisance to other Lot or Unit Owners or Occupants. Household Pets must be fenced or restrained at all times within the Owner's or Occupant's Lot or Unit, and shall not be permitted outside such Lot or Unit except when leashed and accompanied by the pet's owner or the owner's representative. All Household Pets shall be properly immunized and otherwise maintained and cared for as required by applicable laws.

The Owner of a Lot or Unit where a Household Pet is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of streets, sidewalks, Common Areas or other Lots or Units necessitated by such pet.

The Executive Board shall have, and is hereby given, the right and authority to determine in its sole discretion that Household Pets are being kept for commercial purposes, or are otherwise a nuisance to other Lot or Unit Owners or Occupants, or that a Lot or Unit Owner or Occupant is otherwise in violation of this Section 3.17, and to take such action or actions as it deems reasonably necessary to remedy the violation. Without limiting the generality of the foregoing, the Executive Board may require the owner or custodian of a dog that barks or howls excessively, or of a Household Pet with other offensive habits, to confine such animal indoors or to remove such animal from the Property.

**3.18 Equipment, Tanks, Antennae, Satellite Dishes, Etc.** No heating, air conditioning (including swamp coolers), air movement, wind collection, or refrigeration equipment shall be placed, allowed, or maintained anywhere within the Property other than on the ground, and then must be concealed from view and must receive the prior written approval of the Development Review Committee. Solar power units meeting all governmental guidelines for residential uses may be incorporated into a residence or a Unit if (a) the solar power unit meets the same architectural criteria as are applied to other Improvements within the Property, and (b) the solar power unit is approved in advance by the Development Review Committee. No tanks of any kind, whether elevated or buried, shall be erected, placed or permitted to remain upon any Lot or Unit or Common Area except in compliance with applicable federal and state regulations, and then only with the prior written consent of the Development Review Committee. Any approved tank must be located underground or adequately concealed from view by fencing or screening approved by the Development Review Committee.

If a Lot or Unit Owner wishes to install an antenna to receive data, radio or video programming, the Lot or Unit Owner shall notify the Development Review Committee in writing of the planned installation and the proposed location thereof at least twenty one (21) days before installation and obtain the written consent of the Development Review Committee to the size, color, location and proposed screening of the antenna. The antenna installation and location shall comply with all fire, electrical and other applicable safety codes, and the installing Lot or Unit Owner shall to the extent feasible install the antenna in a location that minimizes its visibility from neighboring Lots, Units, Common Areas or the Golf Course. The installing Lot or Unit Owner shall be obligated to paint the antenna so that it blends into the background against which it is mounted and to plant and maintain such reasonable landscaping as will screen the antenna, to the extent feasible, from neighboring Lots, Units, Common Areas and the Golf Course. Provided always, that in the event that in any particular situation any of the foregoing requirements or restrictions cause an unreasonable delay or cost in the installation, maintenance or use of the antenna, or prevent the reception of acceptable quality signals, said requirements or restrictions may be modified in the discretion of the Development Review Committee.

Satellite dishes that exceed one meter in diameter, and antennas that exceed one meter in diameter or diagonal measurement, shall not be allowed within the Property.

**3.19 No Mining or Drilling.** No property within the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, geothermal resources, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth, except drilling, exploring for, removing or storing underground water by Declarant or the Master Association. Nothing contained herein shall be construed to limit the rights of the owners of mineral interests severed from the surface of any portion of the Property prior to the recording of this Master Declaration.

**3.20 Excavations.** No excavation or other earth disturbance shall be performed or permitted within the Property except in connection with the construction of Improvements, and then only with the prior written approval of the Development Review Committee. Upon completion of construction, openings in the ground shall be backfilled and compacted and all disturbed ground shall be graded and landscaped in accordance with the Master Development Guidelines and the requirements of the Development Review Committee. Any temporary excavation shall be promptly fenced with temporary fencing for safety purposes.

**3.21 No Interference with Waterways or Drainage or Irrigation Systems.** No Lot or Unit Owner shall construct, install, maintain or permit any fence or other improvement or obstruction or plant trees or take any other action which damages or interrupts or interferes in any way with (i) the normal flow of water through and along waterways within the Property, (ii) any irrigation ditch or lateral or other water collection, storage or distribution system within or serving the Property or the Golf Course, or (iii) normal drainage patterns within the Property or the Golf Course, subject always to the rights of owners of ditches and other water rights and the requirements of the Development Review Committee.

**3.22 Ponds.** No swimming, boating, fishing or ice skating shall take place on any ponds within the Property except as expressly approved in the Master Rules and Regulations.

**3.23 Fencing and Gates.** Fencing and gates may only be constructed on Lots and Units in compliance with the provisions of the Master Development Guidelines, provided the prior written approval of the Development Review Committee has been obtained.

**3.24 Tree and Shrub Preservation.** All Improvements within the Property shall be located, designed, and constructed so as to preserve and protect trees, shrubs and other vegetation installed by the Declarant. In order to conserve the natural beauty of the area, no existing trees or shrubs may be removed or trimmed except with the prior written approval of the Development Review Committee. This restriction shall not apply to essential clearing by a Lot Owner in connection with the construction of a residence (but not other Improvements) within the Building Envelope within a Lot, provided the prior written approval of the Development Review Committee has been obtained. Any violation of this Section shall subject the offending Lot or Unit Owner to such penalties, fines and/or other conditions as the Development Review committee considers appropriate, including without limitation the withdrawal or modification of previously granted development approvals, or the requirement that replacement trees or shrubs of equivalent or different size and type be planted and maintained by the Lot or Unit Owner.

**3.25 Easements; Utility Companies; Underground Utility Lines.** All easements of record or shown on a Plat or Supplemental Plat covering any portion of the Property have been created or reserved for the purposes indicated in the record or shown on such Plat and/or as set forth herein. No Lot or Unit Owner may erect any structure of any type whatsoever in such easement areas, nor may an Owner or Occupant use the surface of such easement areas for any private use, other than landscaping which will not interfere with the use of said easement by the Persons or entities for whose benefit it has been created or reserved and which receives the prior written approval of the Development Review Committee.

With respect to easements created for utility purposes or for ditches either by the terms of this Master Declaration or any other Recorded agreement or on a Plat, any and all bona fide public and private utility service companies, special utility districts, owners of interests in ditches, and the owner of the Golf Course to the extent required for maintenance thereof, shall have the right of access, ingress, egress, and use of such easement areas for the installation, operation and maintenance of ditch facilities and utility facilities serving the Property and/or the Golf Course. Except as to lighting or other above-ground facilities which may be expressly required by the County or installed by the Declarant, no above-ground utility lines or facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities and ditches and associated facilities) shall be erected or installed within the Property, whether upon Lots, Units, Common Areas, easements, streets, or rights-of-way of any type, either by a utility company, a Lot or Unit Owner, the Master Association, or any other person or entity (including but not limited to any person owning or acquiring any part of the Property) and all utility lines and facilities (including but not limited to water, sewer, gas, electricity, telephone, and cable TV) shall be buried underground. Provided, that during the construction of a residence on a Lot a temporary overhead utility line may be installed which shall be promptly removed upon completion of construction. The foregoing restrictions on above-ground utility facilities shall not apply to equipment or facilities that are part of a Property central communications or data transmission facility, if any.

**3.26 Landscaping.** No landscaping shall be performed on any Lot or Unit or on a Common Area or Limited Common Area unless a landscaping plan therefore has received the prior written approval of the Development Review Committee, and all landscaping shall comply with the Master Development Guidelines. A landscaping plan for each Lot must be approved by the Development Review Committee before construction is commenced on the residence on that Lot. In each instance, an approved landscaping plan shall be fully implemented and performed within the six (6) month period immediately following (i) the issuance by the Development Review Committee of a Certificate of Compliance for a residence constructed on a Lot, or (ii) the approval of the landscaping plan by the Development Review Committee in all instances not involving the construction of a residence on a Lot.

Notwithstanding the foregoing, no review or approval shall be required for the replacement or replanting of the same or similar kind of trees, or plants, or flowers, or other vegetation that has been previously approved by the Development Review committee for the Lot or Unit in question, in the previously approved location therefore. Any substantial change in the type or location of approved landscaping vegetation shall require the further approval of the Development Review Committee.

Landscaping shall be primarily indigenous plant life from a plant list to be established by the Development Review Committee. Lawns shall be such blend of grasses designated in guidelines promulgated by the Development Review Committee. Except as otherwise specifically provided herein (including circumstances wherein the Master Association has assumed responsibility for landscape maintenance), each Owner shall diligently maintain, trim, weed, cultivate, husband, protect, preserve and otherwise keep in a healthy and attractive condition the shrubs, trees, hedges, grass, planters, gardens and other landscaping upon the Owner's Lot or Unit, including, without limitation, the removal of dead and

diseased branches and brush and the performance of other tasks necessary to remove or eliminate material which constitutes or creates a fire hazard or nuisance, and shall keep the Owner's Lot or Unit free of any noxious plants. Each Owner shall cooperate with the Master Association in its brush clearing and fire protection husbandry program for reduction of fire hazard within the Property. Each Owner shall also maintain all pavement, and other synthetically surfaced areas within the Owner's Lot or Unit, including but not limited to, driveway and parking areas, in good condition and repair.

**3.27 Basketball Goals; Tennis Courts.** Basketball goals or backboards may be permitted on Lots or Units in the Property, provided they comply with the Master Development Guidelines and receive the prior written approval of the Development Review Committee. Basketball hoops and standards will be allowed on a case-by-case basis where the hoop, backboard and all related hardware are finished to match the structure and are mounted directly to the Residence or an accessory structure such as a detached garage. When possible, Owners should locate basketball hoops at a point on the where they will not be seen from any street, Common Area, the Golf Course or neighboring Lot. Tennis courts, sports courts and other outdoor play equipment shall only be permitted in accordance with Section 6.23 and the Design Guidelines. Tennis courts and other hard surfaced playing courts shall be prohibited on Lots within the Property.

**3.28 Swimming Pools, Spas, and Related Equipment.** Ponds, pools, spas or hot tubs may be erected, constructed or installed on Lots or Units within the Property, provided they comply with the Master Development guidelines and receive the prior written consent of the Development Review Committee. If a pond, pool, spa or hot tub is approved, all service equipment shall be fenced and located in either (a) a side yard between the front and rear boundaries of the residence, or (b) in the rear yard adjacent to the residence, and shall be adequately screened from any street on which the Lot or Unit containing the pond, pool, spa or hot tub is located and from any neighboring Lot or Unit and the Common Areas and Golf Course.

**3.29 Signs and Advertising.** No sign, poster, billboard or advertising device of any kind (including, but not limited to, signs commonly used by contractors, architects, and tradesmen, or signs advertising an "Open House", or property for sale or rent) shall be allowed or displayed upon any Lot or Unit or any Common Area within the Property except: (a) such signs as may be used by the Declarant in connection with the development, marketing and sale of Lots and Units in the Property; (b) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law; (c) such signs as may be required for traffic control and regulation of Common Areas; (d) neighborhood monuments (e.g., entrance signs) which are compatible with the architecture of the area and which receive the prior written approval of the Development Review Committee; (e) a single sign identifying the architect, contractor and/or lender of a Residence under construction, which sign shall not exceed six feet of total surface area and which shall be removed immediately upon completion of construction (see the Design Guidelines for further regulations relating to construction signage). "For Sale" or "For Rent" signs for any Lots or Units are expressly prohibited except as approved in the Master Rules and Regulations. Declarant may establish designated areas for display of "For Sale" and "For Rent" information or signs. Under no circumstances shall any sign be placed that faces the Golf Course other than by the Owner of the Golf Course in connection with the operation thereof.

**3.30 Camping and Picnicking.** No camping shall be allowed within the Common Areas and picnicking shall be allowed only in those areas of Common Areas as may be designated for such purpose from time to time by the Association.

**3.31 No Individual Water Wells or Individual Sewage Disposal systems.** No individual water wells, and no cesspools, septic tanks or other individual sewage disposal systems, shall be drilled, constructed, maintained or permitted to remain within the Property, except such water and/or septic systems as may be installed by Declarant or Declarant's successor, assign or agent or the Master Association.

**3.32 Maintenance and Repair of Interior of Residence.** The maintenance and repair of the interior of a Unit or of the residence and of other structural improvements on a Lot shall be the responsibility of the Unit or Lot Owner.

**3.33 Irrigation Systems, Ditches, Laterals, Ponds, and Water Use Obligations.** Declarant hereby discloses that certain irrigation systems, ditches, ditch laterals and ponds are currently located or may be constructed within ditch and irrigation easement areas located upon (a) certain Lots, (b) upon Common Areas, and/or (c) within the Golf Course (collectively referred to as the "Irrigation System"). Declarant further discloses that as of the date of this Master Declaration, the ownership of any and all water rights carried or to be carried in said Irrigation System is vested in the Declarant, and Declarant have no obligation to transfer ownership of any of such water rights to any Lot or Unit Owner or the Master Association. In no event shall the Master Association or any Lot or Unit Owner be entitled to the right of use of the Irrigation System or any water flowing through said Irrigation System, except pursuant to a written agreement or license with Declarant, or an assignee of Declarant, or pursuant to an agreement between the Golf Course Owner and the Master Association. Furthermore, except as specifically provided below, in no event shall any Lot or Unit Owner be entitled to install irrigation facilities, to divert water from the Irrigation System or to make modifications to the Irrigation System for diversion purposes without the prior written approval of the Master Association. In addition, in no event shall any Lot or Unit Owner or the Master Association obstruct or impede the flow of water through the Irrigation System.

The Master Association shall be responsible for irrigating the Common Areas, and for maintaining the portion of the Irrigation System that is owned by the Master Association. The Golf Course Owner shall be responsible for irrigating the Golf Course. All such irrigation shall be accomplished with untreated water from the Irrigation System when practical. The Golf Course Owner and Master Association shall be responsible for the maintenance of the portions of the Irrigation System that services both the Golf Course and remaining designated lands for irrigation in the Master Plan, unless, the Golf Course Owner and the Master Association agree otherwise in writing. The Golf Course Owner shall be responsible for maintaining the portion of the Irrigation System that is owned by the Golf Course Owner alone or by the Golf Course Owner and the Master Association together; the Master Association shall be responsible for maintaining any portion of the irrigation system that is only used for lands in the Master Plan other than Golf Course. Each Lot or Unit Owner shall be responsible for the Purchase, installation, operation, maintenance, repair, and replacement of the individual irrigation system of their own Lot or Unit, which system shall be owned by the Lot or Unit Owner. In the event that the Declarant installs a separate irrigation system to provide irrigation to some or all of the Lots or Units, such system shall be owned by the Master Association. To the extent that any irrigation system encroaches upon any Lot or Unit, there shall be deemed an easement for the maintenance and repair of such irrigation system unless and to the extent that it interferes with the construction and maintenance of Improvements in which case it shall be relocated by the party responsible for its maintenance. In case of relocation if the system may be relocated to another area of the Lot or Unit where it does not interfere with the construction or maintenance of the Improvements.

Declarant hereby discloses that in the event Declarant, in its discretion, provides a separate system for the delivery of irrigation water to any Lots or Units, such water will be untreated and is not intended to be potable and will not be used by the Owner for such purpose. Unless the obligation

is assumed by the Master Association pursuant to the terms of this Master Declaration, each Owner is obligated to irrigate all or a portion of the Owner's Lot or Unit to the extent permitted by this Master Declaration or a Supplemental Declaration, and to install an underground untreated water delivery system that will accomplish such irrigation. The Lots or Units located within the initial Property shall be entitled to irrigate on hundred percent (100%) of those portions of each Lot or Unit that are not developed and built upon provided that such area does not exceed one-half (1/2) acre.

There may be conservation and use restrictions imposed upon the Lot or Unit Owners, Master Association, and/or Golf Course Owner from time to time. The Master Association will include in its budget, the cost for untreated water delivered to the Property, excluding the Golf Course. During years of limited availability of untreated water for irrigation purposes, the "out of bounds" areas of the Golf Course may have the untreated water supply curtailed and conservation measures may be imposed on all untreated water use if necessary. Declarant, Master Association, and Golf Course Owner reserve the right from time to time to allocate and reallocate irrigable acreage within the Property.

All Owners hereby assume any risk involved with respect to the Irrigation System and hereby acknowledge that the Master Association, the Declarant, the Golf Course Owner, and the County shall not have any responsibility or liability of any kind to any Owner who incurs any loss, damage, cost or expense arising from or relating to said Irrigation System, including, but not limited to, any loss or damage caused by flooding or the failure to deliver water. In accordance with the foregoing, such owners, on behalf of themselves and their Occupants, successors and assigns, by acceptance of a deed acknowledge their assent to the provisions hereof, and hereby release Declarant, the Master Association, the Golf Course Owner and the County and each of their officers, directors, partners, trustees, members, agents, employees, stockholders, and contractors, from and against any and all obligations, claims, demands, liabilities, costs, expenses, attorneys' fees, or causes of action of any kind whatsoever, whether arising prior or subsequent to the date hereof, whether known or unknown, based upon, arising out of, or in any manner related to the Irrigation System.

