

Olympic Investments
ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

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MASTER

**Declaration of
Covenants, Conditions, Restrictions And Easements
For
Rockbridge Subdivision**

THIS DECLARATION is made on the date hereinafter set forth by OLYMPIC INVESTMENTS, LLC, an Idaho Limited Liability company, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the Owner of the following real property in the City of Star, County of Ada, State of Idaho, hereinafter sometimes referred to as the "Property":

All the land within the boundaries of Rockbridge Subdivision Phase 1, according to the plat thereof recorded in Book 83 of Plats at pages 9225 thru 9230, Instrument #102039399, records of Ada County, State of Idaho.

WHEREAS, the Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitudes herein set forth to (i) ensure the enhancement and preservation of property values, (ii) provide for the proper design, development, improvement and use of the Property by the Declarant and all other persons or entities who may subsequently acquire an interest in the Property, and (iii) create a residential development of high quality;

WHEREAS, as additional land owned and platted by the Declarant adjacent to or in the vicinity of the Property is platted and developed for uses similar to that of the Property, upon election by the Declarant, such shall become subject to the terms of this Master Declaration by annexing the same as provided herein;

WHEREAS, because the Property will be developed in several phases, each of which may have unique characteristics, needs and requirements, the Declarant may, from time-to-time, promulgate further conditions, covenants, restrictions and easements as "Supplemental Declarations" relating to particular tracts or parcels of real property within the Property; and

WHEREAS, in order to achieve the objectives and desires of the Declarant, the Declarant will control the management and government of the Property and the non-profit corporation to be created (the "Association") until such time as the Owners take over the management functions through the Association after substantial completion of the development process.

ARTICLE I. DECLARATION

Declarant hereby declares that the Property, with the exception of Lot 1, Block 4, Phase 1, and Lot 2, Block 4, Phase 1, shall be held, sold and conveyed subject to the following Covenants, Conditions, Restrictions and Easements which are established for the purpose of protecting the value and desirability of, and which shall run with and bind, the Property, and each and every part, parcel and Lot thereof, and be binding on all parties having any right, title or interest in the Property or any part, parcel or Lot thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE II. DEFINITIONS

As used in this Master Declaration or in any Supplemental Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

- 2.1 **ACHD** shall mean and refer to the Ada County Highway District.
- 2.2 **Annexed Property** shall mean and refer to any real property made subject to this Master Declaration by Supplemental Declaration pursuant to the provisions hereof for the annexation of additional parcels of real property.
- 2.3 **Architectural Review Committee** shall mean the Architectural Review Committee for the Subdivision.
- 2.4 **Architectural Review Committee Standards and Guidelines** shall mean such rules and/or standards promulgated by the Architectural Review Committee as authorized herein.
- 2.5 **Association** shall mean and refer to Rockbridge Homeowner's Association, Inc. a non-profit corporation organized under the laws of the State of Idaho, or any successor or assign of the corporation.
- 2.6 **Assessment** shall mean a payment required of Association members, including Regular, Special or Limited Assessments as provided in this Master Declaration.
- 2.7 **Board** shall mean the duly elected and qualified Board of Directors of the Association.
- 2.8 **Building** shall mean a structure constructed on a Lot on a temporary or permanent basis and unless specified to the contrary shall include all other appurtenances and improvements thereto or used in connection therewith.
- 2.9 **Bylaws** shall mean the Bylaws of the Association including any amendments thereto duly adopted.

2.10 **Common Area** shall mean all property, or interest therein, located within or outside of the boundaries of the Property in which the Association owns an interest or controls or which the Association is obligated to maintain, and which is owned, held, or maintained for the betterment of the Owners and Occupants of the Property.

2.11 **Common Facilities** shall mean and refer to the physical improvements constructed by Declarant or the Association upon Common Area, or upon the utility easement over each Lot including, without limitation, all Association owned street lights, entry way lights, signs (excluding street signs), benches, bridges, walkways and pedestrian paths, streams, and lakes, and the irrigation water system.

2.12 **Declarant** shall mean and refer to Olympic Investments, LLC, its successors and assigns provided that such successor or assign has acquired more than two (2) Lots and that such lots constitute the remainder of unconveyed Lots owned by Declarant.

2.13 **Dwelling** shall mean a Building intended for use as a single family residence.

2.14 **Exempt Property** shall mean all properties within the Property which have been dedicated to, and accepted by, a local public authority and all properties owned by the Association or Declarant, all of which properties shall be exempt from assessments created herein, except that such term shall not include any land or improvements devoted to dwelling use.

2.15 **Improvements** shall mean all structures and appurtenances thereto of all kinds and types, including but not limited to, buildings, roads, driveways, parking lots, sidewalks, walkways, walls, fences, screens, landscaping, poles, signs and lighting. Improvements shall not include those items that are located totally on the interior of a Building and cannot be readily observed when outside thereof.

2.16 **Lot** shall mean and refer to all Lots within and shown upon any recorded subdivision map of the Property, except the Common Area, and except for streets dedicated to the public as shown upon the recorded subdivision map.

2.17 **Master Declaration** shall mean this instrument as it may be amended from time to time.

2.18 **Member** shall mean and refer to any person or entity that is a member of the Association as defined by the Articles and Bylaws of the Association and this Master Declaration.

2.19 **Mortgage** shall mean any mortgage or deed or other hypothecation of land located in the Property to secure the performance of an obligation. Unless otherwise specifically provided, the reference to a "Mortgage" in this Master Declaration shall be limited to a "first Mortgage" including a "first Deed of Trust" on a Lot.

2.20 **Mortgagee** shall mean the holder of a Mortgage or the beneficiary under a Deed of Trust, including an assignee(s) thereof, which Mortgage or Deed of Trust encumbers a Lot. Unless otherwise specifically provided, the reference to a "Mortgagee" in this Master Declaration shall be limited to a holder of a first Mortgage, including a beneficiary under a first Deed of Trust on a Lot.

2.21 **Occupant** shall mean any person, association, corporation or other entity who or which is an Owner, or has leased, rented, been licensed, or is otherwise legally entitled to occupy and use any Building or Improvement on a Lot whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.

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

2.23 **Plat** shall mean a final subdivision plat covering any real property in the Subdivision, as recorded in the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto.

2.24 **Property** shall mean and refer to the real property consisting of Rockbridge Subdivision Phase 1 according to the official plat thereof and every part, parcel, and Lot thereof, and shall further mean and refer to such additional real property as may hereafter be made subject to this Master Declaration by Supplemental Declaration, pursuant to the provisions hereof for the annexation of additional parcels of real property.

