

ACCOMMODATION

ADA COUNTY RECORDER Phil McGrane
BOISE IDAHO Pgs=49 LINDSAY WHEELER
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**DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
HEIRLOOM RIDGE SUBDIVISION**

COLEMAN HOMES
3103 W. SHERYL DR., SUITE 100
MERIDIAN, IDAHO 83642
TELEPHONE: (208) 424-0020
FAX: (208) 424-0030
WWW.MYCOLEMANHOME.COM

WELCOME!

Welcome to Heirloom Ridge community!

We are pleased that you have decided to become a member of our community. The following document is the Declaration of Covenants, Conditions and Restrictions for the community. The purpose of the Declaration is to ensure quality development and proper use of the community; to protect the owner of each lot against undesirable development or use of surrounding parcels which may diminish the value of the Owner's Lot; to encourage the erection of attractive improvements at appropriate locations; to assure adequate free spaces between structures; to provide for well-maintained and unifying landscaping; and to enhance and protect the value, desirability and attractiveness of the development.

A few of the important details set forth in this Declaration include:

- Rules for Voting and Governance by Heirloom Ridge Homeowners Association, Inc.
- Architectural Review Standards and Requirements
- Use Restrictions
- Appearance and Maintenance Requirements
- Common Area Limitations
- Assessments and Budgets

Please note that this Declaration is the primary governing document for the community. Please read it carefully. We make no representations of any kind, express or implied, through any agent, realtor, employee or otherwise, except as set forth in this Declaration. We expressly disclaim any and all other representations, warranties, statements or information not set forth herein.

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HEIRLOOM RIDGE SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions for Heirloom Ridge Subdivision (this "**Declaration**") has been adopted as of December 7, 2021. Capitalized terms not otherwise defined in the text hereof are defined in Article 11.

RECITALS

WHEREAS, the property subject to this Declaration (the "**Property**") is (a) all of the lots that are platted by the official plat of Rosti Farms Subdivision No. 1 recorded November 30, 2021 as Instrument No. 2021-169563 in Book 122 at Pages 19194 through 19197 in the office of the Recorder of Ada County, Idaho ("**Phase 1 Plat**"), which is incorporated herein by reference; and (b) all of the lots that are platted by the official plat of Rosti Farms Subdivision No. 2 recorded December 3, 2021 as Instrument No. 2021-171790 in Book 122 at Pages 19217 through 19219 in the office of the Recorder of Ada County, Idaho ("**Phase 2 Plat**"), which is incorporated herein by reference

WHEREAS, this Declaration sets forth a set of restrictions, covenants, limitations, easements, conditions and equitable servitudes (collectively "**Restrictions**") that will apply to the Property, which Restrictions are designed to protect, enhance and preserve the value, amenities, desirability, and attractiveness of the Property and to ensure a well-integrated, high quality development.

NOW, THEREFORE, the Property, and each Lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms and Restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, and to enhance the value, desirability and attractiveness of the Property. The terms and Restrictions set forth herein shall run with the land constituting the Property, and with each estate therein, and shall be binding upon any Person having or acquiring any right, title or interest in the Property or any Lot, parcel or portion thereof; shall inure to the benefit of every Lot, parcel or portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Grantor, each Person or Owner having or holding an interest in the Property and such Person's or Owner's successors in interest, and may be enforced by Grantor, any Owner or Owner's successors in interest, any Person having or holding an interest in the Property or such Person's successors in interest, or by the Association.

ARTICLE 1 GOVERNANCE AND ADMINISTRATION: ASSOCIATION

1.1 Organization of Association. The Association shall be charged with the duties and invested with the powers prescribed by law and set forth in the Project Documents. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Each Owner shall abide by and benefit from the provisions, covenants, conditions and restrictions contained in the Project Documents.

1.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association, and no Owner shall have more than one membership per Lot in the Association. Memberships in the Association shall be appurtenant to, and may not be separated from ownership of a Lot. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of an Owner's title to a Lot and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

1.3 Membership Voting. The Association will have two (2) classes of memberships:

1.3.1 Class A Members. The Members in Class A (each a "**Class A Member**") shall be the Owners of Lots, excluding Grantor for so long as Grantor is the Class B Member (defined below). Upon and after the Class B Member Termination Date (defined below), at all meetings of the Association each Class A Member will be entitled to one (1) vote for each Lot owned by such Member. Upon and after the Class B Member Termination Date, to the extent Grantor owns a Lot, Grantor shall become a Class A Member and shall be entitled to one (1) vote for each Lot owned by Grantor.

1.3.2 Class B Member. Grantor, by and through Grantor's designated representative, shall be the Member of Class B (the "**Class B Member**"), and shall be the sole voting Member of the Association entitled to vote the collective voting power of all Lots until the Class B Member Termination Date. The Class B Member shall be entitled to one (1) vote for each Lot, whether or not such Lot is owned by the Class B Member. The Class B Member shall cease to be a voting Member in the Association upon the date ("**Class B Member Termination Date**") that is the earlier to occur of the following: (i) the date upon which Grantor no longer owns any Lot; (ii) the date Grantor informs the Board in writing that Grantor no longer wishes to exercise its rights as the Class B Member, or (iii) December 1, 2031.