**3.34 Restoration of Improvements in the Event of Damage or Destruction.** In the event of damage to or destruction of any Improvement on any Lot or Unit, the Owner thereof shall cause the damaged or destroyed Improvement to be promptly restored or replaced to its original condition or such other condition as may be approved in writing by the Development Review Committee, or the Owner shall cause the damaged or destroyed Improvement to be promptly demolished and the Lot or Unit to be suitably landscaped, subject to the approval of the Development Review Committee, so as to present a pleasing and attractive appearance. Such Improvements shall be repaired, restored or otherwise demolished and suitably landscaped within such reasonable time frame as may be established by the Development Review Committee.

**3.35 Leases.** Except as to those Owners with Units participating in any Declarant sponsored rental pool, all Leases of Units, residences on Lots, shall be in writing and shall contain the following terms and conditions:

(a) The Lease must cover the entire Unit or Lot, i.e., no leases of bedrooms alone or otherwise covering less than all of the Unit or Lot shall be permitted (except that the Owner may exclude from the Lease any a portion of the Residence or Unit separated in a "lock-off", in which case the leased portion shall include at least a bedroom, bathroom and kitchen). The lease term shall not be less than 30 days except as expressly approved in the Master Rules and Regulations.

(b) All Leases shall provide (i) that the terms of the Lease and the tenant's (Occupant's) use of the Lot or Unit shall be subject in all respects to the provisions of this Master Declaration and of any pertinent Supplemental Declaration, and the Articles, the Bylaws, and the Master Rules and Regulations, and the Master Development Guidelines, (ii) that the Occupant has received and reviewed copies of said documents, and (iii) that any failure by the Occupant to comply with any of the aforesaid documents, in any respect, shall be a default by Occupant under the Lease and a default by Occupant and Owner under said documents which may be enforced against Occupant and/or Owner by the Executive Board.

(c) Without limiting the generality of the foregoing, each Lease shall contain a summary of (i) the maximum number of persons that may occupy a Unit or Lot as set forth in Section 3.4 hereof, (ii) the rules regarding permitted animals, as set forth in Section 3.17 hereof, and (iii) the rules regarding storage of sporting equipment, as set forth in Section 3.14 hereof.

(d) Each Owner shall notify the Master Association immediately upon the leasing of his Lot or Unit, and shall provide the Master Association with a copy of the Lease and with the name and mailing address of the Occupant and the mailing address (if changed) of the Owner.

(e) Each owner who leases a Lot or Unit or Apartment shall be responsible for assuring compliance by the Occupant with all of the provisions of this Master Declaration, any pertinent and Supplemental Declaration, the Articles, the Bylaws, the Master Rules and Regulations, and the Master Development Guidelines, and shall be jointly and severally responsible with the Occupant for any violations thereof by the Occupant.

(f) Each Lease shall expressly provide that the Master Association (via the Executive Board) shall have the right to give the Occupant written notice that the Occupant is in violation of one or more of the documents listed in subsection (e) above, which notice shall specify a period of time (at least five (5) days) in which the Occupant may cure the violation.

**3.36 Right of Entry.** During reasonable hours and upon reasonable notice to the Owner or Occupant of a Lot or Unit, any authorized member of the Development Review Committee, or any authorized member of the Executive Board, shall have the right to enter upon and inspect any Lot or Unit, and the Improvements thereon, except for the interior portions of any occupied residence, for the purpose of ascertaining whether or not the provisions of the Master Declaration and of the Master Development Guidelines have been or are being complied with and such individuals shall not be deemed guilty of trespass by reason of such entry.

**3.37 Damage by Owners During Construction.** Each Owner is responsible for any damage caused to roads, streets, ditches, fences, trails, natural drainage courses, utilities, Common Areas, or to other Lots, Units or Improvements thereon, during the construction or alteration of Improvements upon the Owner's Lot or Unit, including without limitation damage caused by any construction vehicles using the roads or streets within the Property. Damage shall include any degradation, in the appearance or condition of such Common Areas, or other Lots or Units or Improvements. The responsible Owner shall promptly repair and clean up any such damage, at its sole expense. Each Owner shall also be responsible for any clean up of any such damage, at its sole expense. Each Owner shall also be responsible for and damage caused by utility cuts in roads, washouts and runoff damage, and to promptly repair any such damage. If the Owner fails to repair such damage within ten (10) days following receipt of a written notice from the Executive Board requesting the same, the Executive Board shall have the right to perform such repairs on behalf of the Owner, and to levy a Reimbursement Assessment upon the Owner and its Lot or Unit to recover the costs thereof.

**3.38 Restrictions on Re-subdivision, Property Restrictions, and Rezoning.** Except as expressly permitted in this Master Declaration or in a Supplemental Declaration by which additional property is annexed to the Property, (i) no Lot or Unit shall ever be further subdivided by an Owner into smaller lots or parcels or units, and (ii) no portion less than all of any such Lot or Unit, nor any easement or divided interest therein, shall be conveyed, transferred or encumbered by the Owner.

(a) Declarant reserves the right to subdivide tracts or to subject any portion of the Property or any Improvements thereon to a declaration of condominium, provided any necessary County approvals are obtained, all Declaration and Plat amendments required by the Act and/or local land use laws are prepared, executed and Recorded, and the Allocated Interests of the Owners is reallocated. All costs relating to the foregoing activities shall be the sole responsibility and obligation of Declarant, or of the Owner performing the same. Declarant's rights under this subsection (a) shall terminate upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Master Declaration, or (ii) Declarant's relinquishing of these rights by a Recorded instrument.

(b) No Owner of a Lot or Unit shall grant or convey any easement rights affecting any portion of the Lot or Unit without the prior written consent of the Executive Board.

(c) No further covenants, conditions, restrictions or easements shall be Recorded by any Owner (except Declarant in the exercise of its reserved rights) or other Person against any Lot or Unit without the provisions thereof having been first approved in writing by the Executive Board for consistency with the Master Declaration, any applicable Supplemental Declaration, and the general plan of development for the Property. Any covenants, conditions, restrictions or easements Recorded without such approvals being evidenced thereon shall be null and *void ab initio*. This provision does not apply to Mortgages or Deeds of Trust.

(d) No application for rezoning of any Lot or Unit, and no application for any variance or special use permit for any Lot or Unit (except as may be required by a Plat note), shall be filed with any governmental authority by any Owner (except Declarant in the exercise of any reserved rights) unless the proposed use of the Lot or Unit has first been approved in writing by the Executive Board and the proposed use otherwise complies with the Master Declaration and any applicable Supplemental Declaration.

**3.39 Health, Safety and Welfare.** In the event any uses, activities, and facilities within the Property are deemed by the Executive Board to be an unreasonable annoyance or nuisance, or to adversely affect the health, safety or welfare of Owners or Occupants, the Executive Board may amend the Master Rules and Regulations in order to appropriately restrict and regulate such uses, activities or facilities within the Property. Such rules shall be consistent with the purposes and provisions of this Master Declaration.

**3.40 Municipal Sewer and Water Service.** Municipal water service is provided by the Master Association unless relinquished to a municipal authority.

**3.41 Implementation and Variances.** The Executive Board may implement the restrictions set forth in this Article 3, or otherwise restrict and regulate the use and occupancy of the Property and the Lots and Units by reasonable Master Rules and Regulations of general application adopted by the Executive Board from time to time. The Executive Board may, in its sole discretion and in extenuating circumstances, grant variances from any of the restrictions set forth in this Article 3 (excepting any such restrictions with respect to which the Development Review Committee has the authority to grant variances under Section 4.19 below), if the Executive Board determines, in its discretion,

(a) either (i) that a particular restriction creates a substantial hardship or burden on an Owner or Occupant, which hardship or burden was not caused by said Owner or Occupant, or (ii) that a change of circumstances since the Recordation of this Master Declaration has rendered such restriction obsolete, and

(b) that the activity permitted under the variance, in the judgment of the Executive Board, will not have any material adverse effect on the Owners and Occupants of the Property (including neighboring Lots and Units) and is consistent with the high quality of living intended to be promoted hereby throughout the Property. When an Owner applies for a variance, the Board must give at least ten (10) days advance written notice of the variance hearing, and of the nature of the variance requested, postage prepaid, by certified mail, return receipt requested, to all Owners of Lots or Units that are situated within a radius of two hundred (200) feet from the center of the Building Envelope or the Unit for which the variance is sought, at the current addresses for such Owners reflected in the Master Association files. The applying Owner must provide the Committee with an accurate list of the Owners to be so notified. If the foregoing notice requirements are complied with, it is not necessary that the Owners actually receive the notice that is mailed to them.

No variance shall conflict with ordinances or regulations of the County. If a variance from County laws or regulations is also required in connection with the matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such County variance before submitting a variance application to the Executive Board.

**3.42 Declarant Activities.** Nothing contained in this Master Declaration is intended or shall be construed to prevent or to restrict in any way Declarant's right and ability to develop, improve, maintain, repair, regulate, operate, administer, manage, market, sell, lease, encumber or dispose of the Property, the Lots, the Units, the Common Areas, or any part thereof, including the right to construct Improvements and install signs thereon, all in the complete and sole discretion of Declarant.

#### ARTICLE 4 DEVELOPMENT REVIEW COMMITTEE

**4.1 Establishment of Development Review Committee.** The Master Association shall have a Development Review Committee, which shall consist of a minimum of three (3) members, each of whom shall either be (i) a representative of the Declarant, (ii) an Owner or Occupant of a Lot or Unit in the Property or (iii) an Idaho architect, residential builder, landscape architect or engineer. All members of the Development Review Committee shall be appointed and removed from time to time by the Executive Board in its discretion, and shall serve for such term as may be established from time to time by the Executive Board. A member may be removed by the Executive Board at any time upon written notice, without cause. Subject to the three (3) member minimum, the Executive Board may increase or decrease the size of the Development Review Committee from time to time in its discretion. The Executive Board may hire or appoint a secretary for the Development Review Committee, and

shall provide appropriate compensation for any such secretarial services.

**4.2 Establishment of Subcommittees.** The Development Review Committee shall have the right, but never the obligation, to establish one or more subcommittees to perform one or more of the functions of the Development Review Committee. For purposes of this Master Declaration, all references to the Development Review Committee shall also refer to any subcommittee established by the Development Review Committee. The procedures for establishment of subcommittees, the rights and duties thereof, and the limitations thereon may be established and adopted by the Development Review Committee from time to time, in its discretion.

**4.3 Meetings and Action of Committee.** The Development Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Development Review Committee may from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may but need not be one of its members) to take any action or perform any duties for or on behalf of the Development Review Committee, except the granting of approval for any Improvements and the granting of variances. The action of such Committee Representative within the authority of such Committee Representative shall constitute the action of the Development Review Committee. A majority of the members of the Development Review Committee shall constitute a quorum of the Committee. Actions of the Committee may be taken (without a meeting) by the written consent of a majority of the members thereof, or at a meeting at which a quorum is present in person or by proxy, by the vote of a majority of such members constituting the quorum, but in no event less than two (2) members.

**4.4 Records of Actions.** The Development Review Committee shall report in writing to the Executive Board all final actions of the Development Review Committee, and the Executive Board shall keep a permanent record of such reported actions.

**4.5 Approvals in Annexed Areas.** The Development Review Committee shall also be responsible for reviewing and approving all proposed Improvements on Lots and Units within properties hereafter annexed to the Property, unless a different reviewing body or procedure is established in the Supplemental Declaration annexing such property.

**4.6 Master Development Guidelines.** The Development Review Committee has established an initial set of rules, procedures, standards, guidelines and requirements, including without limitation architectural, design and development standards and guidelines, which shall govern the review and approval or disapproval of proposed Improvements within the Property, the registration of Builders, and other matters provided for therein (the "Master Development Guidelines"). The Development Review Committee may make such amendments and additions to the Master Development Guidelines as the Committee deems necessary or appropriate from time to time to accomplish the purposes of (and as are not in conflict with) this Master Declaration and of any pertinent Supplemental Declaration and to ensure the orderly and attractive development of the Property. Upon its adoption, each such amendment shall be provided to the Executive Board. The Master Development Guidelines are hereby incorporated herein and shall be deemed to be a part of this Master Declaration and shall be binding on the Property, and on all Lot and Unit Owners, Occupants, Members or other Persons as if expressly set forth herein. A copy of the current Master Development Guidelines shall, at all times, be a part of the Master Association's records. The Development Review Committee, in its sole discretion, shall have the right and authority to determine the existence of any violation of the Master Development Guidelines or of any approvals granted or other determinations made by, or other requirements of, the Development Review Committee.

**4.7 Design Review Fee.** The Development Review Committee shall adopt, and may from time to time amend, a design review fee schedule which shall apply to requests for the original construction of a residential improvement, and for each subsequent request for approval of an Improvement on a Lot or Unit including remodels, renovations or other alterations of the original approval. The design review fee schedule shall be set forth in the Master Development Guidelines. The applicable fee must accompany each request for approval of any proposed Improvement. The Development Review Committee shall not take any action on a request for approval until all required fees are paid in connection therewith.

**4.8 Pre-submission Conference.** Every Owner proposing to make Improvements to its Lot or Unit shall schedule and attend a pre-submission conference with a representative of the Development Review Committee to discuss the general nature and scope of the contemplated Improvements and the Committee's requirements and procedures in connection therewith prior to the time the Owner has expended or committed to expend significant amounts on architectural or other design fees. The Development Review Committee shall give priority to the scheduling of such pre-submission conferences. Owners are encouraged to arrange for the attendance of the Owner's design professional at the pre-submission conference.

**4.9 Submission of Plans, Specifications and Data.** Prior to commencement of work to accomplish any proposed Improvements, the Owner proposing to make such Improvements shall submit to the Development Review Committee such descriptions, surveys, plat plans, excavation plans, drainage plans, elevation drawings, constructions plans, landscaping plans, specifications, and samples of materials and colors as the Development Review Committee shall reasonably request showing among other things the nature, kind, shape, height, width, color, materials, and location of the proposed Improvements. The Owner shall also inform the Development Review Committee of the identity of the Owner's proposed Builder, who shall be a Registered Builder. All submissions shall conform to and be in accordance with the Master Development Guidelines established pursuant to Section 4.6. The Owner shall be entitled to receive a receipt for the same from the Development Review Committee or its authorized agent. The Development Review Committee may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvements. Until receipt by the Development Review Committee of all required information and materials in connection with the proposed Improvements and Builder, the Development Review Committee may postpone review of the application without liability to the Owner or others.

**4.10 Registration of Builders.** The construction or renovation of residential dwellings within the Property shall be accomplished only by general contractors who are "Registered Builders" as provided in this Section 4.10. Subcontractors need not be Registered Builders. In order to register as a builder, a contractor must submit to the Development Review Committee a signed "Statement of Registered Builder" which recites as follows:

- (a) That the builder is an experienced general contractor in Idaho, Wyoming or immediate regional area, licensed as a general contractor in Idaho;
- (b) The names and addresses of the last three (3) clients for whom the builder has constructed homes or other structures;
- (c) That the builder expressly authorizes each of said clients to speak to representatives of the Development Review Committee and/or the Owner regarding the builder's performance for that client, and further authorizes the Development Review Committee to pass on any such performance information to the Owner;



(d) That the builder will provide the Owner with a current financial statement, if requested by the Owner;

(e) That the builder will furnish the Owner with such other information about the builder as the Owner may reasonably request.

Upon delivery of a Statement of Registered Builder containing all of the required information to the Development Review Committee, a contractor shall be deemed to be a Registered Builder for purposes hereof. Before commencing work on the construction or renovation of a residential dwelling on a Lot, the Registered Builder shall obtain a Builder's Risk Insurance Policy covering all Improvements to be constructed on the Lot, with the benefits payable to the Owner, and shall deliver copies of the Policy to the Development Review Committee and to the Owner. In the case of minor renovations where the Development Review Committee does not consider such policy necessary, the Development Review Committee may waive this requirement, in its sole discretion.

**4.11 Criteria for Approval or Disapproval.** The Development Review Committee shall approve any proposed Improvements only if it determines in its reasonable discretion that the Master Development guidelines have been materially complied with; that the proposed Improvements will not be detrimental to the value or enjoyment of the surrounding areas in the Property; that the site, design and appearance of the proposed Improvements will be in harmony with the surrounding areas in the Property; that the proposed Improvements will enhance the quality, wholesomeness, and attractiveness of the Property and the enjoyment thereof by Lot and Unit Owners; that the upkeep and maintenance of the proposed Improvements will not become a burden on the Master Association; and in the case of construction or renovation of a residential dwelling, the work will be performed by a Registered Builder. The Development Review Committee may condition its approval of any proposed Improvements upon the making of such changes therein as the Development Review Committee may deem reasonably appropriate, and may require that additional landscaping be performed on the subject Lot or Unit. The approval by the Development Review Committee of any Improvement or element thereof shall in no event imply or require that such approval will be granted again in the future for the same or a similar Improvement or element thereof, and the Committee shall have complete discretion, consistent with the standards and criteria contained herein and in the Master Development Guidelines, to grant or deny such approval in each instance on the merits of the particular application or proposal and considering the circumstances surrounding the same.