2.25 **Structure** shall mean anything constructed or erected, the use of which requires location on the ground or attachment, to something having a fixed location on the ground. Among other things, a structure shall include a Building and a Dwelling.

2.26 **Supplemental Declaration** shall mean the additional or different conditions, covenants, conditions, restrictions and easements relating to a particular tract or parcel of real property promulgated by the Declarant and recorded in the official records of Ada County, Idaho. Unless specifically provided to the contrary, or unless the context otherwise requires, a reference to "Master Declaration" shall include "Supplemental Declaration."

Whenever the context so requires, the use of the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

ARTICLE III. PROPERTY RIGHTS

Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area and Common Facilities, which shall be appurtenant to, and shall pass with the title to every Lot subject to the following provisions:

3.1 **Rules and Regulations**: The Association shall have the right from time to time to adopt rules and regulations regulating the use and enjoyment of the Common Area and Common Facilities including the right to limit the number of guests and charge admission and other fees for the use of any Common Facility;

3.2 **Improvements**: The Association shall have the right, in accordance with its Articles and Bylaws, to borrow money for the purpose of maintaining and improving the Common Area and Common Facilities and in support thereof to mortgage said Common Area, provided that the rights of such mortgagee shall at all times be subordinate to the rights of the Owners under this Master Declaration;

3.3 **Enforcement**: The Association, the Declarant, and any Lot Owner or Owners shall have the right to enforce the provisions of this Master Declaration as provided for herein;

3.4 **Suspension**: The Association shall have the right to suspend the voting rights and right to use the Common Area and Common Facilities of any Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

3.5 **Easements**: The Association shall have the right to grant easements in the Common Area for utilities and similar purposes;

3.6 **Dedication**: The Association shall have the right to dedicate or transfer all or any part of the Common Area or Common Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by two-thirds (2/3) of the votes of the members of the Association; and,

3.7 **Delegation**: Any Owner may license or delegate his right of enjoyment of the Common Area and Common Facilities to the members of his family, his tenants, or contract purchasers who reside on the Property, subject to the provisions of this Master Declaration.

ARTICLE IV. RIGHTS RESERVED BY DECLARANT

Notwithstanding anything to the contrary contained in this Master Declaration, Declarant expressly reserves unto:

4.1 Itself, its employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees, easements and rights-of-way on, over and across all or any part of the streets for vehicular and pedestrian ingress and egress to and from any part of the Property, or any adjacent real Property owned by Declarant, or its successors or assigns;

4.2 Itself, its employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements, access and rights-of-way on, over, under and

across all or part of the Common Area and utility easements on, over and under all Lots and Common Area as provided on any recorded Plat of the Property for installation, use, maintenance and repair of all lines, wires, pipes, pumps, water wells, facilities, and other things necessary for all such services, provided that any installation, maintenance or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and,

4.3 Itself, its employees, successors, assigns, agents, representatives, contractors and their subcontractors and employees, the right to use the Common Area and Common Facilities, where applicable, to facilitate and complete the development of the Property, and any Annexed Property, including without limitation, the use of the Common Area and Common Facilities, where applicable, for:

- A. Construction, excavation, grading, landscaping, parking and/or storage;
- B. Maintenance and operation of a sales office and model units for sales purposes;
- C. The showing to potential purchasers of any unsold Lot, unit or improvements within the Property;
- D. Display of signs to aid in the sale of any unsold Lots and units, or all or part of the Property;
- E. Construction, operation and maintenance of all or any portion of any Common Area or Common Facilities by Declarant, its successors or assigns;
- F. Use of the irrigation system for irrigation water for Common Area and expansion and connection of the irrigation system to any Annexed Property, and the use and enjoyment of water there from.

ARTICLE V. MAINTENANCE

5.1 **Common Area and Common Facilities:** Among its other responsibilities, the Association shall be responsible for maintenance of all Common Area and Common Facilities including operation of the irrigation water system. The Association may employ the services of a manager and other personnel to carry out such responsibilities. Such Common Area and Common Facilities shall be maintained in a neat, landscaped and becoming manner. Common Area within the Property hereinabove described shall include Lot 1 of Block 1, Lot 1 of Block 2, Lot 1 of Block 3, Lots 3 and 4 of Block 4, Lots 1, 7, 19, 50, and 51 of Block 5, Lot 7 of Block 6, and Lot 1 of Block 7 of Rockbridge Subdivision Phase 1, according to the plat of the Property on

file in the office of the recorder of Ada County, Idaho, together with easements and rights-of-way as shown upon the recorded Plat for pedestrian paths, streams, lakes and the irrigation system constructed and to be constructed for the Property whether or not within said Common Area. Common Area and Common Facilities shall also include such other real and personal property as may be conveyed to the Association from time to time by Declarant, or designated by it as Common Area in any Supplemental Declaration. The Association may not convey or change the use of the Common Area or Common Area Facilities without the prior written approval of the Star City Council. The Association shall at all times comply with the open space, pressurized irrigation, and drainage requirements of the City of Star.

5.2 **Private Property:** Owners of Lots shall be responsible for and perform all exterior maintenance upon such Lots and all improvements thereon. All front, side and rear yards shall be landscaped and maintained in a professional manner including, but not limited to, lawns cut, fertilized, weed and clover free, shrubs trimmed, rubbish and debris removed and otherwise maintained in a neat and aesthetically pleasing condition. No Building or Structure upon any Lot covered by this Master Declaration shall be permitted to fall into disrepair and each such Building and Structure shall at all times be kept in good condition and repair and adequately painted.

ARTICLE VI. STORM WATER DRAINAGE AND RETENTION SYSTEM

6.1 **Ada County Highway District Storm Water and Drainage Easement:** The Ada County Highway District (ACHD) is hereby granted a perpetual blanket storm water, drainage, overflow and retention easement over Lot 1, Block 7, Lot 3, Block 4, and Lots 7 and 19, Block 5, and also over a portion of Lot 4, Block 4 and Lot 7, Block 6, Rockbridge Subdivision Phase 1, together with an access easement over a portion of Lot 2, Block 7, Rockbridge Subdivision Phase 1. The easement granted hereby shall include the right to construct, install, maintain and replace a Storm Water Drainage and Retention System, together with the right of access thereto for all purposes consistent with this grant of easement, the limits of which are depicted on the Plat of Rockbridge Subdivision Phase 1. As used herein, the Storm Water Drainage and Retention System also includes the street gutters, drop inlets, storm drain pipes and all related facilities.