**4.12 Decisions of Committee.** Any decision of the Development Review Committee shall be made within forty-five (45) days after receipt by the Development Review Committee of all materials, fees and information required by the Development Review Committee, unless such time period is extended by mutual written agreement. Upon receipt of all materials, fees and information the Development Review Committee shall issue a dated written receipt to the Owner. The decision shall be in writing and if the decision is not to approve the proposed Improvements, the reasons therefor shall be clearly stated. The decision of the Development Review Committee shall be promptly transmitted to the Owner at the address furnished by the Owner to the Development Review Committee.

**4.13 Failure of Committee to Act on Plans.** Any written request for approval of proposed Improvements shall be deemed approved, unless written disapproval or a request for additional information or materials is transmitted to the Owner by the Development Review Committee within forty-five (45) days after the date of receipt of the Development Review Committee of all required materials and information, unless such time period is extended by mutual written agreement. In the case of a request for additional information, the forty-five (45) day period shall be deemed to run from the date that such request is issued by the Development Review Committee.

**4.14 Damage and Performance Deposit by Owner.** Before the Development Review Committee grants approval to an Owner for proposed Improvements to a Lot or Unit, the Owner may be required to deposit with the Committee a Damage and Performance Deposit, in an amount to be determined by the Committee in its reasonable discretion based upon the nature and scope of the proposed Improvements, in order to guarantee (i) the repair of any on-site or off-site damage caused by the Owner or its contractors or agents during the construction period, and (ii) the cleanup of any construction debris. The Committee shall give the Owner written notice of (a) any violation of the approvals or the Master Development Guidelines, or (b) any damage that needs to be repaired, and in the event the Owner fails to cure the violation or repair the damage within thirty (30) days following date such notice is given, the Committee shall have the right to perform such cure or repair on behalf of the Owner and to apply so much of the Damage and Performance Deposit as may be needed to pay for the cost thereof. The Damage and Performance Deposit, or any balance remaining if the Committee has used all or a portion therefor as above permitted, shall be refunded to the Owner no later than thirty (30) days following the issuance to the Owner by the Development Review Committee of a Certificate of Compliance in accordance with the provisions below.

**4.15 Commencement, Prosecution and Completion of Work.** Each Owner acquiring a Lot in Peregrine, Snow Goose, Trumpet Swan, or Royal Elk shall commence construction of a residence upon their Lot within forty-eight (48) months from the date of closing. Each Owner acquiring a Lot in Red Hawk and Golden Eagle shall commence construction of a residence upon their Lot within twelve (12) months from the date of closing. The obligation to commence construction within a time frame shall not apply to Lots located in Red Fox and Silver Fox. Following the approval of any proposed Improvements by the Development Review Committee and identification of the Registered Builder, the proposed Improvements shall be completed by the Lot or Unit Owner using the Registered Builder: (a) as promptly and diligently as possible but in no event in excess of the time periods set forth below; (b) in compliance with the Master Development Guidelines and with all applicable laws, regulations and codes, (c) in strict conformance with all plans and specifications and other materials presented to and approved by the Development Review Committee; and (d) in accordance with any and all conditions imposed by the Development Review Committee. All Improvements approved by the Development Review Committee shall be completed, including issuance of a Certificate of Compliance and the removal of all construction equipment, materials and debris (i) within twenty-four (24) months from the date of approval of such Improvements by the Development Review Committee, or (ii) within such other time period as the Development Review Committee may prescribe. Provided, however, that any and landscaping and/or gardening approved by the Development Review Committee which is related to the initial construction of a residence on a Lot shall be completed no later than six (6) months immediately following the issuance of the Certificate of Compliance for such residence. Failure to comply with the terms and conditions of this Section 4.15 shall constitute noncompliance with the terms and provisions of this Master Declaration and the Development Review committee and/or the Executive Board shall have the right to invoke all rights and remedies provided to them hereunder, including but not limited to, the imposition of fines and penalties. The Development Review Committee may extend the required date for commencement of construction in its discretion.

**4.16 Right to Inspect.** Any member or authorized consultant of the Development Review Committee or of the Executive Board, or any authorized officer, employee or agent of the Master Association, may (but shall not be obligated to) at any reasonable time enter, without being deemed guilty of trespass, upon any Lot or Unit after reasonable notice to the Lot or Unit Owner, in order to inspect Improvements constructed or being constructed on such Lot or Unit, to ascertain whether such Improvements have been or are being built or changed in compliance with the

Master Development Guidelines, the approvals granted by the Development Review Committee, and this Master Declaration.

#### **4.17 Certificate of Compliance; Inspection of Work; Correction of Defects.**

(a) Upon the completion of any Improvements (excepting the related landscaping) for which plans and specifications have been approved by the Development Review Committee, the Owner or the Registered Builder shall submit to the Committee a written Application for a Certificate of Compliance, on a form to be provided by the Committee, which Application shall certify that the Improvements have been completed in accordance with the approvals granted by the Committee and with the Master Development guidelines. Until receipt of such Application, the Committee shall not be deemed to have any notice regarding completion of the Improvements.

(b) Within twenty-one (21) days following receipt of the Application, the Development Review Committee or its duly authorized representative shall inspect the Improvements. If the Committee finds that the Improvements have not been completed in accordance with the approvals granted by the Committee and/or with the Master Development Guidelines, it shall notify the Lot or Unit Owner in writing of such noncompliance within said twenty-one (21) day period, specifying the particulars of noncompliance, and shall request the Owner to remedy the same.

(c) If upon the expiration of thirty (30) days from the date of such notification of noncompliance the Lot or Unit Owner shall have failed to remedy such noncompliance, the Development Review Committee shall notify the Executive Board in writing of such failure. Upon Notice and Hearing, as provided in the Bylaws, the Executive Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than thirty (30) days from the date of the announcement of the Executive Board ruling. If the Owner does not comply with the Executive Board ruling within such period, the Board, at its option, may either remove the non-complying Improvement or remedy the noncompliance, and the Owner shall reimburse the Master Association, upon demand, for all expenses, including interest on monies expended and attorneys' fees incurred in connection therewith. If such expenses are not repaid by the Owner to the Master Association within thirty (30) days following delivery of a written demand therefor to the Owner, the Executive Board shall levy a Reimbursement Assessment against such Owner and the Owner's Lot or Unit.

(d) When the Development Review Committee is satisfied that the Improvements have been completed in accordance with the approvals granted by the Committee and with the Master Development Guidelines, it shall issue to the Owner a Certificate of Compliance with respect to said Improvements. No newly-constructed residence on a Lot shall be occupied until a Certificate of Compliance has been issued therefor and a Certificate of Occupancy as required by the County of Teton has been issued therefor.

**4.18 Improvements Must Conform to Approvals.** No building, fence, wall, structure, landscaping or other Improvement of whatever type shall be commenced, constructed, erected, placed, installed, located, maintained or removed within the Property, nor shall there be any additions or changes to the exterior of any residence or other structure or Improvement upon a Lot or Unit or the landscaping, grading or drainage thereof, including without limitation, the painting (other than painting with the same color and type of paint as previously existed) of exterior walls, patio covers and fences, except in accordance with plans and specifications therefor that have been submitted to and approved by the Development Review Committee and in compliance with the Master Development Guidelines.

**4.19 Committee Power to Grant Variances.** The Development Review Committee may grant variances from any of the restrictions set forth in this Master Declaration or any Supplemental Declaration or the Master Development Guidelines pertaining to proposed Improvements and the criteria therefor, including restrictions upon height, size, floor area, setbacks, location or placement of structures, or similar restrictions, when (i) unique circumstances not created by the Lot or Unit Owner, such as topography, natural obstructions, or aesthetic or environmental considerations would otherwise result in substantial hardship or burden which is not suffered by other similarly-situated Lots or Units, or (ii) when a change of circumstances since the Recording of the Master Declaration has rendered such restriction obsolete, and (iii) in either case, when the Development Review Committee determines that the activity allowed by the variance will not have any material adverse effect on the Owners and Occupants of the Property (including neighboring Lots and Units) and is consistent with the high quality of living intended to be promoted hereby throughout the Property. When an Owner applies for a variance, the Committee must give at least ten (10) days written notice of the variance hearing, and of the nature of the variance requested, postage prepaid, by certified mail, return receipt request, to all Owners of Lots or Units that are contiguous to the Lot or Unit for which the variance is requested, at the current addresses for such Owners reflected in the Master Association files. The applying Owner must provide the Committee with an accurate list of the Owners to be so notified. If the foregoing notice requirements are complied with, it is not necessary that the Owners actually receive the notice that is mailed to them.

All variances that are granted by the Development Review Committee must be evidenced in writing, must specify the Lot or Unit for which the variance is granted and the unique circumstances or change in circumstances justifying the variance, and must be signed by at least a majority of the members of the Committee. If any such variance is granted, no violation of the covenants, conditions and restrictions contained in this Master Declaration or any Supplemental Declaration or the Master Development Guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to amend or waive any of the terms and provisions of this Master Declaration or of any Supplemental Declaration or the Master Development guidelines for any purpose except as to the particular property and particular provision hereof covered by the variance. A copy of each variance request and approval, or denial, will be kept on file at the Master Association offices.

The granting of a variance in a particular instance shall in no event imply or require that such a variance will be granted again in the future in a similar situation, and the Committee shall have complete discretion, consistent with the standards and criteria contained herein and in the Master Development guidelines, to grant or deny a variance in each instance on the merits of the particular application and considering the circumstances surrounding the same.

No variance shall conflict with ordinances or regulations of the County. If a variance from County laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such County variance before submitting a variance application to the Development Review Committee.

**4.20 Nonliability for Approval or Disapproval of Plans and Specifications, for Issuance of Certificates of Compliance, or for Registration of Builders.** The criteria for Development Review Committee approval of plans and specifications are set forth above. The Development Review Committee shall not be responsible for reviewing plans and specifications with respect to engineering design or for compliance with zoning, building ordinances, environmental laws, or any other applicable laws or regulations. By its approval of any such plans and specifications, neither the Development Review Committee, the members thereof, the Master Association, any Member, the Executive Board nor the Declarant assumes

or shall have any liability or responsibility with respect to engineering design or for compliance with zoning, building ordinances, environmental laws, or any other applicable laws or regulations, or for any defect in any Improvement constructed from such plans and specifications. Neither the Development Review Committee, any member thereof, the Master Association, the Executive Board nor the Declarant shall be liable to any Lot or Unit Owner, Occupant or other Person for any injury, damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the issuance of a Certificate of Compliance for any Improvements, or (d) the development, or manner of development of any property within the Property. The approval of plans and specifications by the Development Review Committee, and/or the issuance of a Certificate of Compliance by the Development Review Committee, shall not under any circumstances constitute or be deemed to be a representation or warranty that the plans, specifications or completed Improvements comply with applicable laws, ordinances or regulations, including but not limited to, zoning ordinances and building codes and environmental laws.

Likewise, Builders shall register with the Development Review Committee in the manner set forth in above and in the Master Development Guidelines. By registering a Builder, the Development Review Committee does not represent or warrant, either expressly or by implication, that the Registered Builder will in fact complete the Improvements in a prompt, competent and workmanlike manner, or that the Registered Builder is or will remain financially sound, and the Lot and Unit Owners assume all risks regarding such matters. Neither the Development Review Committee, the members thereof, the Master Association, any Member, the Executive Board nor the Declarant shall be liable to any Lot or Unit Owner, Occupant or other Person for any damage, loss or prejudice suffered or claimed on account of (a) the registration of any Builder, (b) defects in the work performed by a Registered builder, (c) financial difficulties experienced by a Registered Builder, and/or (d) any other problems arising from an Owner's use of a Registered Builder.

**4.21 Reconstruction of Common Areas.** The reconstruction by the Master Association after destruction by casualty or otherwise of any Common Areas or Improvements thereon which is accomplished in substantial compliance with "as built" plans for such Common Areas or Improvements shall not require compliance with the provisions of this Article 4 or the Master Development Guidelines.

**4.22 Compensation of Committee Members.** In the discretion of the Executive Board, all or some members of the Development Review Committee may be entitled to reasonable compensation from the Master Association for services rendered, together with reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder. Such compensation, if any, shall be set by the Executive Board from time to time.

**4.23 Enforcement.** The requirements and provisions of this Article 4 and/or of the Master Development Guidelines shall be enforceable in accordance with the rights and procedures set forth in this Master Declaration.

## ARTICLE 5 COMMON AREAS

**5.1 Use and Enjoyment of Common Areas.** Except as otherwise provided in this Master Declaration or in any Supplemental Declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Areas in common with all other Owners (a) for all purposes for which such Common Areas were established, and (b) as required for purposes of access and ingress to and egress from (and use, occupancy and enjoyment of) any Lot or Unit owned by the Owner or Common Areas available for the Owner's use. This right to use and enjoy the Common Areas shall extend to each Owner, Occupant, and the family members, guests and invitees of each Owner, and to such other users as may be authorized by this Master Declaration or by the Executive Board from time to time, and shall be appurtenant to each Lot or Unit, subject at all times to the provisions of this Master Declaration (including Declarant's reserved rights hereunder), any applicable Supplemental Declaration, the Articles, Bylaws, and Master Rules and Regulations. No Owner or Occupant shall place any structure whatsoever upon the Common Areas, nor shall any Owner or Occupant engage in any activity which will temporarily or permanently impair free and unobstructed access to all parts of the Common Areas by all Owners.

**5.2 Master Association May Regulate Use of Common Areas.** The Master Association, acting through the Executive Board, shall have the right and authority to regulate the use of the Common Areas by the promulgation, enforcement and interpretation from time to time of such Master Rules and Regulations relating thereto as the Master Association considers necessary or appropriate for the protection and preservation of the Common Areas and the enhancement of the use and enjoyment thereof by the Owners and Occupants and other authorized users. Without limiting the generality of the foregoing, the Master Rules and Regulations shall contain appropriate guidelines and restrictions, and shall establish reasonable user fees, governing Occupant usage of the recreational amenities (other than the Golf Course), it being understood that Occupants do not automatically have any rights or privileges to use such facilities. The Master Association, acting through the Executive Board, may for good cause suspend the right of any Person to use and enjoy the Common Areas, including the right of a Member who is delinquent in the payment of any Assessments, and the right of any Member of other authorized user who is in violation of the terms and provisions of this Master Declaration or any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, Master Development Guidelines or the terms and provisions of any approvals granted by the Development Review Committee.

**5.3 Master Association to Maintain and Improve Common Areas.** The Master Association, its agents and employees, shall maintain, snowplow as necessary, and otherwise manage the Common Areas including, but not limited to, any Improvements, landscaping, ponds, paths, trails, parking areas, drives, and recreational and other facilities located thereon. The Master Association shall construct, alter and remove such Improvements and landscaping upon the Common Areas as the Master Association in its discretion considers necessary, desirable or appropriate from time to time, and shall do all such other and further acts which the Executive Board deems necessary or appropriate to preserve, protect and enhance the Common Areas and the aesthetics thereof in accordance with the general objectives for the Property reflected in this Master Declaration.

**5.4 No Partition of Common Areas.** No Owner or other Person shall have any right to partition or to seek the partition of the Common Areas or any part thereof.

**5.5 Owner Liability for Owner or Occupant Damage to Common Areas.**

Each Owner shall be liable to the Master Association for any damage to Common Areas or for any expense, loss or liability suffered or incurred by the Master Association in connection with the Common Areas arising from (a) the negligence or willful misconduct of such Owner or of any

Occupant, agent, employee, family member, guest or invitee of such Owner, or (b) any violation by such Owner or any Occupant, agent, employee, family member, guest or invitee of such Owner of any law, regulation, or code, including without limitation any environmental law, or of any provisions of this Master Declaration, any Supplemental Declaration, or the Master Rules and Regulations relating to the Common Areas. Each Owner shall indemnify, defend and hold the Master Association harmless from any loss, damage, expense or liability arising from the circumstances described in subsections (a) or (b) immediately above. The Master Association shall have the power to levy and collect a Reimbursement Assessment against a Lot or Unit Owner to recover the costs, expenses, damages, losses or liabilities incurred by the Master Association as a consequence of any such negligence, willful misconduct or violations.

**5.6 Damage or Destruction to Common Areas.** In the event of damage to or destruction of the Common Areas, including Improvements thereon, by fire or other casualty, the Master Association shall repair or replace the same in accordance with the provisions of Section 9.18 below. Repair, reconstruction, or replacement of Common Areas shall be accomplished under such contracting and bidding procedures as the Master Association shall determine are appropriate. If insurance proceeds available to the Master Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Master Association may use the same for future maintenance, repair, improvement, and operation of Common Areas or for any other use deemed appropriate by the Executive Board.

**5.7 Condemnation of Common Areas.** If any Common Area or part thereof or interests therein is taken under exercise of the power of eminent domain or by purchase in lieu thereof, the portion of any award in condemnation or the price payable for the deed in lieu that is attributable to the Common Area taken or purchased shall be paid to the Master Association. The Master Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners and Occupants and other Persons therein. Any award or funds received by the Master Association shall be held by the Master Association for the purposes stated in Section 5.6 above or as a reserve for future maintenance, repair, reconstruction, or replacement of Common Areas or may be used for Improvements or additions to or operation of Common Areas or for such other uses as may be deemed appropriate by the Executive Board. Except as may otherwise be provided by the Act, no Owner or other Person shall participate as a party or otherwise in any condemnation proceedings nor to receive any proceeds therefrom.