6.2 **Storm Water and Drainage Easement Area Restrictions:** The drainage easement area described in this Article shall be improved with biovegetated grassy swales in which no permanent buildings, fences, trees or structures shall be placed. Notwithstanding the foregoing, other landscaping improvements (for example, shrubs and grass) and playground equipment, benches and the like may be placed or installed in the biovegetated grassy swale areas, providing that the placement and installation of such improvements shall not interfere with the easements granted to ACHD hereunder or interfere with the Storm Water Drainage and Retention System. In the event any such improvements are placed or installed in the said easement area, ACHD shall have no responsibility or liability for any damage thereto or destruction thereof which may occur as a result of any reasonable maintenance or repair activities undertaken by ACHD.

6.3 **Operation and Maintenance of Storm Water Drainage and Retention**

System: The Association shall provide all “light” maintenance of the Storm Water Drainage and Retention System, including the swale areas described herein, and as specified in the applicable operation and maintenance manual. Required maintenance shall include, but not be limited to, the following:

- A. Periodic inspection of the Storm Water Drainage and Retention System, including the banks of the retention area and biovegetated grassy swales for water spots and other erosion, on at least a monthly basis;
- B. Landscape maintenance including, but not limited to, mowing, trimming, fertilizing and irrigating provided however any such irrigation shall not interfere with the operation of the Storm Water Drainage and Retention System;
- C. Collection and disposal of any and all trash and debris found in and around the easement area; and,
- D. Periodic inspection of the bottom of the biovegetated grassy swale areas for the accumulation of sediment or organics.

6.4 **Association’s Failure to Maintain; Ada County Highway District Remedies:**

In the event that ACHD determines in its sole discretion that the Association is not adequately maintaining the Storm Water Drainage and Retention System, then ACHD shall be permitted to do so provided however that before undertaking maintenance of the said system, ACHD shall provide thirty (30) days advance written notice of its intention to do so and by which said notice shall specifically identify the maintenance which is then required. In the event the Association shall fail to complete the items of maintenance as specified in said notice within the thirty (30) day period provided, then in that event, ACHD may begin to undertake such maintenance. ACHD is hereby granted an irrevocable license and easement to enter upon any portion of the storm water and drainage easement area to perform such maintenance and inspection of the Storm Water Drainage and Retention System. Should ACHD engage in maintenance of the Storm Water Drainage and Retention System after having provided the required notice to the Association and having provided the Association an opportunity to undertake said maintenance, ACHD shall first bill the Association for the cost of the said maintenance and, if said bill is not paid within sixty (60) days, then ACHD shall be entitled and empowered to file a taxable lien against all Lots with the power of sale as to each and every Lot in order to secure any and all assessments levied against all Lots pursuant to this Master Declaration, as if the said maintenance had been performed by the Association, together with interest at the rate which accrues on judgments thereon and all costs of collection which may be paid or incurred by ACHD. The Association, and all Owners, by accepting title to a Lot, agree that all Owners are benefited Property Owners of such maintenance. The Association shall not be dissolved or relieved of its responsibility to maintain the Storm Water Drainage and Retention System without the prior written approval of ACHD.

6.5 **Heavy Maintenance of Storm Water Drainage and Retention System:** ACHD shall perform the “heavy” maintenance of the Storm Water Drainage and Retention System which said “heavy” maintenance consists of periodically inspecting the Storm Water Drainage and Retention System to ensure it is functioning properly, cleaning out the facility piping, and mucking out the facility when the sediment level exceeds the designed storage level. In the event ACHD shall elect not to perform such “heavy” maintenance, then the Association shall do so. Notwithstanding anything contained hereinabove to the contrary, ACHD shall own and be responsible for the operation, maintenance and repair of all storm drains within the public rights-of-way and within any Ada County Highway District storm drain easements as may depicted on the Plat.

ARTICLE VII. USE AND BUILDING RESTRICTIONS

The use of any Lot and the construction of any Improvements thereon, shall be subject to the following requirements and restrictions:

7.1 **Building Restrictions:**

A. With the exception of Lots 1 and 2, Block 4, Phase 1, which are hereby reserved by Declarant as commercial Lots, no Building, Structure, or Improvements shall be constructed, erected, altered or maintained on any Lot, nor shall any portion of the Property be used, designed or intended to be used for any purpose other than a single family dwelling, together with usual and appropriate structures, if any, approved by the Architectural Review Committee provided however that an office and model home or homes for the purpose of the development, construction and marketing of Lots and homes in the Property may be maintained by Declarant. In no event shall a manufactured home be erected, placed or permitted to remain on any Lot. All Buildings must comply with the applicable ordinances of the City of Star.

B. Lots 1 through 5, inclusive, in Block 7, Phase 1 are subject to a License Agreement recorded as Instrument No. 101037716, and Addendum to License Agreement recorded as Instrument No. 101092220, with Drainage District No. 2, which said License Agreement provides, among other things, that no building, wall, patio cover or other structure shall be constructed within the easement area described therein except that a fence no taller than three (3) feet in height (which has been approved in writing by the Architectural Review Committee) may be constructed not closer than twenty (20) feet from the west Property line of the said Lots.

C. The occupancy of a single family dwelling shall be limited to persons related by blood, adoption or marriage, or to other persons living together as a single household, no more than two of whom are unrelated to any other occupant.

D. No Improvement shall be built, constructed, erected, placed or materially altered within the Property unless and until the plans, specifications and site plan therefore have been reviewed in advance and approved in writing by the Architectural

Review Committee in accordance with the provisions of Article X hereof, and comply with the applicable ordinances of the City of Star.

E. All Buildings shall be of frame, stone, stucco or brick construction and, if other than stone or brick, shall be finished, painted and maintained in good repair.

7.2 **Minimum Building Size and Height:**

A. No Dwelling shall be erected, altered, placed or permitted to remain on any Lot, which contains less than 1,200 square feet of living area; and if the Dwelling contains more than one story, the minimum square footage of living area at grade shall be 800 square feet. The square footage of living area shall be based on the interior living space at or above the grade of the Lot, exclusive of basement, porches, patios and garages.

B. No Dwelling shall exceed thirty-five (35) feet in height, above grade at its highest point. No other Structure shall exceed twenty-two (22) feet in height, above grade to its highest point, unless the Architectural Review Committee approves the same in writing.

7.3 **Setbacks:** Subject to the requirements of the applicable ordinances of the City of Star and the rights of the Architectural Review Committee to approve the site plan for any Building to be constructed upon a Lot:

A. All Dwellings shall be subject to the setbacks set forth in the Architectural Review Guidelines. Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the governmental entities having jurisdiction over the Property require setbacks different than those provided herein, the more restrictive shall prevail.