**5.8 Title to Common Areas Upon Dissolution of Master Association.** In the event of dissolution of the Master Association, the Common Areas shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agency or organization or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for the purposes for which the Common Areas were held by the Master Association. If the foregoing is not possible, the Common Areas shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Owners in proportion to each Owner's Allocated Interest in the Common Expenses of the Master Association.

**5.9 Mechanic's Liens on Common Areas.** Declarant shall be responsible for the release of mechanics' liens filed with respect to Common Areas, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Likewise, the Master Association shall be responsible for the release of mechanics' liens filed with respect to Common Areas, or any part thereof, if such liens arise from labor performed or materials furnished at the instance of the Master Association, its directors, officers, agents, contractors or subcontractors. No labor performed or materials furnished with respect to a Lot or Unit at the instance of the Lot or Unit Owner shall be the basis for filing a lien against the Common Areas. No labor performed or materials furnished with respect to a Common Area at the instance of the Executive Board shall be the basis for filing a lien against any Lot or Unit Owner.

**5.10 Pond and Stream Access.** The Common Area and the Golf Course contains certain streams and ponds which have been provided for the use and enjoyment of owners and guests. These streams and ponds are adjacent to or part of the golf course, residential lots, and common areas. Because of the proximity to golf course play or residential lots, access must be controlled. Stream and pond edge access areas have been designated in three categories: 1) common access 2) local access 3) no access. Common access refers to areas in which access is granted to all owners and guests. Local access refers to areas in which access is granted to owners and guests whose property is located approximate to that particular stream or pond. No access refers to areas in which access is not allowed for health or safety reasons such as pond edges that are in golf course play. The Master Rules and Regulations define the pond, and stream access points on a map contained as an exhibit thereto. Such map and defined accesses may be changed from time to time by the Declarant. The Master Rules and Regulations also govern the use of the ponds and streams.

## ARTICLE 6 DECLARANT'S RESERVED RIGHTS

Declarant hereby expressly reserves to itself and its successors and assigns the following described rights, which include development rights and special Declarant rights, any one or more of which rights may be exercised, in the sole and absolute discretion of Declarant, at any time and from time to time during the period commencing upon the recording of this Master Declaration in the County and ending on the date of termination of such rights established under Section 6.12 below. It is expressly understood that Declarant shall not be obligated to exercise any of these reserved rights.

Except as limited by this Article 6, such reserved rights may be exercised upon or in connection with all or any portion of the Property, and/or the additional unspecified real estate referred to below. Such rights may be exercised with respect to different parcels of said real estate at different times, and in connection therewith Declarant hereby states that (i) no assurances are made regarding the boundaries of said different parcels or with respect to the order in which such parcels may be subjected to the exercise of these reserved rights, even if a reference to a phase or phasing appears in a legal description, Plat, P.U.D. Agreement or other agreement relating to the property, and (ii) if a particular reserved right is exercised in any portion of the real estate subject to that reserved right, that reserved right is not required to be exercised in all or any portion of the remainder of that real estate.

The reserved rights hereinafter set forth may not be amended, modified, terminated or otherwise altered in any way without the express prior written consent of Declarant. All conveyances of Lots and Units and other portions of the Property hereafter made, whether by Declarant or otherwise, shall be deemed and construed to reserve to Declarant and/or to grant to Declarant all of the rights reserved by and to Declarant in this Article 6, even though no specific reference to such rights appears in the deed or other conveyancing instruments. Nothing in this Article 6 shall limit or impair any other rights granted or reserved to Declarant by other provisions of this Master Declaration or of any Supplement Declaration. The following rights are hereby reserved to Declarant and its successors and assigns:

**6.1 Completion of Improvements.** The right throughout the Property to complete Improvements indicated on any Plat, as such Plats and Declarations may be amended from time to time. Furthermore, the right to construct and complete Improvements required by the terms of the Development Agreement recorded on February 13, 2001 at the Office of the Clerk and Recorder of Teton County, Idaho, and by the terms of any other agreements that may hereafter be executed by Declarant in connection with future phases or annexations to the Property, as said Agreement or Agreements may be amended from time to time. Furthermore, the right to create, grant and/or use and enjoy additional non-exclusive easements, and to relocate existing platted easements, upon or across any portion of the Property except Building Envelopes, as may be reasonable required for the completion by Declarant of the above-described Improvements or the effective exercise by Declarant of any of the other reserved rights described in this Article 6.

**6.2 Sales, Marketing and Management.** The right to construct, locate or operate, and to maintain upon, and to remove from, Lots or Units owned by Declarant, and/or the Common Areas, in the discretion of Declarant, and in such number, size and location as may be reasonably required by Declarant in connection with the completion of Improvements, the management of the development, and/or the promotion, marketing, sale or rental of Lots and Units, the following:

- (a) Sales offices, management offices, and/or construction offices, and structures containing or relating to the same. Such offices, to the extent they are not situated on a Lot or within a Unit, are hereby declared to be personal property of the Declarant and shall in any case be removable by Declarant or its successors or assigns promptly upon the Declarant or its successors or assigns ceasing to be a Lot or Unit Owner;
- (b) Signs identifying and advertising the Property and the Lots and/or Units therein, or relating to development or construction thereon;
- (c) Model residences constructed or to be constructed on Lots, or model Units;
- (d) Parking areas and facilities, and lighting, necessary or desirable in the marketing of the Property and the Lots and Units to prospective Owners;
- (e) Employees in offices; equipment; vehicles; and marketing and construction materials.

Together with the right to attract, invite or bring prospective purchasers of Lots and/or Units into the Property at all times, and to permit them to use and enjoy the Common Areas.

**6.3 Merger.** The right to merge or consolidate the Property with another real property.

**6.4 Declarant Control of Master Association.** The right to appoint or remove any Executive Board member or officer of the Master Association, as more specifically set forth in Section 8.5 below, but only for and during the "Period of Declarant Control of Master Association" as defined below.

**6.5 Annexation of Additional Properties and Annexation to the City of Victor.** The right to annex to the Property or to seek annexation of all, or a portion of the Property, into the City of Victor. Each Owner of a Lot or Unit hereunder hereby grants to Declarant the right to annex the Property into the City of Victor and to execute such documentation as is necessary or convenient therefore. Each Owner of a Lot or Unit hereunder hereby grants to Declarant the right to annex additional property to the Property and to modify such Owner's Allocated Interests accordingly. Alternatively, Declarant shall have the right and is authorized to develop portions of the additional property and/or to convey portions of the additional property to such third party or parties as Declarant may deem appropriate, prior to and instead of annexing them to the Property, whether for purposes consistent with this Master Declaration or otherwise. Declarant makes no assurances that all or any portion of additional property will be added to the Property and Declarant reserves the right to annex all or any portion of additional property to the Property in any order it deems appropriate in its sole and absolute discretion.

**6.6 Annexation of Additional Land Procedure.** The annexation of additional real property to the Property shall be accomplished by the Recording by Declarant with the Clerk and Recorder of Teton County of a Supplemental Declaration containing a legal description of the land area to be added to the Property and amending this Master Declaration accordingly, together with a Supplemental Plat thereof. The Supplemental Declaration shall assign an identifying number to each new Lot or Unit created thereby, and shall reallocate the Allocated Interests of all Lot and Unit Owners in the Property in accordance with the definition of Allocated Interests contained in this Master Declaration. The Supplemental Declaration shall also describe any Master or Sub-association Common Areas thereby created, and any Common elements and thereby created.

The annexation of the additional property may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby (the "Annexed Property") is phased so that it is made subject to this Master Declaration at different times. Upon Recording of a Supplemental Declaration, the Annexed Property described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Master Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose on the Annexed Property described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions that those set forth in this Master Declaration, taking into account the unique and particular aspects of the Annexed Property covered thereby and of the proposed development thereof. Furthermore, Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant's development rights as set forth in Section 6.13 below. A supplemental Declaration may provide for a Sub-association of Owners within the Annexed Property described in the Supplemental Declaration and for the right of the Sub-association to assess such owners for common expenses unique to those Owners.

**6.7 Annexation of Additional Unspecified Real Estate.** In the event that Declarant elects to annex any such additional unspecified real estate, Declarant shall annex such property to the Property in accordance with the provisions of Section 6.6 above.

**6.8 Effect of Expansion or Contraction.** In the event any real property is annexed to the Property as provided herein, or if any real property is withdrawn from the Property as provided herein, the definitions used in this Master Declaration shall be automatically expanded or contracted to

encompass and refer to the Property as expanded or contracted, e.g., "Property" shall mean the real property described herein plus any additional real property annexed thereto and/or minus any real property withdrawn therefrom; similarly, "Common Areas" and "Lots" and "Units" shall mean and include those areas as described herein as well as or less those so designated on any Supplemental Declaration or Supplemental Plat (or any amendment to a Declaration or Plat) relating to any real property which is annexed or withdrawn pursuant to this Article 6. Common Areas shall also mean and include all properties located from time to time within the Annexed Property that fall within the definition of Common Areas contained in this Master Declaration, less any Common Areas removed by withdrawal. References to this Master Declaration shall mean this Master Declaration as so supplemented by any Supplemental Declaration and any Supplemental Plat, or as amended. Every Owner of a Lot or Unit in the area annexed to the Property shall, by virtue of ownership of such Lot or Unit and upon recordation of the Supplemental Declaration annexing such property to the Property, be a member of the Master Association and, except as may be otherwise provided in the Supplemental Declaration, shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Master Association Member. Regular Assessments for Lots or Units within the Annexed Property shall commence as of the date of the Recording of the Supplemental Declaration and shall be prorated as of such date.

The recording of amendments to the Master Declaration and Plat, whether in the form of Supplemental Declarations and Supplemental Plats or otherwise, which reallocate the Allocated Interests in the Property, shall automatically:

- (a) Vest in each existing Lot and Unit Owner the reallocated Allocated Interests appurtenant to the Owner's Lot or Unit; and
- (b) Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot or Unit.

**6.9 Subdivision of Blocks or Lots or Units; Conversions of Lots or Units into Common Area.** Declarant shall have and hereby reserves the right to subdivide any Declarant-owned Block or Lot or Unit located within the Property to create additional Lots or Units, subject to the maximum number of Lots and Units set forth in the Recitals to this Master Declaration; provided, however, that such subdivision is consistent with the Master Plat for Teton Reserve or that said Master Plat is amended if necessary, and that the subdivision is accomplished in compliance with applicable municipal subdivision requirements. Declarant shall also have and hereby reserves the right to convert one or more Lots or Units into Common Area. Upon the subdivision of any Block or Lot or Unit or the conversion of any Lot(s) or Unit(s) into Common Area in accordance with the terms and conditions contained herein, the Allocated Interests of all Owners shall be reallocated in accordance with the definition of Allocated Interests contained in this Master Declaration.

**6.10 Other Reserved Development Rights.** The right with respect to all or any Declarant-owned portion of the Property (including the Lots and Units) to (a) create Common Areas or Limited Common Areas; (b) create additional Lots or Units, subject to the maximum set forth in the Recitals to this Master Declaration; (c) subdivide Lots or Units as set forth in Section 6.10 above, (d) combine Lots or Units, (e) convert Lots or Units into Common Areas, (f) convert Common Areas into Lots or Units, and (g) create Common Elements.

**6.11 Transfer of Declarant's Reserved Rights.** Any one or more rights created or reserved for the benefit of Declarant under this Article 6 or elsewhere in this Master Declaration or in any Supplemental Declaration may be transferred to any Person by an instrument describing the right or rights transferred and Recorded in Teton County. Such instrument shall be executed by the transferor Declarant and the transferee.

**6.12 Termination of Declarant's Reserved Rights.** With the exception of Declarant's right to appoint or remove Executive Board members and officers of the Master Association, which is addressed in Section 8.5 below, the rights reserved to Declarant in this Article 6 shall automatically terminate and expire upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Master Declaration, or (ii) Declarant's relinquishment and surrender of such rights by Recorded instrument. Declarant may from time to time relinquish and surrender one or more but less than all of the reserved rights, in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof. The Master Association may extend the time period for exercise of a development right, or reinstate a lapsed development right, subject to whatever terms, conditions and limitations the Master Association may impose on the subsequent exercise of the development right. The extension or renewal of a development right and any terms, conditions and limitations shall be included in an amendment executed by Declarant or the owner of the real estate subject to the development right and the Master Association.

## ARTICLE 7 EASEMENTS

**7.1 Easements for Incidental Encroachments.** If any portion of an Improvement approved by the Development Review Committee encroaches in its approved location upon a Common Area, including any future encroachments arising or resulting from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist for such incidental encroachment.

**7.2 Blanket Master Association Utility and Drainage Easement Over Common Areas.** There is hereby created, granted and reserved to the Master Association, its agents, employees and assigns, a perpetual, non-exclusive blanket easement over, across, upon and under the Common Areas for the construction, installation, operation, maintenance, repair, removal and replacement of utilities and utility lines, irrigation lines and systems and water features, drainage systems, pipes, wires, circuits, conduits, meters, facilities and systems for the benefit of the Property or any part thereof, including but not limited to drainage, domestic water, irrigation water, sewer, gas, telephone, electricity, cable TV and other TV and communication systems, if any, together with an easement for access, ingress and egress to accomplish such purposes. The Master Association or other person or entity exercising such utility and drainage easement rights shall be obligated to restore, reseed, replant and/or re-landscape the surface of the disturbed area to as close to its original condition as possible, as promptly as possible following completion of any utility or drainage work.

**7.3 Master Association Administrative Easement Over Common Areas.** There is hereby created, granted and reserved to the Master Association, its agents, employees and assigns, a perpetual, non-exclusive easement over, across, upon and under the Common Areas and a right to use the Common Areas for purposes of enabling the Master Association to perform the duties and functions which it is obligated or permitted to perform pursuant to this Master Declaration.

**7.4 Declarant Easement Over Common Areas.** There is hereby created, granted and reserved to Declarant and its successors and assigns a non-exclusive easement over, across, upon and under all Common Areas (including without limitation all easements benefiting the Master Association), including a right of access, ingress and egress thereto, and a right to use such Common Areas, and each and every part thereof, for all purposes reasonably related to (a) Declarant's development, improvement, maintenance, management, marketing and sale of the Property and all portions thereof, including any annexations thereto, and/or (b) Declarant's exercise and implementation of the rights reserved to Declarant under this Master Declaration or any Supplemental Declaration, and/or (c) the discharge by Declarant of any of its obligations under this Master Declaration or any Supplemental Declaration or under the Subdivision Improvements Agreements referred to in Section 6.1 above, or any other Declarant obligations relating to the Property. Declarant's rights with respect to this easement shall terminate upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Master Declaration, or (ii) Declarant's relinquishment of all or a portion of this easement right by Recorded instrument.

**7.5 Ditch Easements.** There are hereby created, granted and reserved for the use and benefit of the owners from time to time of the irrigation systems, ditches, ditch laterals, ponds or other water storage facilities that may exist from time to time within the Property (and of the water rights therein) perpetual, non-exclusive easements within the Ditch Easements shown on the Plat or any Supplemental Plat, and if not shown on a Plat then along the courses of said ditches and laterals and in the locations of said systems, ponds and facilities, as they may be realigned or relocated from time to time, subject to the specific provisions set forth in easement grants for any such facilities and/or on a Plat.

**7.6 Aesthetic Ditch Easements.** There are hereby created, granted and reserved for the benefit of the Master Association and all Lot and Unit Owners and Occupants, perpetual, nonexclusive aesthetic easements along the courses of the various irrigation ditches that traverse the Property, in the present locations of said ditches or as they may be realigned, for purposes of visually enjoying said ditches as water features within the Property, subject to such limitations as may be established by the Owner of the Golf Course within the Golf Course. These easements shall be subject at all times to the legal rights of the owners of said ditches and of the water rights entitled to flow therein, and Declarant makes no representations or warranties that any of said ditches will continue to exist in their present location, or if they do exist, that any particular level of water will continue to flow therein. Furthermore, the beneficiaries of these aesthetic easements shall have no right to alter or interfere with said ditches in any way.

**7.7 Utility, Drainage, and/or Irrigation Easements.** There are hereby created, granted and reserved to the Master Association, the golf Owner, the County, and appropriate public utilities, perpetual, non-exclusive easements over, upon, across and under those portions of the Property that are designated "Utility Easement," "Irrigation Easement," "Drainage and Irrigation Easement," "Utility, Drainage and Irrigation Easement" or similarly on the Plat or any Supplemental Plat. Utility Easements may be used for the installation, operation, maintenance, repair, removal or replacement of underground utility lines (and related surface facilities). Drainage and Irrigation Easements may be used for the installation, operation, maintenance, repair, removal or replacement of drainage and irrigation systems and facilities. Except as may otherwise be provided in any Subdivision Improvements Agreement between Declarant and the County or in any other separate agreement between Declarant and a utility supplier, the party causing the disturbance shall be obligated to restore, repair, reseed and/or relandscape any area disturbed by the exercise of these easement rights to as close to its original condition as possible, as promptly as possible following the completion of any work within a Utility, Drainage or Irrigation Easement.

**7.8 Blanket Emergency Services Easement.** There is hereby created, granted and reserved for the use and benefit of all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter serving the Property and its Owners and Occupants, a perpetual, non-exclusive blanket Emergency Service Easement over, upon, along and across all Common Areas and all other properties and areas within the Property, for use in the lawful performance of their duties.