B. All other Structures shall be subject to such setbacks as may be required by the Architectural Review Committee. Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the governmental entities having jurisdiction over the Property require setbacks different than those provided herein, the more restrictive shall prevail.

C. For the purpose of this section, eaves, steps, chimneys and gutters shall not be considered as a part of the Dwelling provided however that this shall not be construed to permit any eaves, steps, chimneys or gutters or any portion of the Dwelling to encroach upon any other Lot. Open porches shall not be considered as a part of the Dwelling for purposes of this section, but any open porch shall, prior to construction, require the approval of the Architectural Review Committee.

7.4 **Building Site Subdivision**: A building site shall consist of at least one (1) Lot, or a parcel composed of more than one (1) Lot. No Lot shall be further subdivided after the initial transfer thereof by Declarant. No parcel composed of more than one (1) Lot conveyed for the purpose of constructing a single family dwelling thereon, shall be subdivided or conveyed other than as a single indivisible parcel unless title thereto reverts to Declarant.

7.5 **Fences & Hedges**: No fences or walls shall be constructed, erected, installed or maintained on any Lot unless specifically approved by the Architectural Review Committee in writing, in advance of construction, as to location, material, design and color. All fences and hedges must comply with the applicable ordinances of the City of Star.

7.6 **Construction**: During the course of construction, no trailer houses or similar mobile units designed for overnight accommodations shall be parked on any street. No trailer, basement, tent, shack, garage, barn or other unattached structure erected on a Lot shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No building of any kind shall be erected or maintained on a Lot prior to the construction of the Dwelling thereon. Declarant or its authorized agents, to facilitate Lot sales, may place a temporary sales office of a portable nature upon any Lot. The construction of Improvements shall be prosecuted diligently and continuously from the time of commencement thereof until such Improvements are fully completed and painted. The construction site shall be cleaned of trash and debris nightly and maintained in a non-nuisance condition.

7.7 **Mining and Drilling**: No derrick or other structure designed for use in boring or drilling for oil, natural gas or other products shall be erected, placed, permitted or maintained upon any portion of the Property, nor shall any oil, natural gas, petroleum, asphalt or other hydrocarbon product or substance be produced or extracted by or from any well upon, in or under said Property. No oil drilling, oil development operations, oil refining, mining, quarrying or other mineral excavation or similar activity shall be permitted on or under any part of the Property, nor shall oil wells, tanks, tunnels, mineral excavations, shafts or drifts be permitted upon or in any Lot. No excavation for stone, sand, gravel, earth or minerals shall be made upon a Lot, unless and only to the extent, such excavation is necessary in connection with the construction of an approved Structure thereon.

7.8 **Animals**. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, domestic cats or other household pets may be kept for an Owner's personal use, provided:

- A. Such animals are not bred or maintained for any commercial purpose; and,
- B. No more than two (2) dogs and/or two (2) cats may be kept on a Lot.
- C. Any such household pets shall be properly restrained and controlled at any time they are within the Property. When such household pets are off an Owner's property, each household pet shall be on a leash. It shall be the obligation of an Owner to

control his animals in accordance with the Rules and Regulations from time to time adopted by the Association.

D. Any kennel for animals, which is constructed or maintained on any Lot, shall be; (1) screened from view in a location and of construction approved by the Architectural Review Committee; (2) located and maintained in a manner to avoid any endangerment of or nuisance to adjacent Lot Owners; and (3) maintained in a clean, odor free and insect free manner.

E. "Household pets" as permitted hereby shall not include livestock, poultry, swine, or waterfowl.

F. Notwithstanding the foregoing, household pets shall not be kept which unreasonably bother or constitute a nuisance to other Owners.

7.9 **Landscaping**: Prior to the completion of construction of the Dwelling upon any Lot, the Owner shall submit a landscaping plan to the Architectural Review Committee for written approval. The Owner shall landscape such Lot in conformance with the landscape plan approved by the Architectural Review Committee within thirty (30) days after substantial completion of Dwelling provided however that if placement and planting of landscaping is made impractical by inclement weather, the completion of landscaping may be deferred a reasonable period of time in the discretion of the Architectural Review Committee (but shall be completed no later than the next April 30th following occupancy). Prior to construction of Improvements, the Owner shall remove weeds and maintain the Lot in a clean and safe condition free of debris or any hazardous condition. The landscaping plan must comply with the applicable ordinances of the City of Star.

7.10 **Unsightly Structures, Property or Practices**: No unsightliness shall be permitted on any Lot. Without limiting the generality of the foregoing, the following specific restrictions shall apply:

A. All unsightly facilities, equipment or structures shall be enclosed within approved structures or appropriately screened from view.

B. Basketball backboards or posts shall not be installed without prior approval of the Architectural Review Committee as to materials and positioning. At a minimum, backboards shall be constructed of Plexiglas or acrylic materials and shall be supported by metal posts. Backboards must be perpendicular to and adjacent to the driveway or to the side of the house. Portable basketball stands must have a backboard constructed of Plexiglas or acrylic materials and must not be put on public or Association owned sidewalks and/or streets and must be kept in an upright position.

C. All refuse, garbage and trash shall be kept at all times in covered reasonably noiseless containers, which shall be kept and maintained, within an enclosed structure or appropriately screened from view except when necessarily placed for pick up

by garbage removal service not to exceed 18 hours in any one (1) week period (Monday through Sunday).

D. Storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be screened from view in a location and of construction approved by the Architectural Review Committee; and located and maintained in a manner to avoid any endangerment of or nuisance to, adjacent Lot Owners. No lumber, grass, shrubs or tree clippings or scrap, refuse, trash or other materials shall be kept, stored or allowed to accumulate on any Lot.

7.11 **Material Storage and Maintenance of Vacant Lots:** No building materials of any kind shall be placed or stored upon a Lot until the Owner is ready and able to commence construction and then such material shall be placed within the property lines of the Lot upon which the Structure is to be erected. All vacant lots shall be maintained by Owner in a weed free manner at all times.