**7.9 Easements Deemed Created.** All conveyances of Lots, Units and Common Areas hereafter made, whether by Declarant or otherwise, shall be deemed and construed to grant and reserve all of the easements referred to in this Article 7 and elsewhere in this Master Declaration and in any Supplemental Declaration, even though no specific reference to such easements appears in the conveyancing instruments.

**7.10 Recorded Easements and Licenses.** In addition to the easements described in this Article 7 and elsewhere in this Master Declaration, the recorded easements and licenses appurtenant to or included in the Property are set forth on the Plat documents and made a part hereof by this reference.

## ARTICLE 8 MASTER ASSOCIATION

**8.1 Master Association.** The Master Association has been, or will be, formed as an Idaho nonprofit corporation under the Idaho Nonprofit Corporation Act to manage the affairs of the Property. The Master Association shall serve as the governing body for all of the Owners and Occupants for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Common Areas, the Limited Common Areas, the levying and collection of Assessments for Common Expenses and other expenses of the Master Association, and such other matters as may be provided in this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, and Master Rules and Regulations. The Master Association shall not be deemed to be conducting a business of any kind, and all funds received by the Master Association shall be held and applied by it for the Owners in accordance with the provisions of this Master Declaration, the Articles and the Bylaws.

**8.2 Master Association Executive Board.** The affairs of the Master Association shall be managed by an Executive Board. The number, term, and qualifications of the members of the Executive Board shall be fixed in the Articles of Incorporation or the Bylaws. A quorum shall be deemed present throughout any meeting of the Executive Board if persons entitled to cast at least fifty percent (50%) of the votes on the Executive Board are present at the beginning of the meeting or grant their proxy. With the exception of matters that may be discussed in executive sessions, all regular and special meetings of the Executive Board or any committee thereof shall be open to attendance by all Members of the Master Association or their representatives. Without limiting the generality of the foregoing, no Master Rule or Regulation may be validly adopted during an executive sessions. Agendas for meeting of the Executive Board shall be made reasonably available for examination by all members of the Master Association or their representatives. The Executive Board shall have all of the powers, authority and duties granted or delegated to it by the Act, this Master Declaration, any Supplemental Declaration, the Articles or Bylaws. Except as provided in the Act, this Master Declaration, any Supplemental Declaration, the Articles or Bylaws, the Executive Board may act in all instances on behalf of the Master Association.

The Executive Board may not, however, act on behalf of the Master Association to amend this Master Declaration, to terminate the Property, or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

The Executive Board may, by resolution, delegate portions of its authority to officers of the Master Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Master Association. If appointed by Declarant, in the performance of their duties, the members of the Executive Board and the officers of the Master Association are required to exercise the care required of fiduciaries of the Lot and Unit Owners. If not appointed by Declarant, no member of the Executive Board and no officer shall be liable for actions taken or omissions made in the performance of such member's or officer's duties except for wanton and willful acts or omissions.

**8.3 Membership in Master Association.** There shall be one Membership in the Master Association for each Lot and Unit within the Property. The Person or persons who constitute the Owner of a Lot or Unit shall automatically be the holder of the Membership appurtenant to that Lot or Unit, and shall collectively be the "Member" of the Master Association with respect to that Lot or Unit, and the Membership appurtenant to that Lot or Unit shall automatically pass with fee simple title to the Lot or Unit. Declarant shall hold a Membership in the Master Association for each Lot or Unit owned by Declarant. Membership in the Master Association shall not be assignable separate and apart from fee simple title to a Lot or Unit, and may not otherwise be separated from ownership of a Lot or Unit. Membership in the Association shall not be transferred, encumbered, pledged or assigned in any way, except upon the transfer of title to the Lot to which it is appurtenant, and then only to the transferee. In the case of a sale, the membership appurtenant to the transferred Lot shall transfer automatically to the purchaser upon the Recordation of a deed evidencing the transfer of title. In the case of an encumbrance recorded with respect to any Lot, the Mortgagee shall not possess any membership rights until the Mortgagee becomes an Owner by foreclosure or otherwise. The Master Association may determine Membership based on County records.

**8.4 Voting Rights of Members.** Each Lot and each Unit in the Property shall be entitled to one (1) vote in the Master Association, i.e., one (1) vote per Owner/Member. Occupants of Lots or Units shall not have voting rights. If title to a Lot or Unit is owned by more than one (1) person, such owners shall collectively vote their interest as a single vote. If only one of the multiple owners of a Lot or Unit is present at a Master Association meeting, such owner is entitled to cast the vote allocated to that Lot or Unit. If more than one of the multiple owners is present, the vote allocated to that Lot or Unit may be cast only accordance with the agreement of a majority in interest of the owners. There is majority agreement if any of the multiple owners casts the vote allocated to that Lot or Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Lot or Unit. In the Event of a protest being made by one or more multiple owners, and a majority of the multiple owners of the Lot or Unit cannot agree on how to cast their vote, any vote cast for that Lot or Unit shall be null and void with regard to the issue being voted upon. Such multiple owners and their Lot or Unit shall nevertheless be counted in determining the presence of a quorum with respect to the issue being voted upon.

Except as may otherwise be provided in the Bylaws, a quorum is deemed present throughout any meeting of the Members of the Master Association if persons entitled to cast at least twenty percent (20%) of the votes in the Master Association are present, in person or by proxy, at the beginning of the meeting.

Provided a quorum of Members entitled to vote is present in person or by proxy, the affirmative vote of a majority of the Members so present shall constitute approval of any matter voted upon unless a different number is required on a particular matter by the Act, this Master Declaration, any Supplemental Declaration, the Articles, or the Bylaws.

The vote allocated to a Lot or Unit may be cast pursuant to a proxy duly executed by a Lot or Unit Owner. If a Lot or Unit is owned by more than one person, each owner of the Lot or Unit may vote or register protest to the casting of a vote by the other owners of the Lot or Unit through a duly executed proxy. A Lot or Unit Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Master Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy shall terminate eleven (11) months after its date, unless a different termination date is otherwise set forth on its fact. No votes allocated to a Lot or Unit owned by the Master Association may be cast.

The Lot and Unit Owners, by a vote of sixty-seven percent (67%) of all Members present and entitled to vote at any meeting of the Lot and Unit Owners at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by Declarant.

**8.5 Period of Declarant Control of Master Association.** Notwithstanding any other provisions hereof, Declarant shall have and hereby reserves the power to appoint and remove, in its sole discretion, the members of the Executive Board and the officers of the Master Association during the period commencing upon the Recording of this Master Declaration and terminating no later than the earlier of (a) sixty (60) days after conveyance of eighty-five (85%) of the Lots and Units that may be created to Lot or Unit Owners other than Declarant; or (b) two (2) years after the last conveyance of a Lot or Unit by the Declarant in the ordinary course of business; or (c) two (2) years after any right to add new Lots or Units was last exercised by Declarant.

During said Period of Declarant Control of the Master Association:

(a) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots and Units that may be created to Lot or Unit Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Lot and Unit Owners other than Declarant.

(b) At any time prior to the termination of the Period of Declarant Control of the Master Association, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Executive Board, but in such event Declarant may require, for the duration of the Period of Declarant Control of the Master Association, that specified actions of the Master Association or the Executive Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole discretion and option, and its disapproval shall invalidate any such action by the Executive Board or the Master Association. Not later than the termination of the Period of Declarant Control of the Master Association, the Lot and Unit Owners



(including Declarant) shall elect and Executive Board of at least three (3) members, at least a majority of whom must be Lot or Unit Owners other than Declarant or designated representatives of Lot and Unit Owner other than Declarant, and the Executive Board shall elect the officers, with such Executive Board members and officers to take office upon election. Within sixty (60) days after Lot or Unit Owners other than Declarant elect a majority of the members of the Executive Board, Declarant shall deliver to the Master Association all documentation and personal property of the Lot or Unit Owners and of the Master Association held or controlled by Declarant, including without limitation the following items: (i) The original certified copy of the recorded Master Declaration as amended, the Master Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated; (ii) An accounting for Master Association funds and financial statements from the date the Master Association received funds and ending on the date the Period of Declarant Control ends. (iii) The Master Association funds or control thereof; (iv) All of Declarant's tangible personal property that has been represented by the Declarant to be the property of the Master Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Areas, and inventories of these properties; (v) A copy, for the nonexclusive use by the Master Association, of any plans and specifications used in the construction of the improvements in the Property; (vi) All insurance policies then in force, in which the Lot or Unit Owners, the Master Association, or its directors and officers are named as insured persons; (vii) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Property; (viii) Any other permits issued by governmental bodies applicable to the Property and which are currently in force or which were issued within one year prior to the date on which Lot and Unit Owners other than the Declarant took control of the Master Association; (viii) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective; (ix) A roster of Lot and Unit Owners and Occupants and Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records; (x) Employment contracts in which the Master Association is a contracting party; and (xi) Any service contract in which the Master Association is a contracting party or in which the Master Association or the Lot or Unit Owners have any obligation to pay a fee to the persons performing the services.

**8.6 Termination of Contracts and Leases of Declarant.** The following contracts and leases, if entered into before the Executive Board elected by the Lot and Unit Owners takes office, may be terminated without penalty by the Master Association at any time after the Executive Board elected by the Lot and Unit Owners pursuant to said Section takes office, upon not less than ninety (90) days notice to the other party: (i) Any management contract, employment contract or lease of recreational or parking areas or facilities; (ii) Any other contract or lease between the Master Association and Declarant or an affiliate of Declarant; or (iii) Any contract or lease that is not bona fide or was unconscionable to the Lot and Unit Owners at the time entered into under the circumstances then prevailing.

**8.7 Master Association/Subassociations.** Every Supplemental Declaration in which a Sub-association is organized and/or established shall contain sufficient language delegating responsibilities and control and subordinating it to the Master Association and to this Master Declaration to effectuate the purposes of this Master Declaration. Each Supplemental Declaration shall provide that the Executive Board shall be elected after the termination of the Period of Declarant Control of the Master Association by all Lot and Unit Owners of all Common Interest Communities subject to the Master Declaration. If both a Subassociation and the Master Association have liens for Assessments created at any time on the same Lots or Units, the lien of the Master Association shall take priority over the lien of any Subassociation.

## ARTICLE 9 POWERS AND DUTIES OF MASTER ASSOCIATION

**9.1 General Powers and Duties of Master Association.** The Master Association shall have and may exercise all of the powers and rights and duties of an Idaho corporation formed under the Idaho Nonprofit Corporation Act, and all of the powers and duties provided for state law as such laws may be amended from time to time, subject only to the limitations upon such powers as are contained in this Master Declaration. More specifically, and without limiting the generality of the foregoing, the Master Association shall have all of the powers and duties necessary (i) for the administration, management, governance and operation of the Property and the Master Association, (ii) to own, operate, improve, maintain, repair, manage, lease, encumber, and otherwise deal with the Common Areas, and (iii) to do any and all lawful things that may be authorized, required or permitted to be done by the Master Association under the Act and/or under the provisions of this Master Declaration and any Supplemental Declarations.

**9.2 Power to Grant Easements.** The Master Association shall have the power to grant access, utility, drainage, irrigation, and such other easements upon, over, across or under the Common Areas as it deems necessary or desirable for the benefit of the Property or parts thereof, or for the benefit of all or less than all of the Lot or Unit Owners, or for the benefit of lands situated outside the Property .

**9.3 Power to Convey or Encumber Common Areas.** The Master Association shall have the power to convey, or subject to a security interest, portions of the Common Areas if Owners entitled to cast at least sixty-seven percent (67%) of the votes of the Master Association, including sixty-seven percent (67%) of the votes allocated to Lots and Units not owned by Declarant, agree to that action. Proceeds of the sale are an asset of the Master Association.

An agreement to convey, or subject to a security interest, Common Areas must be evidenced by the execution of an agreement, in the same manner as a deed, by the Master Association. The Agreement must specify a date after which the Agreement will be void unless approved by the requisite percentage of Lot and Unit Owners. Any grant, conveyance or deed executed by the Master Association must be Recorded in the County, and is effective only upon Recordation. The Master Association, on behalf of the Lot and Unit Owners, may contract to convey an interest in a Common Area, but the contract is not enforceable against the Master Association until approved, executed and ratified pursuant to this Section 9.3. Thereafter, the Master Association shall have all the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments. Unless in compliance with this Section 9.3, any purported conveyance or encumbrance of Common Areas pursuant to this Section 9.3 shall not deprive any Lot or Unit of its rights of (i) access, ingress and egress to the Lot or Unit, and (ii) support of the Lot or Unit. A conveyance or encumbrance of the Common Areas pursuant to this Section 9.3 shall not affect the priority or validity of preexisting encumbrances.

**9.4 General Power to Provide Services and Facilities to Owners.** The Master Association shall have the power, but not the obligation, to acquire, construct, operate, manage, maintain, repair and administer services and facilities for the benefit of the Owners, or some of them, including, without limitation, security, animal control, vegetation control (including general landscape maintenance), insect and pest control, television service, parking facilities, transportation facilities, snow removal, signage, including entry monuments, lighting, including seasonal lighting, interior and perimeter fencing, landscape walls, other landscaping services and facilities, drainage facilities, including retention and detention ponds, irrigation facilities, water features, trash and solid waste disposal services, including recycling programs, utility services,

recreational facilities and services, maintenance, and such other services, functions and facilities as are deemed appropriate by the Executive Board. The foregoing list shall not be deemed to be representation by Declarant of services or facilities that will in fact be available for use by the Owners. The Master Association may enter into such agreements and arrangements as it may deem appropriate with any provider of utilities or services to the Property or any portion thereof, including any special districts that provide such services, and may form or join any districts created to provide such services.

**9.5 Power to Provide Services to Sub-associations.** The Master Association shall have the power, but not the obligation, to provide services to Sub-associations. Such services to any Sub-association shall be provided pursuant to an agreement in writing between the Master Association and such Sub-association which shall provide for the payment by such Sub-association to the Master Association of the costs and expenses of the Master Association of providing such services to the Sub-association including a fair share of the overhead expenses of the Master Association. Services which may be provided to a Sub-association may include, without limitation: (a) the construction, care, operation, management, maintenance, repair and replacement of Improvements owned by the Sub-association; (b) the providing of services to the area covered by the Sub-association; (c) the enforcement of the provisions of any Supplemental Declaration for, on behalf of, and in the name of the Sub-association; (d) the collection of assessments for, in the name of, and on behalf of a Sub-association; (e) the payment of taxes for a Sub-association with funds of the Sub-association; (f) the obtaining of insurance for a Sub-association; (g) the collection of charges for use of facilities of a Sub-association; and (h) the appointment and supervision of a manager or managers for a Sub-association.

**9.6 Power to Provide Special Services to Owners.** The Master Association shall have the power to provide services to an Owner or group of Owners. Any service or services to an Owner or group of Owners shall be provided pursuant to an agreement in writing, or through one or more Supplemental Declarations, which shall provide for payment to the Master Association by such Owner or group of Owners of the costs and expenses of the Master Association in providing such services, including a fair share of the overhead expenses of the Master Association, and shall contain reasonable provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Owner or group of Owners and that the payment for such services shall be secured by a lien on the Lot(s) or Unit(s) of the Owner or group of Owners.

**9.7 Power to Charge for Special Common Area Uses and Special Master Association Services.** In addition to its power to establish user fees and restrictions governing the use of recreational facilities within the Clubhouse Area by Occupants or by Persons who are not owners or Occupants, the Master Association shall have the power to establish reasonable admission or other fees or charges for any special or extraordinary Common Areas uses or Master Association services such as special parking privileges, special facilities, conference rooms, instruction, or similar uses beyond the ordinary use of Common Areas and ordinary Master Association services. Such charges or fees shall be set forth in schedules of charges and fees adopted from time to time by the Executive Board.

**9.8 Power to Acquire Property and Construct Improvements.** The Master Association may acquire, hold, encumber and/or convey any right, title or interest in or to real or personal property, including Improvements. The Master Association may construct Improvements on Common Areas and may demolish existing Improvements thereon.

**9.9 Power to Adopt Master Rules and Regulations.** The Master Association may adopt, amend, repeal, and enforce such Master rules and Regulations as the Executive Board may consider necessary, desirable or appropriate from time to time with respect to the interpretation and implementation of this Master Declaration, the operation of the Master Association, the use and enjoyment of Common Areas, and the use of any other property within the Property, including Lots and Units. Any such Master Rules and Regulations shall be effective only upon adoption by resolution at an open meeting of the Executive Board. Notice of the adoption, amendment, or repeal of any Master Rule or Regulation shall be given in writing to each Owner, and copies of the currently effective Master Rules and Regulations shall be made available to each Owner and Occupant upon request and payment of the reasonable expense of copying the same. Each Owner and Occupant (and all other Persons who are authorized users of any part of the Common Areas) shall comply with such Master Rules and Regulations, and each Owner shall see that Occupants claiming through such Owner comply with such master Rules and Regulations. Such Master Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Master Declaration. In the event of conflict between the Master Rules and Regulations and the provisions of this Master Declaration, the provisions of this Master Declaration shall govern. Such Master Rules and Regulations may establish penalties (including the levying and collection of fines) for the violation of such Master Rules and Regulations or of any provisions of this Master Declaration, the Articles, or the Bylaws.