7.12 **Noxious Use of Property:** No portion of the Common Area, any Lot, or any Structure thereon shall be used for the conduct of any trade or business or professional activities. No business or home occupation shall be conducted from any Lot, except that a home office may be maintained provided that such use is not apparent from the exterior of the structure and such use does not generate third party traffic (provided however that this provision shall not restrict Declarant's rights as set forth in Article IV of this Master Declaration). The prohibition of use of any Lot or any Structure thereon for the conduct of any trade or business or professional activities includes and prohibits use of any Lot or any Structure thereon for a "half-way house," treatment center, nursing home, shelter home or other similar use, including use for the full time care and residence of unrelated physically or mentally handicapped persons. Noxious or undesirable acts or undesirable use of any portion of the Property is prohibited and shall not be permitted or maintained.

7.13 **Boats, Campers and Other Vehicles:** Trailers, travel trailers, pick-up trucks larger than three-quarter (3/4) ton, boats, tractors, campers, utility trailers, recreation vehicles including, but not limited to, all-terrain vehicles, motorcycles, jet skis, snowmobiles, garden or maintenance equipment and vehicles other than automobiles, shall be kept at all times in an enclosed structure or screened from public view and at no time shall any of said vehicles or equipment be parked or stored on a public or private right-of-way within the Property. "Screened from public view" is defined as behind a solid fence and not projecting above a six (6) foot fence. The primary purpose of the garage required on each Lot is for the parking and storage of automobiles and other vehicles (hereinafter "automobiles"). No other use of a garage that prohibits or limits the use of a garage for the parking or storage of the number of automobiles for which it is designed shall be permitted. No inoperative vehicle shall be parked or stored at any time within the Property.

A The use of all vehicles, including but not limited to, automobiles, trucks, motorcycles and all-terrain vehicles, shall be prohibited in the Common Area or utility easements

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within the Property except for the express purpose of maintenance for said Common Area or easements.

B. Notwithstanding the foregoing, boats, trailers, campers, motor homes or similar recreational vehicles may be parked on a Lot in the driveway for a period not to exceed 24 hours in duration, nor more than 48 hours in any seven (7) day period, while in immediate use by an Owner, being prepared for use, or being prepared for storage after use. The intent is to allow the homeowner to load and/or unload vehicles after use and not for storage of vehicle or use as living quarters.

7.14 **Exterior Antennas**: No exterior radio antennae, television antennae, satellite dish antennae or any other antennae of any type shall be erected or maintained on the Property until the specifications and location is submitted to and approved in writing by the Architectural Review Committee.

7.15 **Signage**: Not more than one (1) realtor sign, one (1) marketing sign and one (1) Builder sign shall be allowed on any Lot at any one time advertising the property for sale or rent or to advertise the property during the course of construction. No sign of any kind shall be displayed to the public view more than six (6) square feet in size. In addition, signs may also be allowed as follows:

A. The Association may erect and maintain uniform subdivision identification signs, street signs and other appropriate informational signs upon the Common Area and Common Facilities or upon utility easements of a size and design approved by the Architectural Review Committee. No other signs shall be placed or maintained upon the Common Area.

B. Declarant is entitled to place signs of such size, design and number, as Declarant may deem appropriate, to identify the project and display related information pertaining thereto, and to advertise Lots for sale, on any portion of the Property.

7.16 **Exterior Lighting**: No exterior lighting shall be installed or maintained on any Lot or structure thereon, which interferes with the use and enjoyment of adjacent Lots without prior written approval of the Architectural Review Committee. All exterior lighting shall be in compliance with the applicable ordinances of the City of Star.

7.17 **Mail Boxes**: Each Lot shall have a uniform mailbox and support structure, initially installed by Declarant and thereafter maintained in good repair and replaced as needed by Owner. The replacement mailbox and/or post must be the same type and material as the original.

7.18 **Sewage Disposal**: No septic tank or other individual sewage disposal system shall be constructed or installed on any Lot.

7.19 **Drainage**: Irrigation drain or wastewater may be transmitted only by the irrigation and drainage systems installed by Declarant and operated and maintained by the Association and shall not be permitted to flow in open ditches to or on any Lot.

7.20 **Middleton Mill Ditch Easement**: Some of the Lots in the Property are subject to an easement for the Middleton Mill Ditch as depicted on the Plat. Within such easement, the following conditions shall apply:

A. The easement area shall be planted in grasses or other low growing vegetation which will allow the use of the easement area by equipment necessary for the cleaning, normal maintenance or repair of the ditch. The Middleton Mill Ditch Company shall be entitled to use the easement solely for such purposes.

B. All sprinkler systems irrigating the easement area shall be placed so as not to impair the use of the easement by the Middleton Mill District Company's equipment.

C. The Owner on whose Lot a portion of the easement lies shall: (1) seed such area with vegetation conforming to the above requirement; (2) install a pressurized irrigation system on the perimeter of the easement area to irrigate that portion of the easement area; (3) construct and maintain along the outer boundary of the easement area (that is, the boundary farthest from the ditch) on such Owner's Lot a four-foot high, wrought iron fence with four-inch spacing between uprights, placed in such a manner as not to impair passage along the easement by agents of the Middleton Mill Ditch Company for the maintenance and repair of the ditch; (4) place no structure, landscaping or improvement of any kind on the easement that interferes with its use by the Middleton Mill Ditch Company; (5) place no grass clippings, refuse, or waste of any kind in the Middleton Mill Ditch; and (6) hold the Middleton Mill Ditch Company harmless from any damage to the pressurized irrigation system, landscaping, or other improvements within the easement area resulting from the normal maintenance, cleaning and repair of the Middleton Mill Ditch carried out by or on behalf of the Middleton Mill Ditch Company.

D. The Association shall be responsible for the mowing of any turf grasses on the easement area on at least a monthly basis during the growing season and performing any other maintenance of the easement area that is required and not otherwise provided for in this Declaration.

ARTICLE VIII. HOMEOWNER'S ASSOCIATION

8.1 **Formation**: It is contemplated that simultaneously with the execution and recordation of this Declaration, the Association will be incorporated and will adopt Bylaws (the "Bylaws") for its governance. To the extent the Articles of Incorporation or Bylaws of the Association may conflict with the provisions of this Master Declaration, the provisions of this Master Declaration shall control.

8.2 **Membership**: Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

8.3 **Voting**: The Association shall have two (2) classes of voting membership; however, all votes shall be equal and counted as such, except where voting by separate classes may otherwise be provided in the Articles and Bylaws of the Association or this Master Declaration.

A. Class A Members shall be Owners with the exception of the Declarant (during the period when the Declarant is a Class B Member). Each Class A Member shall be entitled to one (1) vote for each Lot owned. When more than one (1) person is an Owner of a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

B. The sole Class B Member shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted automatically to Class A membership (one (1) Class A membership for each Lot owned) on the earlier of:

1. When all the Lots have been sold to Owners other than Declarant;
- or
2. On January 15, 2020.

ARTICLE IX. COVENANT AND LIEN FOR ASSESSMENTS

The Declarant, for each Lot within the Property, hereby covenants and creates a claim of lien, with power of sale, to secure payment to the Association of any and all assessments levied hereunder. Each Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, for each Lot owned, to pay to the Association (a) Regular Assessments, and (b) Special Assessments, and (c) Limited Assessments, such assessments to be established and collected as hereinafter provided. Notwithstanding any other provision in this Master Declaration to the contrary, exempt Property shall not be subject to the assessment provided for herein unless a Dwelling is constructed thereon.

9.1 **Regular Assessment**:

A. Regular Assessments shall be assessed on a calendar year basis unless otherwise determined by the Board. The Regular Assessments shall be based upon advance estimates of annual cash requirements as determined by the Board for the maintenance and operation of the Common Areas and all easements areas, if any, controlled by the Association, and for the performance by the Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to,

expenses of management, taxes and special assessments of local governmental units, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, legal and accounting fees, any deficit remaining from previous periods and the creation of a reserve, surplus and/or sinking fund(s).

B. The Board will compute the amount of the initial Regular Assessment beginning the first day of the month in which the first sale of a Lot, occurs (Initiation Date). Thereafter, the computation of Regular Assessments shall take place not less than thirty (30) days nor more than sixty (60) days before the beginning of each fiscal year of the Association. The computation of the Regular Assessment for the period from the Initiation Date until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one (1) year.

9.2 **Special Assessment:** The Association may levy at any time a Special Assessment payable over such period as the Board may deem appropriate for the following purposes:

A. **Short Fall Assessment:** In the event that the Board shall determine that its respective Regular Assessment for a given calendar year is or will be inadequate to meet the expenses of the Association for any reason, including but not limited to, costs of any construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area or any facility located thereon or an easement area controlled by the Association; the furnishing of a special service or services (other than those appropriate for a Limited Assessment); attorney's fees and/or litigation costs or other professional fees; any other expenses incurred or to be incurred as provided for in the Master Declaration; or for any other reason, the Board shall determine the approximate amount necessary to defray such expense and levy a Special Assessment. No Special Assessment shall be levied which exceeds twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year, without the approval of a majority of the Members of the Association, who are voting in person or by proxy at a meeting duly called for this purpose. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

B. **Transfer & Refinance Special Assessment:** Upon each transfer and/or refinance of any Lot or residence in the subdivision, each Buyer and/or Owner shall pay the Association a special transfer assessment of one hundred fifty dollars (\$150.00), which shall be used for general Association purposes.

9.3 **Limited Assessments.** The Association may levy Limited Assessments in the following circumstances:

A. **Maintenance & Repair**: The Association shall have the power to incur expenses for maintenance and repair of any Lot or any Improvement on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the Common Area or any other portion of the Property and if the Owner of said Lot has failed or refused to perform said maintenance or repair after written notice of the necessity thereof has been delivered by the Board to said Owner in accordance with the procedures set forth in Paragraph C below. The Board shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such maintenance and repair, together with any other cost or expense, including management fees and attorney fees, arising out of or incident to such maintenance and repair or the collection of the Assessment therefore.

B. **Correction of Violation**: The Association shall have the power to incur expenses for the correction of a violation of this Master Declaration or the Architectural Review Committee Standards and Guidelines on a Lot if the Owner of said Lot has failed or refused to correct such a violation after written notice of the necessity thereof has been delivered by the Board to said Owner in accordance with the procedures set forth in Paragraph C below. The Board shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such corrective action, together with any other cost or expense, including management fees and attorney fees, arising out of or incident to such corrective action or the collection of the Assessment therefore.

C. **Notice**: The Owner of the Lot which is in need of maintenance and repair or corrective action as set forth above, shall be given seven (7) days written notice of the maintenance and repair or corrective action required. The notice shall be delivered personally to such Owner or sent *via* first class mail or certified mail to the last known address of such Owner shown on the records of the Association.

D. **Collection Costs**: Each Owner against whom a Limited Assessment is levied agrees to and shall pay all the costs of said corrective action, plus interest on all expended funds, from the date of expenditure at the rate of two percent (2%) per month plus a management fee equal to ten percent (10%) of all the costs expended for the corrective action and all attorney fees incurred, which such amounts shall be added to and become a part of the Limited Assessment against that Lot, and Owner and shall create a lien enforceable in the same manner as other Assessments set forth in this Declaration. If such an Assessment is not paid within ten (10) days of notice of the Limited Assessment, the Owner shall also be subject to late fees and collection procedures set out herein.

9.4 **Personal Obligation**: Each such Assessment, together with interest thereon at the legal rate, reasonable collection costs incurred by the Association for collection proceedings by a management company for the Association, and reasonable attorney fees shall also be the personal obligation of the Owner of such property at the time when the Assessment falls due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, and in any event shall not relieve the Owner of his

personal responsibility therefore, but unpaid Assessments shall constitute a continuing lien against the Lot until paid.

9.5 **Collection of Assessments:** Any Assessment not paid within thirty (30) days after the due date shall be assessed an additional late charge of \$25.00 per each week (or portion thereof). The payment is late, plus interest from the due date at the rate of two percent (2%) per month or twenty-four percent (24%) per annum, or at such other rate as may be established annually by the Board. Each Assessment, when levied, shall automatically constitute a lien on and against the Lot to which the Assessment pertains, without any requirement of filing any documentation of such lien. The Association may nonetheless file an affidavit of Lien evidencing such lien at any time after the due date of the Assessment.

A. The Association may, from time to time, retain the services of a professional organization, bank, credit bureau, attorney, accountant, or such other disinterested party or entity for the purpose of giving notice and collecting the Regular, Limited or Special Assessments.

B. The Association may:

1. Bring an action at law against the Owner personally for the Assessment, late fee and interest due, and the costs of action; or

2. Foreclose the lien against the Lot in the same manner as provided by law as to statutory materialmen's liens; or

3. Use the enforcement procedures of the Bylaws, if any.

C. In the event of enforced collection of an Assessment, the costs of collection including management and processing fees as well as reasonable attorney fees shall be added to the amount of the Assessment for collection.

D. No Owner may waive or otherwise escape liability for the Assessments provided for herein by failure to use the Common Area or the Common Facilities or by the abandonment of his Lot.

9.6 **Subordination of Liens to Mortgages:** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. The sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to foreclosure of a mortgage, or deed of trust, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. Such foreclosure shall not affect the personal liability of the Owner for such Assessments. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof.