**9.10 Power to Employ Employees, Agents, Consultants and Managers.** The Master Association shall have the power to employ and discharge employees, agents, independent contractors and consultants, including lawyers and accountants. The Master Association shall also have the power to retain and pay for the services of a manager or managers, which may be an affiliate of Declarant, to undertake any of the administrative or managerial responsibilities for which the Master Association may have responsibility under this Master Declaration, to the extent deemed advisable by the Master Association, and may delegate any of its duties, powers, or functions of the Master Association, the Master Association and its Executive Board shall remain ultimately responsible for the performance and exercise of such duties, powers, and functions.

**9.11 Power to Assign Future Income.** The Master Association shall have the power to assign its right to future income, including the right to receive Regular Assessments, but only following the affirmative vote of the Owners of Lots and Units to which at least fifty-one percent (51%) of the votes in the Master Association are allocated, at a duly-called meeting of the Members of the Master Association.

**9.12 Duty to Accept Property and Facilities Transferred by Declarant.** The Master Association shall accept title to any real property, or interests in real property, including any Improvements and personal property thereon, and including water rights and water facilities, transferred to the Master Association by Declarant, or Declarant's successors or assigns. Except as otherwise specifically approved by resolution of the Executive Board, no property or interest in any property transferred to the Master Association by Declarant shall impose upon the Master Association any obligation to make monetary payments to Declarant or any affiliate of Declarant, including, but not limited to, any purchase price, rent, charge, or fee.

**9.13 Duties Regarding Common Areas.** The Master Association shall manage, operate, care for, maintain, repair and replace all Common Areas and keep the same in a clean and attractive condition for the benefit and enjoyment of the Owners

**9.14 Duty to Pay Taxes.** The Master Association shall pay any taxes and assessments levied upon the Common Areas and any other taxes and assessments payable by the Master Association, prior to delinquency if possible. The Master Association shall have the right to contest any such

taxes or assessments by appropriate legal proceedings provided no sale or foreclosure of any lien for such tax or assessment occurs and provided further that the Master Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

**9.15 Duty to Keep Master Association Records.** The Master Association shall keep financial records in sufficient detail to enable the Master Association to carry out its responsibilities under this Master Declaration and to comply with all legal requirements, including, but not limited to, current records of paid and unpaid Assessments for each Lot and Unit. All financial and other records of the Master Association shall be made reasonable available for examination by the Owners and the authorized agents of the Owners.

**9.16 Duty to Support Development Review Committee.** The Master Association shall take such actions, provide such funds, and do such other things as may be necessary or appropriate from time to time to support and assist the Development Review Committee in the performance of its responsibilities under this Master Declaration, and shall cooperate with said Committee to the fullest extent possible in such matters.

**9.17 Insurance.** The Master Association shall maintain and keep in effect at all times the following types of insurance, and the cost of said coverage shall be paid by the Master Association as a Common Expense:

(a) **Casualty Insurance.** To the extent reasonable available, property insurance on all Common Areas, including but not limited to Improvements and personalty, owned or leased by the Master Association. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and extended coverage insurance including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonably obtainable, be for the full insurable replacement cost of the insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date exclusive of land, excavation, foundations and other items normally excluded from property policies.

(b) **Liability Insurance.** Comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of the Common Areas, and ditches, and covering public liability or claims of liability for injury to persons and/or property, and death of any person or persons, and, if the Master Association owns or operates motor vehicles, public liability or claims of liability for bodily injury (including death) and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonable obtainable, (a) have limits of not less than One Million Dollars (\$1,000,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence; (b) insure the Executive Board, the Development Review Committee, the Master Association and its officers, the manager, if any, and their respective employees, agents and all Persons acting as agents; (c) include the Declarant as an additional insured as its interests may appear; (d) include the Owners as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of Common Areas; (e) cover claims of one or more insured parties against other insured parties; (f) be written on an occurrence basis; and (g) shall name as additional insureds such other parties as may be required by specific agreements.

(c) **Contractual Liability Insurance.** To the extent reasonably available, contractual liability insurance covering such contractual obligations and liabilities, indemnifications, hold harmless agreements, and agreements to defend, as the Master Association may have or be a party to from time to time, with coverage of One Million Dollars (\$1,000,000.00) or such greater amount as the Executive Board shall determine to be appropriate from time to time.

(d) **Fidelity Bonds.** To the extent reasonably available, fidelity bond coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or volunteers responsible for handling funds belonging to or administered by the Master Association. If funds of the Master Association are handled by a management agent, then fidelity bond coverage may also be obtained for the officers, employees, or agents thereof handling or responsible for Master Association funds. The fidelity bond or insurance must name the Master Association as named insured and shall be written to provide protection in an amount no less than the lesser of (a) one-half times the Master Association's estimated annual operating expenses and reserves, (b) a sum equal to three (3) months aggregate Regular Assessments, plus reserves, as calculated from the current Budget of the Master Association; or (c) the estimated maximum amount of funds, including reserves, in the custody of the Master Association (and its management agent) at any one time. In connection with such coverage, an appropriate endorsement to the policy to cover any person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

(e) **Worker's Compensation.** A Worker's Compensation policy as required by Idaho State law.

(f) **Directors and Officers Liability Insurance.** Directors and officers liability insurance with coverage of at least One Million Dollars (\$1,000,000.00) or such greater amount as the Executive Board shall approve for all Master Association, Executive Board and Development Review Committee directors, officers, members and managers, for any and all errors and/or omissions and other covered actions that occur during their tenure in office or employment.

(g) **Other Insurance.** Such other insurance in such amounts as the Executive Board shall determine, from time to time, to be appropriate to protect the Master Association or the Lot and Unit Owners, or as may be required by law.

(h) **General Provisions Respecting Insurance.** Insurance obtained by the Master Association may contain such deductible provisions as good business practice may dictate. If the insurance described is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained by it, the Master Association shall promptly cause notice of that fact to be delivered or sent prepaid by U.S. Mail to all Owners. Insurance policies carried pursuant to Section 9.17(a) and 9.17(b) above shall provide that (i) each Owner is an insured Person under the policy with respect to liability arising out of such Owner's interest in the Common Areas or membership in the Master Association; (ii) the insurer waives its rights of subrogation under the policy against the Master Association, each Owner, and any Person claiming by, through, or under such Owner or any other director, agent, or employee of the foregoing; (c) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Master Association, will void the policy or be a condition to recovery under the policy; and (d) if at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Master Association's policy shall be the primary insurance. An insurer that has issued an insurance policy for the insurance described in Section 9.17(a) and 9.17(b) above shall issue certificates or memoranda of insurance to the Master Association and, upon request, to any Lot or Unit Owner or holder of a security interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Master Association, and each Lot and Unit Owner and holder of a security interest to whom a certificate or memorandum of insurance has been issued, at

their respective last-known addresses.

Any loss covered by the property insurance policy described in Section 9.17(a) above must be adjusted with the Master Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Master Association, and not to any holder of a security interest. The insurance trustee or the Master Association shall hold any insurance proceeds in trust for the Master Association Lot and Unit Owners and lien holders as their interests may appear. Subject to the provisions of state law the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Master Association, Lot and Unit Owners, and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, adequate reserves established, or the Property is terminated.

The Master Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Master Association settles claims for damages to real property, it shall have the authority to assess Owners causing such loss or benefitting from such repair or restoration for all deductibles paid by the Master Association. In the event more than one Lot or Unit is damaged by a loss, the Master Association in its reasonable discretion may assess each Lot and Unit Owner a pro rata share of any deductible paid by the Master Association. Insurance obtained by the Master Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Executive Board to ascertain whether coverage under the policies is sufficient in light of the current values of the Common Areas and in light of the possible or potential liabilities of the Master Association and other insured parties. The aforementioned insurance may be provided under blanket policies covering the Common Areas and property of Declarant.

In no event shall insurance coverage obtained or maintained by the Master Association obviate the need for Owners and Occupants to obtain insurance for their own benefit.

Furthermore, to the extent reasonable available, insurance policies obtained by the Master Association shall contain the following provisions: (i) The coverage afforded by such policies shall not be brought into contribution or proration with any insurance which may be purchased by a Lot or Unit Owner, Occupant or Mortgagee., (ii) The conduct of any one or more Lot or Unit Owners or Occupants shall not constitute grounds for avoiding liability on any such policies, (iii) Each policy must contain a waiver of any defenses based on co-insurance or on invalidity arising from the acts of the insured, (iv) A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of a Lot or Unit Owner or Occupant because of the conduct or negligence acts of the Master Association and its agents or other Lot or Unit Owners or Occupants, (v) Any "no other insurance" clause shall exclude insurance purchased by Lot or Unit Owners, Occupants or Mortgagees. (vi) Coverage must not be prejudiced by (a) any act or neglect of Lot or Unit Owners or Occupants when such act or neglect is not within the control of the Master Association, or (b) any failure of the Master Association to comply with any warranty or condition regarding any portion of the Property over which the Master Association has no control, (vii) Coverage may not be canceled or substantially modified without at least thirty (30) days (or such lesser period as the Master Association may reasonably deem appropriate) prior written notice to the Master Association. (viii) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such election is not exercisable without the prior written approval of the Master Association, or when in conflict with the insurance trust provisions contained herein, or any requirement of law, (ix) A recognition of any insurance trust agreement entered into by the Master Association, (x) Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating as designated in Best's Key Rating guide of Class VI or better, or if such rating service be discontinued, an equivalent rating by a successor thereto or a similar such rating service. Each insurance carrier must be specifically licensed or authorized by law to transact business with in the State of Idaho.

(i) **Nonliability of Master Association or Executive Board.** Notwithstanding the duty of the Master Association to obtain insurance coverage, as stated herein, neither the Master Association nor any Executive Board member, nor the Declarant, shall be liable to any Lot or Unit Owner, Occupant, Mortgagee or other Person, if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Master Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Lot and Unit Owner and Occupant to ascertain the coverage and protection afforded by the Master Association's insurance and to procure and pay for such additional insurance coverage and protection as the Lot or Unit Owner or Occupant may desire.

(j) **Master Premiums.** Premiums for insurance policies purchased by the Master Association and other expenses connected with acquiring such insurance shall be paid by the Master Association as a Common Expense, except that (i) liability insurance of Limited Common Areas shall be separately bid and the costs thereof shall only be included in the Regular Assessments of the Lots entitled to use such Limited Common Areas, if such restriction exists in writing, and (ii) the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot or Unit or its appurtenances, or the Common Areas, by a Lot or Unit Owner or Occupant, may at the Executive Board's election, be assessed against that particular Lot or Unit Owner and his Lot or Unit as a Reimbursement Assessment.

(k) **Insurance Claims.** the Master Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the master Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Executive Board has full and complete power to act for the Master Association in this regard, and may, in its discretion, appoint an authorized representative, or enter into an insurance trust agreement, wherein the trustee shall have the authority to negotiate losses under any policy purchased by the Master Association.

(l) **Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Master Association shall be for the benefit of, and any proceeds of insurance received by the Master Association or any insurance trustee shall be held or disposed of in trust for the Master Association, the Lot Owners, the Unit Owners, or the Occupants, as their interests may appear.

(m) **Other Insurance to be Carried by Lot or Unit Owners.** Insurance coverage on the furnishings and other items of personal property belonging to a Lot or Unit Owner or Occupant, public liability insurance coverage upon each Lot or Unit, and hazard insurance coverage on the Improvements constructed on Lots and Units, shall be the responsibility of the Owner or Occupant of the Lot or Unit. No Lot or Unit Owner or Occupant shall maintain any insurance, whether on its Lot or Unit or otherwise, which would limit or reduce the insurance proceeds payable under the casualty insurance maintained by the Master Association in the event of damage to the Improvements or fixtures on the Common Areas.

**9.18 Damage to Property.** Any portion of the Property for which insurance is required under state law (except any portion on which insurance is carried by a Sub-association) which is damaged or destroyed must be repaired or replaced promptly by the Master Association unless: (i) repair or replacement is the responsibility of a Sub-association under a Supplemental Declaration; (ii) the Property is terminated; (iii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; (iv) sixty-seven percent (67%) of the Lot and Unit Owner, including owners of every Lot or Unit that will not be rebuilt, vote not to rebuild; or (v) prior to the conveyance of any Lot or Unit to a person other than Declarant, a Mortgagee on the damaged portion of the Property rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Property is not repaired or replaced, the insurance proceeds attributable to the damaged Common Areas must be used to restore the damaged area to a condition compatible with the remainder of the Property, and, except to the extent that other Persons will be distributees, the insurance proceeds attributable to Lots or Units that are not rebuilt must be distributed to the Owners of those Lots or Units, or to lien holders, as their interests may appear, and the remainder of the proceeds must be distributed to all Lot and Unit owners or lien holders, as their interest may appear, and the remainder of the proceeds must be distributed to all Lot and Unit Owners or lien holders as their interests may appear in proportion to the Common Expense Liabilities of all the Lots and Units.

In the event of damage to or destruction of all or a portion of the Common Areas due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Master Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Master Association may levy a Special Assessment in the aggregate amount of such deficiency, or if any Owner or group of Owners is liable for such damage, may levy a Reimbursement Assessment against the Owner or group of Owners responsible therefor, and shall proceed to make such repairs or reconstruction. Such Assessment shall be due and payable as provided by resolution of the Executive Board, but not sooner than sixty (60) days after written notice thereof. The Assessment provided for herein shall be a debt of each Lot and Unit Owner assessed and a lien on his Lot or Unit, and may be enforced and collected in the same manner as any Assessment Lien provided for in this Master Declaration. If the entire damaged Common Area is not repaired or replaced, the insurance proceeds attributable to the damaged Common Area must be used to restore the damaged area to a condition compatible with the remainder of the Property. No distributions of insurance proceeds shall be made unless made jointly payable to the Lot and Unit Owners and first Mortgagees of their respective Lots or Units, if any.

**9.19 Limited Liability.** Neither the Master Association nor its past, present or future officers or directors, nor any other employee, agent or committee member of the Master Association shall be liable to any Owner or Occupant or to any other Person for actions taken or omissions made except for wanton and willful acts or omissions. Without limiting the generality of the foregoing, the Master Association, the Executive Board and the Development Review Committee shall not be liable to any Owner or Occupant or other Person 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 and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Master Association for such purposes shall not be adequate, the Owners severally agree to indemnify and to defend the Master Association, the Executive Board and the Development Review Committee against claims, damages or other liabilities resulting from such good faith action or failure to act.

## ARTICLE 10 ASSESSMENTS

**10.1 Assessment Obligation and Lien.** Declarant, for each Lot and Unit, shall be deemed to covenant and agree, and each Lot or Unit Owner, by acceptance of a deed therefor (including a public trustee's or sheriff's deed), whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Master Association: (1) Regular Assessments or charges, (2) Special Assessments, and (3) Reimbursement Assessments, such assessments to be established and collected as hereinafter provided (collectively the "Assessments"). The Assessments, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a continuing lien and security interest upon the Lot or Unit against which each such Assessment is charged. The obligation for such payments by each Lot or Unit Owner to the Master Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction of any kind or nature. Each Lot or Unit Owner is liable for Assessments made against such Owner's Lot or Unit during his period of ownership of the Lot or Unit. Each Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the joint, several and personal obligation of each Person who was an Owner of such Lot or Unit at the time when the Assessment became due. Upon the transfer of title to a Lot or Unit, the transferor and the transferee shall be jointly, severally and personally liable for all unpaid Assessments and other charges due to the Master Association prior to the date of transfer, and the transferee shall be personally liable for all such Assessments and charges becoming due thereafter.

**10.2 Statutory Lien.** The Master Association has a statutory lien pursuant to state law on the Lot or Unit of an Owner for all Assessments levied against such Lot or Unit or fines imposed against such Lot's or Unit's Owner from the time the Assessment or fine becomes due (the "Assessment Lien"). Fees, charges, late charges, attorneys' fees, fines and interest charged by the Master Association pursuant to the Act or this Master Declaration or any Supplemental Declaration are enforceable as Assessments. The amount of the lien shall include all such items from the time such items become due. If an Assessment is payable in installments, the Master Association has an Assessment Lien for each installment from the time it becomes due, including the due date set by the Executive Board's acceleration of installment obligations. An Assessment Lien is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of Assessments becomes due.

**10.3 Lien Superior to Homestead and Other Exemptions.** An Assessment Lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Idaho or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed subject to this Master Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

**10.4 Priority of Lien.** An Assessment Lien is prior to all other liens and encumbrances on a Lot or Unit, except as follows:

(a) Liens and encumbrances Recorded before the recordation of this Master Declaration;

(b) A security interest on the Lot or Unit which has priority over all other security interests on the Lot or Unit and which was Recorded before the date on which the Assessment sought to be enforced became delinquent. An Assessment Lien is prior to the security interest described in the preceding sentence to the extent of an amount equal to the Regular Assessments (based on a Budget adopted by the Master Association pursuant to Section 10.7 below) which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by the Master Association or any party holding a lien senior to any part of the Master Association lien created under this Article 10 of an action or a non-judicial foreclosure either to enforce or to extinguish the lien;

(c) Liens for real estate taxes and other governmental assessments or charges against the Lot or Unit; and

(d) As may otherwise be provided by applicable law.