9.7 **Rights of Mortgagees**: Mortgagees shall not be required to collect Assessments on behalf of the Association. The Owner's failure to pay Assessments due to the Association shall not constitute a default under any mortgage affecting the Owner's Lot.

9.8 **Certificate**: Upon written request by an Owner, and for a reasonable charge, the Association shall provide a certificate signed by an officer or representative of the Association setting forth whether the Assessments on a specified Lot have been paid

ARTICLE X. ARCHITECTURAL REVIEW

10.1 **Creation of Architectural Review Committee**: In order to protect the quality and value of the homes built on the Property and for the continued protection of the Owners thereof, an Architectural Review Committee is hereby established consisting of three (3) or more members to be appointed by Declarant. So long as the Declarant owns any Lot or parcel within or adjacent to the Property, the Declarant shall have the sole right to appoint and remove all members of the Architectural Review Committee. Thereafter, the members of the Architectural Review Committee shall be appointed or removed by the Board.

10.2 **Approvals Required**: No building, fence, wall, pool, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, erected or maintained upon any Lot or Common Area, nor shall any exterior addition to or change or alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location of the same and such other detail as the Architectural Review Committee may require (including but not limited to any electrical, heating or cooling systems) shall have been submitted to and approved in writing by the Architectural Review Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with the requirements of this Master Declaration. In the event the Architectural Review Committee fails to approve, disapprove or specify the deficiency in such plans, specifications and location within thirty (30) days after submission to the Architectural Review Committee in such form as it may require, approval will not be required, and this Article will be deemed to have been fully complied with.

10.3 **Rules and Regulations**: The Architectural Review Committee is hereby authorized to adopt rules to govern its procedures including such rules as the Committee deems appropriate and in keeping with the spirit of due process of law with regard to the right of concerned parties to be heard on any matter before the Committee. The Committee is further hereby empowered to adopt such regulations as it shall deem appropriate consistent with the provisions of this Master Declaration with regard to matters requiring the Architectural Review Committee's approval including matters of design, materials, and aesthetic interest.

10.4 **Fees**: The Architectural Review Committee may establish by its adopted rules, a fee schedule for an architectural review fee to be paid by each Owner submitting plans and specifications to the Committee for approval. No submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Review Committee for the costs of professional

review of submittals and the services of a consultant to administer the matter to its completion including inspections which may be required.

10.5 **Waiver**: The approval of any plans, drawings or specifications for any plans, improvements or construction, or for any matter requiring the approval of the Architectural Review Committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently submitted for approval.

10.6 **Variances**: Architectural Review Committee shall have the ability to grant variances in regard to specific cases.

10.7 **Liability**: Neither the Architectural Review Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Review Committee or any members thereof, so long as the Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

10.8 **Review of Exterior Appearance, Walls, Etc.**: The visual harmony and aesthetic appeal of the Project being of mutual concern to all Owners and having a direct bearing on the value of Lots and Improvements thereon, the Architectural Review Committee shall, without limiting the generality of the foregoing sections, have the right to review the texture, design and color scheme of the outside walls, fences, screening devices, roofs, patio roofs, and covers of all Structures erected upon any Lot and to require basic landscaping and maintenance thereof. The Owner shall not repaint the outside walls or fences without the prior approval of the Architectural Review Committee as to color. All open porches and patio roofs shall require the prior approval of the Architectural Review Committee.

ARTICLE XI. ENFORCEMENT

11.1 **Authority to Enforce**: The provisions of this Master Declaration may be enforced by any of the following persons or entities under the procedure outlined herein:

- A. The Board as to all matters;
- B. The Declarant so long as it has any retained ownership of any of the Property; and
- C. The Owner or Owners of any Lot adversely affected, but only after written demand is made on the Association and its failure to act, except that no such Owner shall have the right to enforce independently of the Association any assessment or lien herein.

11.2 **Methods of Enforcement**: Subject to the provisions of Paragraph 11.3 hereof, the following methods of enforcement may be utilized:

A. Legal or equitable action for damages, injunction, abatement, specific performance, foreclosure, rescission, cancellation of any contracts of an executory nature, or such other remedies at law and equity which may be available in a court of law.

B. Eviction for trespass by police action.

C. The Association through its agents shall have the authority to take appropriate corrective action against the Owner of any Lot pursuant to Section 9.3. above.

D. Monetary penalties and temporary suspension from Association membership rights and privileges including, without limitation, curtailment of water from the irrigation system provided that except for late charges, interest, and other penalties for failure to pay as due Assessments levied by the Association as provided in this Master Declaration, no such discipline or sanction shall be effective against a Member unless:

1. The Member is given seven (7) days written notice of the proposed discipline or sanction and a timely opportunity to be heard on the matter. The opportunity to be heard may, at the election of such Member, be oral or in writing. The notice shall be given personally to such Member or sent by first-class or certified mail to the last address of such Member as shown on the records of the Association and shall state the place, date and time of a hearing to be held on the matter, which shall not be less than five (5) days before the effective date of the proposed discipline or sanction.

2. The hearing shall be conducted by the Board or a committee composed of not less than three (3) persons, appointed by the Board, which shall conduct the hearing in good faith and in a fair and reasonable manner and shall not reach a decision regarding appropriate discipline or sanction until the conclusion of the hearing.

3. Any Member challenging the discipline or sanction imposed by the Board, including any claim alleging defective notice, must commence court action within thirty (30) days after the date of the contested discipline or sanction imposed by the Board.

4. A monetary penalty imposed by the Association as a compliance measure for failure of a Member to comply with the provisions of this Declaration or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area, or Common Facilities, for which the Member was allegedly responsible, or in bringing the Member and his Lot into compliance with this Declaration, may be treated as a Limited Assessment which may become a lien against the Member's Lot, enforceable by a sale of the interest. This provision does not apply to charges imposed against an Owner consisting of

reasonable late payment penalties for delinquent Assessments and for charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent Assessments.

11.3 **Limitations on Enforcement:** The Association may not cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his individually owned interest, other than the right to receive water from the irrigation system, on account of the failure of the Owner to comply with provisions of this Master Declaration except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure for failure of the Owner to pay Regular, Special, or Limited Assessments duly levied by the Association.

11.4 **Fees and Costs:** The Association, or any person entitled to enforce any of the terms hereof, by any of the means contained herein, who obtains a judgment or decree from any court or arbitrator enforcing any of the provisions hereof, shall be entitled to reasonable attorney's fees and all costs incurred or anticipated to be incurred in remedying or abating the offensive condition as a part of his or its judgment or decree against the party in violation hereof.

11.5 **Failure to Enforce:** Neither the Association nor the Architectural Review Committee shall be liable to any person for failure to enforce any of the terms hereof, for personal injury, loss of life, damage to property, economic detriment or for any other loss caused either by their enforcement or non-enforcement. The failure to enforce any of such matters, including any covenants contained in this Declaration, shall not be deemed a waiver of the right to subsequently do so.

ARTICLE XII. ANNEXATION

12.1 **Procedure:** Any additional land may be annexed by Declarant without the consent of Members within twenty (20) years of the date of this instrument. Amendment of the Master Declaration to include such Annexed Property, and to subject such Annexed Property to the rights, privileges, restrictions, covenants and easements herein provided shall be made by the execution and recordation by Declarant of a Supplemental Declaration, which shall describe the Annexed Property and any supplemental covenants, conditions and restrictions applicable thereto, and shall describe the Common Area and Common Facilities thereof. Upon the recordation of the Supplemental Declaration, the Annexed Property described therein, shall be subject to the terms and provisions of this Master Declaration as though included originally in this Master Declaration, and the definitions of Property, Common Area and Common Facilities shall automatically be amended to conform to such supplement or supplements, as shall all the other definitions herein, including the definitions of Lot and Owner. All Owners of Lots located within the Annexed Property shall be subject to all easements, restrictions and reservations set forth in this Master Declaration and shall have the privileges of use of Common Area and Common Facilities, except as otherwise provided herein, and subject to the restrictions and reservations set forth in the Master Declaration as amended and supplemented from time to time.

12.2 **Designation of Common Areas:** Any Common Area and Common Facilities designated by Declarant as such on the Plat of the Annexed Property or in the Supplemental

Declaration or conveyed to the Association by Declarant shall be subject to the same easements and other rights for the use and enjoyment of the Owners as for the other Owners of Lots subject to this Master Declaration.

ARTICLE XIII. WATER SYSTEMS

13.1 **Irrigation System**: All Lots and Common Area to which delivery of irrigation water is feasible in the Declarant's discretion, shall have access to a pressurized irrigation water system ("Irrigation System") to be constructed by Declarant and owned and operated by the Association for the benefit of the Association, Declarant and Lot Owners. Owners of Lots to which the system has been extended shall be required to pay the assessment therefore regardless of actual use or nonuse of water from the irrigation system. Use of the irrigation system shall be subject to such rules and regulations of the Association as may from time to time be adopted by the Association and the right to receive water therefrom is, in any event, subject to availability of the water. The Association shall regulate the use of water to conserve its availability for Lots and for the Common Area.

A. Irrigation water is provided to each Lot on a rotating basis and is not available to each Lot on a constant, unlimited basis. The Board, in conjunction with the appropriate irrigation authority, shall establish the water rotation for the Common Area and each Lot.

B. The irrigation system is not break-proof and the water supply is not unlimited. Each homeowner is not guaranteed unlimited nor continuous access to the pressurized irrigation water. The pressure irrigation system mainlines installed by Declarant are the property of the Association and such Association may contract with qualified operation and maintenance companies or persons to manage the system.

C. WATER FROM THE IRRIGATION SYSTEM IS NON-POTABLE. EACH LOT OWNER SHALL BE RESPONSIBLE TO ENSURE THAT IRRIGATION WATER WITHIN THE BOUNDARIES OF HIS LOT IS NOT CONSUMED BY ANY PERSON OR USED FOR CULINARY PURPOSES.

13.2 **Easement**: Declarant reserves to itself, its agents, contractors, subcontractors and employees, successors and assigns, all water and water rights over, upon or under or appurtenant to the Property or any portion thereof, and a nonexclusive easement as depicted on the final plat, inside the boundary of each Lot and the Common Area adjacent to the right-of-way for construction of a pressurized pipe irrigation system to be conveyed to and operated by the Association. Adequate surface water for irrigation sufficient to each phase of development of the Property will be conveyed to the Association as each Plat is recorded.

ARTICLE XIV: INSURANCE AND BOND

14.1. **Required Insurance**: The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the

Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time.

A. A multi-peril-type policy covering any Common Area and Common Facilities providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).

B. A comprehensive policy of public liability insurance covering all of the Common Areas and Common Facilities. If available, such insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use. If the Property contains more than one hundred (100) Dwellings, coverage shall be for at least \$1,000,000 per occurrence, for personal injury and/or property damage.

C. Workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

14.2. **Optional Insurance:** The Association may obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho.

A. Liability insurance affording coverage for the acts, errors and omissions of its directors and officers, including members of the Architectural Review Committee and other committees, as may be appointed from time to time by the Board in such amount as may be reasonable on the premises.

B. The Association may obtain bonds and insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any personal property of the Association located thereon, its directors, officers, agents, employees and association funds.

14.3. **Additional Provisions:** The following additional provisions shall apply with respect to insurance:

A. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.

B. Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its officers, the Owners and their respective servants, agents and guests; that it cannot be canceled, suspended or invalidated due to the conduct of any agent, officer or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

C. All policies shall be written by a company licensed to write insurance in the state of Idaho and all hazard insurance policies shall be written by a hazard insurance carrier holding financial rating by Best's Insurance Reports of Class VI or better.

D. Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of any state or federal regulatory agency having jurisdiction thereof.

ARTICLE XV. GENERAL PROVISIONS

15.1 **Severability**: Invalidation of any provision of these covenants or restrictions by judgment or court order shall not affect any other provision hereof, which shall remain in full force and effect.

15.2 **Amendment**: The easements, covenants, conditions, and restrictions of this Master Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Master Declaration, other than the provisions of Articles IV and XII and Sections 8.2 and 10.1 hereof, may be amended during the first twenty (20) year period by a document signed and acknowledged by Owners representing not less than ninety percent (90%) of the votes of membership in the Association and thereafter by a document signed and acknowledged by the Owners representing not less than seventy-five percent (75%) of the votes of membership in the Association. Any amendment to Articles IV and XII and Sections 8.2 and 10.1 shall, until the last Lot in the Project is sold by Declarant, require in addition to a document signed and acknowledged by the requisite membership, written consent of Declarant its successors or assigns. No amendment to the Declaration shall be effective until recorded.

15.3 **Conveyance of Common Area**: The Common Area in each phase of development of the Project shall be conveyed to the Association by Declarant, free and clear of all encumbrances, prior to the first mortgage in that phase being insured by HUD.