This Article 10 does not prohibit an action or suit to recover sums for which this Article 10 creates a lien or prohibits the Master Association from taking a deed in lieu of foreclosure. Sale or transfer of any Lot or Unit shall not affect the lien for an Assessment.

**10.5 Perfection of Lien.** The Recording of this Master Declaration and of each Supplemental Declaration constitutes record notice and perfection of the statutory lien. Nor further Recordation of any claim of lien for Assessments is required; however, a claim may be Recorded at the Master Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Lot or Unit as a Reimbursement Assessment.

#### **10.6 Regular Assessments.**

(a) A Regular Assessment shall be made annually against each Lot and Unit, based upon an annual Budget prepared by the Executive Board, for purposes of paying (i) the annual costs of operating and administering the Master Association and all other Common Expenses, (ii) reasonable reserves for contingencies, replacements, and other proper purposes, (iii) the costs of services rendered or expenditures incurred by the Master Association to or for less than all Lots or Units, including without limitation the cost of maintaining yards, which costs and expenses shall be assessed only to the Lots or Units benefited, (iv) such other matters as may be reasonably determined by the Executive Board to be the subject of a Regular Assessment;

(b) Regular Assessments shall be allocated in accordance with the Allocated Interests of each Lot and Unit in the Property, except that (i) any Common Expense or portion thereof benefiting fewer than all of the Lots or Units shall be assessed exclusively against the Lots or Units benefited, and (ii) the costs of insurance shall be assessed in proportion to risk, and the costs of utilities shall be assessed in proportion to usage. If Common Expense liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be reallocated in accordance with the reallocated Common Expense liabilities.

(c) Regular Assessments shall be levied on a calendar year basis, except that the initial Regular Assessment period shall commence on the first day of the calendar month or quarter in which the first Lot or Unit is conveyed by Declarant to a Person other than Declarant. Regular Assessments shall be paid in installments on a monthly, quarterly, or semi-annual basis, as the Executive Board may determine from time to time, and shall be due either on the first day of each calendar month or on the first day of each calendar year quarter (January 1, April 1, July 1, and October 1), or on the first day of a semi-annual period (e.g., January 1, July 1) as appropriate. Unless and until changed to a monthly or semi-annual system by the Executive Board, Regular Assessments shall be due and payable on the first of each calendar quarter. Any Lot or Unit Owner acquiring a Lot or Unit between installment due dates shall pay a pro rata share of the immediately preceding installment.

(d) The Executive Board shall fix the amount of the Regular Assessment, using the budget procedure described blow, at least thirty (30) days before the end of each calendar year. Written notice of the Regular Assessment shall be sent to each Owner. Failure of the Executive Board timely to fix and levy the Regular Assessments for any year or to send a notice thereof to any Owner shall not relieve or release any Owner from liability for payment of Regular Assessments or any installments thereof for that or subsequent years as soon as the Executive Board levies the Regular Assessment and provides notice thereof.

(e) The Executive Board shall also mail to each Owner at least ten (10) days prior to the due date thereof a written notice of the amount of the next quarterly (or monthly or semiannual, as the case may be) installment of Regular Assessment that is due from such Owner, and the date on which such installment is due pursuant to paragraph 10.6(d) above. Failure of the Executive Board to send timely notice to any Owner of an installment of Regular Assessment due shall not relieve or release any Owner from liability for payment of that installment as soon as the Executive Board in fact provides such notice.

(f) Any surplus funds remaining after payment of or provision for Master Association expenses and any prepayment of or provision for reserves shall be carried forward as a credit against the next year's Budget.

**10.7 Master Association Budget.** By April, 2006, the Executive Board shall prepare or cause to be prepared an operating budget (the "Budget") for the current calendar year which may be adopted by the Executive Board without ratification. Commencing in 2007, and during the last six (6) months of each year thereafter, the Executive Board shall prepare or cause to be prepared an operating budget (the "Budget") for the next calendar year. The Budget shall provide for the allocation of any surplus funds remaining from any previous Budget period. Within thirty (30) days after adoption of any proposed Budget for the Master Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to all the Lot and Unit Owners and shall set a date for a meeting of the Lot and Unit Owners to consider ratification of the Budget not less than fourteen (14) nor more than sixty (60) days after the mailing or other delivery of the summary. Such meeting may, but need not be, concurrent with the annual meeting of the Members as provided in the Bylaws. Unless at that meeting sixty-seven percent (67%) of all Lot and Unit Owners reject the Budget, the Budget shall be ratified, whether or not a quorum of Owners is present. In the event that the proposed Budget is rejected, the Budget last ratified by the Lot and Unit Owners shall be continued until such time as the Lot and Unit Owners ratify a subsequent Budget proposed by the Executive Board.

**10.8 Special Assessments.** In addition to the Regular Assessments and Reimbursement Assessments authorized in this Article 10, the Executive Board 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, maintenance or replacement of capital improvements (including related fixtures and personal property and including without limitation irrigation systems, ditches, and ditch systems) to or upon or serving the Property, or for excess reconstruction costs or other extraordinary expenses, or for funding any operating deficit of the Master Association. Any Special Assessment for

an improvement or expenditure which will benefit fewer than all of the Lots or Units shall only be levied against the Lots or Units benefitted, provided that expenditures in connection with the Common Areas (shall be deemed for the general benefit of all Lots and Units, wherever located. Except in the event of an emergency, where no membership vote shall be required, the Executive Board shall not levy a Special Assessment without the approval of the Owners of the Lots and Units that will be subject to the Special Assessment as provided below.

Written notice of any meeting called for the purpose of levying a Special Assessment shall be sent to all Owners of Lots and Units that will be subject to the Special Assessment no less than thirty (30) or more than fifty (50) days before the meeting. At the meeting, the presence of Owners in person or by proxy of at least sixty percent (60%) of the Lots and Units that will be subject to the Special Assessment shall constitute a quorum. If the required quorum is not present, another meeting may be called pursuant to the same notice requirements, and the required quorum at this second meeting shall be only thirty percent (30%) of such Lots and Units. No such second meeting shall be held more than sixty (60) days following the date of the first meeting.

Provided a quorum of Owners entitled to vote is present in person or by proxy, in accordance with the quorum requirements set forth in the preceding paragraph, then the affirmative vote a majority of the Owners so present shall constitute approval of the proposed Special Assessment. For purposes of this Section 10.9, the term "emergency" shall mean any circumstances or set of circumstances which pose an imminent threat of loss, damage or injury, actual or threatened, to persons or property. Special Assessments shall be allocated in the same manner as Regular Assessments, that is, in accordance with the Allocated Interests of each Lot and Unit in the Property, and shall be due and payable to the Master Association on the due date fixed by the Executive Board in the notice given to the Owners of such Special Assessment, which due date shall be no earlier than thirty (30) days after the giving of such notice. If fewer than all of the Lots and Units will be subject to the Special Assessment, then such Special Assessment shall be allocated equally amongst those Lots and Units.

**10.9 Reimbursement Assessments.** In addition to Regular and Special Assessments authorized hereunder, the Executive Board may levy against any Owner or Owners, at any time and from time to time, a Reimbursement Assessment for purposes of reimbursing the Master Association for all costs and expenses incurred by it in enforcing any provision of or in remedying any violation of this Master Declaration, or of any Supplemental Declaration, the Articles, Bylaws, Master rules and Regulations or Master Development Guidelines, or any approvals granted by the Development Review Committee, by such Owner or Owners, their Occupant(s), or their agents, employees or contractors. Reimbursement Assessments may also be made by the Executive Board for any other purposes for which this Master Declaration provides for the levying of a reimbursement Assessment. Finally, and in addition to the foregoing, a reimbursement Assessment may also be levied in the form of a reasonable fine against an Owner for a violation of this Master Declaration, a Supplemental Declaration, the Articles, Bylaws, or the Master Rules and Regulations, but only after the Owner(s) to be so fined have been provided with Notice and Hearing. Reimbursement Assessments shall be due and payable to the Master Association on the due date fixed by the Executive Board in the notice given to the Owner(s) of such Reimbursement Assessment, which date shall be no earlier than thirty (30) days after the giving of such notice.

**10.10 Effect of Nonpayment of Assessments; Remedies of the Master Association.** Any Assessment or portion or installment thereof which is not paid when due (or for which a bad check is issued) shall be deemed delinquent and shall bear interest from and after the due date at the rate of interest set by the Executive Board from time to time, which shall not be less than twelve percent (12%) nor more than twenty-one percent (21%) per year, and the Executive Board may also assess a late charge (and/or a bad check charge) thereon. The Executive Board may also elect to accelerate the installment obligations of any Regular Assessment for which an installment is delinquent. The Executive Board may also suspend the delinquent Owner's use of the Common Areas and be liable for all costs, including attorneys' fees, which may be incurred by the Master Association in collecting a delinquent Assessment, which collection costs shall be added to the delinquent Assessment. The Executive Board may but shall not be required to record a Notice of Delinquent Assessment or charge against any Lot or Unit as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Executive Board, and shall set forth the amount of the unpaid Assessment or charge, the name of the delinquent Owner and a description of the Lot or Unit.

The Assessment Lien may be foreclosed by the Master Association in the same manner as a mortgage on real property. The Master Association shall be entitled to purchase the Lot or Unit at foreclosure. The Master Association may also bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Lot or Unit in the discretion of the Master Association. No Owner may exempt himself or otherwise avoid liability for the Assessments provided for herein by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Lot or Unit against which the Assessments are made where Assessments that are due from any Owner are more than ninety (90) days delinquent, the Executive Board may temporarily suspend any or all Master Association services or benefits to the delinquent Owner and his Lot or Unit, including the right to use Common Areas, until all delinquent Assessments are fully paid. In any action by the Master Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver to collect all sums alleged to be due from the Lot or Unit Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Master Association during the pending of the action to the extent of the Master Association's Regular Assessments.

**10.11 Statement of Unpaid Assessments.** The Master Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by facsimile transmittal, or by certified mail, first class postage prepaid, return receipt requested, to the Master Association, a written statement setting forth the amount of unpaid Assessments currently levied against such owner's Lot or Unit, whether delinquent or not. The statement shall be furnished within fourteen (14) days after receipt of the request and is binding on the Master Association, the Executive Board, and every Owner. If no statement is furnished either delivered personally or by facsimile transmission or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Master Association shall have no right to assert a lien upon the Lot or Unit for unpaid Assessments which were due as of the date of the request.

**10.12 Assessments for Tort Liability.** In the event of any tort liability against the Master Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Special Assessment. The Master Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions.

**ARTICLE 11  
EMINENT DOMAIN**

**11.1 Definition of Taking.** The term "taking," as used in this Article 11, shall mean condemnation by eminent domain or sale under threat of condemnation.

**11.2 Representation in Condemnation Proceedings of Common Areas.** In the event of a threatened taking of all or any portion of the Common Areas, the Lot and Unit Owners hereby appoint the Master Association through such persons as the Executive Board may designate to represent the Master Association and all of the Lot and Unit Owners in connection therewith. The Master Association shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Service of process on the Master Association shall constitute sufficient notice to all Lot and Unit Owners, and service of process on each individual Lot and Unit Owner shall not be necessary.

**11.3 Award for Common Area.** Any awards received by the Master Association on account of the taking of Common Area shall be paid to the Master Association. The Master Association may, in its sole discretion, retain any award in the general funds of the Master Association or distribute all or any portion thereof to the Lot and Unit Owners as their interests may appear. The rights of a Lot or Unit Owner and the Mortgagee of a Lot or Unit as to any such distribution shall be governed by the provisions of the Mortgage encumbering the Lot or Unit.

**11.4 Taking of Lots or Units.** If a Lot or Unit is acquired by eminent domain or part of a Lot or Unit is acquired by eminent domain leaving the Lot or Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Declaration, the award must include compensation to the Lot or Unit Owner for that Lot or Unit and its Allocated Interests whether or not any Common Area was acquired. Upon acquisition, unless the decree otherwise provides, that Lot's or Unit's Allocated Interests are automatically reallocated to the remaining Lots or Units (as appropriate) in proportion to the respective Allocated Interests of those Lots or Units before the taking. Any remnant of a Lot or Unit remaining after part of a Lot or Unit is taken is thereafter Common Area. Otherwise, if part of a Lot or Unit is acquired by eminent domain, the award must compensate the Lot or Unit Owner for the reduction in value of the Lot or Unit and its interest in the Common Areas whether or not any Common Area was acquired. Upon acquisition, unless the decree otherwise provides:

- (a) That Lot's or Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Lot or Unit; and
- (b) The portion of Allocated Interests divested from the partially acquired Lot or Unit is automatically reallocated to that Lot or Unit and to the remaining Lots or Units (as appropriate) in proportion to the respective interests of those Lots or Units before the taking, with the partially acquired Lot or Unit participating in the reallocation on the basis of its reduced Allocated Interests.

**11.5 Miscellaneous.** The court decree shall be recorded in Teton County. The reallocations of Allocated Interests pursuant to this Article shall be confirmed by an amendment to the Master Declaration prepared, executed and recorded by the Master Association.

**ARTICLE 12  
SPECIAL PROVISIONS**

**12.1 Air Quality Restrictions.** In order to protect against the degradation which occurs to air quality as a result of utilization of solid fuel burning devices, the following restrictions are imposed:

- (a) Any solid fuel burning fireplaces, stoves, appliances or other devices shall be allowed only on the Clubhouse Property.
- (b) All residential units within the Property shall not be allowed to use solid fuel burning devices but will be allowed natural gas burning fireplaces or appliances.

**12.2 Duration and Enforceability.** The restrictions set forth in this Article 12 shall constitute covenants running with the title to the Property and shall be binding upon Declarant and the Owners and all other persons and parties claiming through the Declarant or Owners and shall be for the benefit of and limitations upon all future Owners of the Property and the Lots and Units therein. Notwithstanding any other provision of this Declaration, all use restrictions set forth in this Article 12 shall be enforceable in perpetuity and shall not be amended or terminated by any act of the Owners or Declarant nor by any provision for termination of this Declaration. The restrictions of these special environmental use restrictions shall be enforceable in any and all manners provided in this Declaration by any Owners, by Declarant, or by the Master Association. Any such enforcement action may involve a claim for injunctive relief, for damages, or both, and the enforcing party shall be entitled to an award of its reasonable attorney fees and costs of enforcement, including but not limited to, court costs, expert witness fees, and cost of depositions and exhibits.

**12.3 Protection of Agricultural Land.** It is the intent of the Legislature to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance. The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the State of Idaho. "Agricultural Operation" includes, without limitation, any facility for the growing, raising or production of agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, livestock, field grains, seeds, hay, apiary and dairy products, and the producing for commercial purposes of livestock or agricultural commodities. No Agricultural Operation or an appurtenance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after the same has been in operation for more than one (1) year, when the operation was not a nuisance at the time the operation began; provided that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any Agricultural Operation or an appurtenance to it.

**ARTICLE 13  
GENERAL PROVISIONS**

**13.1 Duration of Master Declaration.** The terms of this Master Declaration shall be perpetual.



**13.2 Termination of Common Interest Community.** Community may be terminated only by the agreement of (i) Lot and Unit Owners to which at least eighty percent (80%) of the votes in the Master Association are allocated, and (ii) the holders of all first Mortgages on Lots and Units. In the event of such termination, the provisions of state law shall apply.

**13.3 Amendment of Master Declaration and Plat.** This Master Declaration and the Plat may be amended pursuant to state law. The Master Declaration and Plat may be amended by Declarant in certain defined circumstances, including when the Declarant is exercising reserved rights under Article 6 hereof, and for purposes of correcting clerical, typographical, or technical errors. In addition, the Master Declaration and Plat may be amended by the Master Association in certain defined circumstances. Otherwise, and subject always to (i) any provisions of this Master Declaration requiring the consent of Declarant, and (ii) the provisions of Section allowing Owners to amend this Master Declaration (with the consent of the Master Association) in certain circumstances such as creation of a condominium or lot line adjustments, this Master Declaration and any Supplemental Declarations (including the Plat and any Supplemental Plats) may be amended only by the vote or agreement of Lot and Unit Owners to which more than fifty percent (50%) of the votes in the Master Association are allocated.

Further, state law, except to the extent expressly permitted or required (e.g., permitted Declarant or master Association amendments), no amendment may (i) create or increase special Declarant rights, (ii) increase the number of Lots and Units, or (iii) change the boundaries of any Lot or Unit or the Allocated Interests of a Lot or Unit in the absence of a vote or agreement of Lot and Unit Owners to which at least sixty-seven percent (67%) of the votes in the Master Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots and Units not owned by Declarant.

Further, except to the extent expressly permitted or required by other provisions of state law, no amendment may change the uses to which any Lot or Unit is restricted in the absence of a vote or agreement of Lot and Unit Owners to which at least sixty-seven percent (67%) of the votes in the Master Association are allocated. No consent of any mortgage or trust deed holder shall be required to accomplish any such amendments.

With the exception of amendments accomplished by Supplemental Declaration (when lands are annexed to the Property), An amendment to this Master Declaration shall be in the form of a "First (or Second, etc.) Amendment to Master Declaration and Plat of Teton Reserve". With the exception of Declarant amendments, amendments to this Master Declaration shall be duly executed by the President and Secretary of the Master Association and Recorded in the Office of the Clerk and Recorder of Teton County. All amendments to this Master Declaration shall be indexed in the Grantee's index in the names of the Property and the Master Association, and in the Grantor's index in the name of each Person executing the amendment.

**13.4 Compliance; Enforcement.** Every Owner and Occupant of a Lot or Unit in the Property, and every other Person who may be an authorized user of any part of the Common Areas, shall fully and faithfully observe, abide by, comply with and perform all of the covenants, conditions and restrictions set forth in this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, the Master Development guidelines and all approvals granted by the Development Review Committee, as the same or any of them may be amended from time to time. In addition to any other rights or remedies that may be provided to any Person under the terms and provisions of this Master Declaration or of any Supplemental Declaration, Declarant (for as long as it holds any of the rights set forth in Article 6 hereof), the Association through its Executive Board, the Development Review Committee as to matters arising under Article 4 hereof, and every Lot and Unit Owner (except an Owner that is delinquent in the payment of Assessments hereunder) shall have the right, acting alone or together with others having such right, to enforce, by any proceeding at law or in equity, any or all of the covenants, conditions, restrictions, assessments, charges, liens, servitudes, easements and other provisions now or hereafter imposed by this Master Declaration, any Supplemental Declaration, the Articles, Bylaws, Master Rules and Regulations, the Master Development guidelines, and approvals granted by the Development Review Committee. Such enforcement rights shall include without limitation the right to bring an injunctive action for any form of injunctive relief available under Idaho law (including specific performance), or an action for damages, or both. Injunctive relief may include, without limitation, orders to stop work, orders to remove Improvements constructed in violation hereof, orders to compel performance, and any other orders appropriate under the circumstances.

The Executive Board shall have the further right (a) to levy and collect, after Notice and Hearing, reasonable fines for the violation of any of the foregoing matters, (b) to levy and collect a Reimbursement Assessment against any Owner, (c) to enter upon any Lot or Unit within the Property, after giving the Lot or Unit Owner or Occupant at least five (5) days' written notice of the nature of the violation, (unless an emergency exists, in which case without notice), without liability to the Owner or Occupant thereof, to enforce or cause compliance with such matters, at the cost and expense of the Owner or Occupant in violation, and/or (d) where the violation has continued for more than ninety (90) days after the Executive Board has given the Lot or Unit Owner or Occupant written notice of the violation, the Executive Board may temporarily cut off any or all Master Association services or benefits to the subject Owner or Occupant and his Lot or Unit, including the right to use Common Areas (except access roads), until the violation is cured.

In any action brought under this Section 13.4 the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection therewith. Failure by any party entitled to do so to exercise in a particular instance any of the rights available to it under this Section 13.4 shall in no event be deemed a waiver of the right to do so in any other instance.

Provided always, that no Owner shall have the right to bring an enforcement action against another Owner or Occupant for breach by the Owner or Occupant of any of such matters, or against the Master Association for a breach by the Master Association of any of such matters or for a failure by the Master Association to enforce compliance with such matters by others, until the aggrieved Owner has given the offending Owner or Occupant and the Master Association at least thirty (30) days prior written notice of the aggrieved Owner's complaint and the opportunity to resolve the problem during that thirty (30) day period.

And further provided, that notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of this Master Declaration, any Supplemental Declaration, the Bylaws, the Articles of Incorporation, or the Master Rules and Regulations, or to compel the removal of any building or Improvement because of the violation of the terms of any such building restriction, unless the action is commenced within one (1) year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained.

**13.5 Rights of First Mortgagees.** Upon the filing of a written request therefor with the Master Association, the holder of a First Mortgage on any Lot or Unit in the Property shall be entitled to:

- (a) Written notice from the Master Association that the Owner of the subject Lot or Unit is delinquent in the payment of Assessments thereon;
- (b) Inspect the books and records of the Master Association during normal business hours;
- (c) Receive copies of annual Master Association financial statements;
- (d) Receive written notice of meetings of the Master Association where matters will be considered that, if approved, will require the consent of First Mortgagees or some of them;
- (e) Receive written notice of condemnation proceedings affecting any Common Areas; and
- (f) Receive written notice of the lapse of any insurance that the Master Association is required to maintain under this Master Declaration.

In addition, any first Mortgagee shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against the Common Areas and may pay any overdue premiums on hazard or general liability insurance policies covering the Common Areas, and shall be entitled to immediate reimbursement therefor from the Master Association, unless the Master Association is contesting any unpaid taxes or other charges and has set aside sufficient funds to pay the contested amounts if necessary.

**13.6 Golf Course and Facilities.** In no event and for no purpose shall the Golf Course or any golf course improvements or facilities constructed thereon or related thereto be deemed to be a part of the Property, or be burdened by this Master Declaration or any Supplemental Declaration. No Lot or Unit shall have any right (i) to have the golf course and/or facilities constructed in any particular location on the Golf Course, (ii) to have or preserve a visual or sight easement over and across any portion of the Golf Course, and/or (iii) to have access to or across the Golf Course along any particular alignments.

**13.7 Golf Course Hazards, Risks and Liabilities: Disclosure, Assumption of Risk, Release and Indemnification.** The Golf Course will be used for golf play and related uses, facilities and uses. By acceptance of a deed to a Lot or Unit, each Lot and Unit Owner acknowledges and agrees that the golf course use enhances the value of the Lot or Unit by providing pleasant surroundings and open space for the Property. Each Lot and Unit Owner further acknowledges (i) that the use and operation of the Golf Course as a recreational facility involves certain risks to the Property, including but not limited to damage to property and improvements and personal injury and death caused by errant golf balls that may be hit into the Property, and (ii) that while the Property has been designed to minimize these risks to the extent reasonably possible, it would be impossible to render the Property free of all golf course-related risks. Certain of the more common hazards associated with the operation of a golf course are more particularly described in subsections (a) through (g) below (collectively the "Golf Course Hazards").

(a) **Errant Golf Balls.** Owners of Lots or Units, particularly Lots or Units abutting the Golf Course acknowledge the inherent risk of errant golf balls and assume and accept such risk. Owners acknowledge and accept the risk that golfers may attempt to retrieve errant golf balls from Lots or Units and each Owner agrees to release and waive any claims said Owner may have as a result of such retrieval.

(b) **View Impairment/Privacy.** Owners of Lots or Units, including Owners of Lots or Units abutting the Golf Course, have no guarantee that their view over and across the Golf Course will be forever preserved without impairment or that the view from the Golf Course will not be impaired. The Golf Owner has no obligation to the owners to prune or not prune trees or other landscaping and such Golf Owner may change, add to or reconfigure the golf course and related facilities and improvements on the Golf Course, including structural improvements, trees, landscaping, tees, bunkers, fairways and greens, without liability or obligation to the Owners.

(c) **Pesticides and Fertilizers.** Pesticides, fertilizers and other chemicals may be utilized in connection with the operation of the Golf Course and related landscaping and the Owners of Lots and Units acknowledge, accept and assume the risks associated with the use of pesticides, fertilizers and other chemicals.

(d) **Over spray.** Owners of Lots or Units, particularly Owners of Lots or Units abutting the Golf Course, may experience "Over spray" from the Golf Course irrigation system, and such Owners acknowledge, accept and assume the risks associated with such "Over spray."

(e) **Noise and Light: Tournaments.** Owners of Lots or Units, particularly Owners of Lots or Units in proximity to the golf course clubhouse, may be exposed to lights, noise or activities resulting from the use of the golf course for tournaments, from the use of the clubhouse for dining and entertainment, and from use of the parking lot, and such Owners acknowledge, accept and assume the risks associated with such uses.

(f) **No Access.** The Owner of each Lot and Unit abutting any portion of the Golf Course, by accepting a deed to his Lot or Unit, acknowledges that the Golf Owner may not permit access to any portion of the Golf Course directly from any Lot or Unit. Such access will only be permitted through the clubhouse and at such other entry points as the Golf Owner may from time to time specifically designate. Accordingly, each Owner of a Lot or Unit abutting any portion of the Golf Course agrees not to access the Golf Course directly from his Lot or Unit (unless otherwise expressly permitted by the Golf Owner), and agrees not to permit any of his Occupants, family, guests, invitees, licensees or any other person to do so.

(g) **Maintenance.** The Golf Course and related improvements and facilities require daily maintenance, including mowing, irrigation and grooming, during early morning, evening and night hours, including without limitation the use of tractors, mowers, blowers, pumps, compressors and utility vehicles. Owner of Lots or Units, particularly Owners of Lots or Units in proximity to the Golf Course, will be exposed to the noise and other effects of such maintenance, and such Owners acknowledge, accept and assume the risks associated with such maintenance activities.

IN CONSIDERATION FOR THE ABOVE-ACKNOWLEDGED ENHANCEMENT IN VALUE, AND WITH FULL AWARENESS OF THESE AND OTHER RISKS, BY ACCEPTING THE DEED TO A LOT OR UNIT EACH OWNER FOR HIMSELF AND HIS OCCUPANTS, INVITEES, LICENSEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY THE "OWNER'S RELATED PARTIES") HEREBY (1) ACKNOWLEDGES, ACCEPTS AND ASSUMES THE RISKS ASSOCIATED WITH SAID GOLF COURSE HAZARDS AND OF ANY

DAMAGE TO PROPERTY OR TO THE VALUE OF PROPERTY, DAMAGE TO IMPROVEMENTS, PERSONAL INJURY OR DEATH, OR THE CREATION OR MAINTENANCE OF A TRESPASS OR NUISANCE, CAUSED BY OR ARISING IN CONNECTION WITH ANY OF SAID GOLF COURSE HAZARDS OR OTHER RISKS, HAZARDS AND DANGERS ASSOCIATED WITH THE OPERATION OF A GOLF COURSE (COLLECTIVELY THE "ASSUMED RISKS"), AND (2) RELEASES, WAIVES, DISCHARGES, COVENANTS NOT TO SUE, INDEMNIFIES AND AGREES TO DEFEND AND HOLD HARMLESS THE DECLARANT, THE OFFICERS, DIRECTORS, PARTNERS, SHAREHOLDERS, MEMBERS, AFFILIATES, EMPLOYEES, CONTRACTORS, CONSULTANTS, AGENTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY THE "RELEASE PARTIES"), AND EACH OF THEM, FROM ANY AND ALL LIABILITY TO THE OWNER OR OWNER'S RELATED PARTIES FOR ANY DAMAGES, LOSSES, COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES), CLAIMS, DEMANDS, SUITS, JUDGMENTS, ORDINARY NEGLIGENCE, OR OTHER OBLIGATIONS ARISING OUT OF OR CONNECTED IN ANY WAY WITH ANY OF THE ASSUMED RISKS. THIS RELEASE IS INTENDED TO BE A COMPREHENSIVE RELEASE OF LIABILITY BUT IS NOT INTENDED TO ASSERT DEFENSES WHICH ARE PROHIBITED BY LAW. NOTWITHSTANDING THE FOREGOING, HOWEVER, THIS SECTION 13.7 SHALL NOT LIMIT THE LIABILITY OF INDIVIDUAL GOLFERS USING THE GOLF COURSE.

The acknowledgments, assumptions of risk and agreements contained in this Section 13.7 shall be deemed to run with the title to each Lot and Unit within the Property.

**13.8 Notice.** Each Lot and Unit Owner, and each First Mortgagee, if it so elects, shall register its mailing address from time to time with the Master Association. Except as otherwise specifically provided in this Master Declaration, any notice permitted or required to be given hereunder shall be in writing and may be delivered either personally, or by facsimile transmission, or by mail. Notices delivered personally or sent by facsimile transmission shall be deemed given on the date so delivered or sent. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been posted in the first-class U.S. Mail with adequate postage affixed, addressed to the receiving party at the address last registered by such party with the Master Association, or in the case of a Lot or Unit Owner that has not provided such an address, to the Lot or Unit of that Owner. Notices to the Master Association shall be sent to such address as it may from time to time designate in writing to each owner.

**13.9 No Dedication to Public Use.** Except for the streets and pedestrian path conveyed to the County for public use by separate instrument, and except as otherwise expressly provided herein to the contrary, nothing contained in this Master Declaration or in any Supplemental Declaration shall be deemed to be or to constitute a dedication of all or any part of the Property to the public or to any public use.

**13.10 Interpretation of Master Declaration and Supplemental Declarations.** The provisions of this Master Declaration and of all Supplemental Declarations shall be liberally construed to effectuate its purposes of creating a common and general plan for the development, improvement, enhancement, protection and enjoyment of the Property, and to the extent possible, shall be construed so as to be consistent with the Act. In the event that any of the terms and conditions of this Master Declaration or of any Supplemental Declaration are determined to be inconsistent with the requirements of state or federal law, applicable law shall control.

**13.11 Conflict With Plats.** In the event of any conflict or inconsistency between the provisions of this Master Declaration or any Supplemental Declaration and the Plat, or any Supplemental Plat, including the Plat notes thereon, the provisions of said Plat or Supplemental Plat or Plat notes, as the case may be, shall govern and control and this Master Declaration or any Supplemental Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said Plat, Supplement Plat or Plat notes.

**13.12 No express or implied Covenants on Lands Not Annexed.** Nothing in this Master Declaration or in any Supplemental Declaration shall create, or be deemed to create, any express or implied covenants upon or with respect to any real property or interest therein not actually annexed to the Property in the manner provided herein.

**13.13 Violations Constitute a Nuisance.** Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Master Declaration, or in any Supplemental Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not this relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Master Declaration. This provision does not limit the remedies that may be available under this Master Declaration or at law or in equity. Failure of the Master Association to bring enforcement action to correct any violation of this Master Declaration or any Supplemental Declaration shall not constitute a waiver of or estop the Master Association from bringing a future or subsequent enforcement action to correct such violation or any other similar violation.

**13.14 Declarant's Disclaimer of Representations and Warranties.** No representations or warranties of any kind, express or implied, have been given or made or shall be deemed to have been given or made by Declarant or its agents or employees in connection with the Property or the Golf Course or any portion thereof or any Improvements thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use or operation, adequacy or availability of utilities, or in connection with the subdivision, sale, improvement, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing herein, in any registration statement or purchase and sale agreement executed by Declarant, or in any closing document related thereto. Furthermore, no such representations or warranties have been given or made or shall be deemed to have been given or made by Declarant or its agents or employees that the plans presently envisioned for the complete development of the Property and/or the Golf Course can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Master Declaration or that any such land (whether or not it is subjected to this Master Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect, unless and except as shall be specifically set forth in writing herein, in any registration statement or purchase and sale agreement executed by Declarant, or in any closing document related thereto.

**13.15 Captions.** Captions given to various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof and shall not be considered in interpreting any of the provisions hereof.

**13.16 Singular Includes Plural.** Unless the context requires a contrary construction, as employed in this master Declaration the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

**13.17 Remedies Cumulative.** Each remedy provided under this Master Declaration is cumulative and not exclusive.

**13.18 Costs and Attorneys' Fees.** In any action or proceeding involving the interpretation or enforcement of any provision of this Master Declaration, or any Supplemental Declaration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith.

**13.19 Governing Law; Jurisdiction.** The laws of the State of Idaho shall govern the interpretation, validity, performance, and enforcement of this Master Declaration and any Supplemental Declaration. Any legal action brought in connection with this Master Declaration or any Supplemental Declaration shall be commenced in the District Court for Teton County, Idaho, and by acceptance of a deed to a Lot or Unit each Lot or Unit Owner voluntarily submits to the jurisdiction of such court.

**13.20 Severability.** Any determination by any court of competent jurisdiction that any provision of this Master Declaration or of any Supplemental Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Where any provision of this Master Declaration or any Supplemental Declaration is alleged to be or declared by a court of competent jurisdiction to be unconscionable, Declarant shall have the right by amendment to this Master Declaration or Supplement Declaration to replace such provision with a new provision, as similar thereto as practicable but which in Declarant's reasonable opinion would be considered not to be unconscionable.

**13.21 Disclaimer Regarding Safety.** DECLARANT AND THE MASTER ASSOCIATION HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY. ANY OWNER OF PROPERTY WITHIN THE PROPERTY ACKNOWLEDGES THAT DECLARANT AND THE MASTER ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BYLAWS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY .

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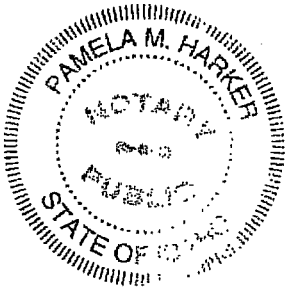
DECLARANT:

Pamela Wascher, Secretary of Broadmoor Company,  
Inc., General Partner of Teton Valley Golf  
Associates LP

State of Idaho )  
                  )ss.  
County of Teton )

The foregoing Master Plan Declaration and First Amendment to Covenants, Conditions and Restrictions for Teton Reserve was acknowledged before me, in the County of Teton and State of Idaho, this 23<sup>rd</sup> day of January, 2006, by as Pamela Wascher, Secretary of Broadmoor Company, Inc., General Partner of Teton Valley Golf Associates LP, an Idaho limited partnership.

WITNESS my hand and official seal this 23<sup>rd</sup> day of January, 2006.



Notary Public for State of Idaho  
Residing at: Teton, Id  
My commission expires: 01-23-2007