1.4 Board of Directors and Officers. The Board of Directors and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws shall carry out all of the powers and duties of the Association as set forth herein and in the Articles and Bylaws of the Association and shall be selected as follows:

1.4.1 Selection of Board Prior to Class B Member Termination Date. Until the Class B Member Termination Date, the Board shall consist of not less than three (3)

members of the Board ("**Directors**") nor more than five (5) Directors, all appointed by the Class B Member in the Class B Member's discretion. The Class B Member shall have the right and authority to remove and replace any Director, with or without cause, in the Class B Member's discretion. The Class B Member shall have the right to voluntarily terminate its right to appoint Directors and to fill vacancies pursuant to this Section. Directors appointed by the Class B Member need not be Members.

1.4.2 Selection of Board after Class B Member Termination Date. Subsequent to the Class B Member Termination Date, the Board shall be comprised of Directors selected by the Members as provided for in the Bylaws.

1.4.3 Vacancies on the Board. Vacancies on the Board occurring prior to the Class B Member Termination Date shall be filled by the Class B Member. Thereafter, vacancies on the Board occurring between meetings of the Members may be filled by the majority vote of the remaining Directors then sitting on the Board. Upon an annual meeting or a special meeting called for the purpose of filling the vacancy, the Members shall designate a new Director to fill the vacancy on the Board.

1.5 Power and Duties of the Association.

1.5.1 Powers. The Association shall have all the powers of a profit or nonprofit corporation organized under the applicable provisions of the Idaho Code, or the powers of any other entity chosen by Grantor, as those powers are set forth in the applicable sections of the Idaho Code and the Project Documents, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Project Documents. The Association shall have the power and authority to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under the Project Documents, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper ownership, management and operation of the Common Area and the Association's other assets, and the performance of the other responsibilities herein assigned, including, by way of illustration and not limitation:

1.5.1.1 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Project Documents, and to enforce by injunction or otherwise, all provisions hereof.

1.5.1.2 Delegation of Powers. The authority to delegate all or any portion of its powers and duties to committees, officers, employees or to any Person to act as manager, and to contract with the Association for the maintenance, repair, replacement and operation of any Common Area. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated. All contracts for management

of any Common Area shall be for a term not exceeding one (1) year, and shall be subject to review by the Board upon termination of the Class B membership.

1.5.1.3 Association Rules. The power to adopt, amend and repeal from time to time by majority vote of the Board such rules and regulations as the Association deems reasonable and appropriate, including but not limited to rules and regulations regarding the use and occupancy of the Lots, the use of the Common Area and such other rules and regulations that the Association deems reasonable and appropriate. Any Association Rules shall apply equally to all Owners. A copy of the Association Rules as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event such Association Rules are inconsistent with or less restrictive than any other provisions of this Declaration, the Articles, Bylaws, and/or Architectural Design Guidelines, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles, Bylaws, or Architectural Design Guidelines to the extent, but only to the extent of any such inconsistency.

1.5.1.4 Improvements. The authority to own, maintain, repair, replace and operate any Improvements, including but not limited to landscaping islands, bridges, bridge facades, street lights, any Association club house or associated amenities, pump or lift stations, median strips, sidewalks and pathways located within any public right-of-way or Common Area within the Property, and planter strips on Lots between sidewalks or pathways and the roads running adjacent to such Lots. The Association shall also have the power to own, maintain, repair, replace and operate any of the above specified Improvements, or similar Improvements, located within a Lot or within any other portion of the Property. The Association shall also have the authority and power to take corrective actions regarding Improvements located on any portion of the Property to bring such Improvements into compliance with all applicable laws and the provisions of the Project Documents.

1.5.1.5 Emergency Powers. The power, exercised by the Association or by any Person authorized by it, to enter upon any portion of the Property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by and at the expense of the Association.

1.5.1.6 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or

under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the same, and for the preservation of the health, safety, convenience and the welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining the following:

1.5.1.6.1 Underground lines, cables, wires, conduits or other devices for the transmission of electricity or electronic signals for lighting, heating, power, telephone, television or other purposes, and the above ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services;

1.5.1.6.2 Public and other sewers, storm drains, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

1.5.1.6.3 Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing and landscaping abutting Common Areas, public and private streets or land conveyed for any public or quasi-public purpose including but not limited to pedestrian and bicycle pathways.

The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-five (25) years after the death of the individual executing this Declaration on behalf of Grantor.

1.5.1.7 Other. Such other and further powers as the Board deems reasonable and appropriate, it being the intent that the Association have broad power and authority consistent with the Project Documents and applicable law.

1.5.2 Duties. In addition to duties necessary and proper to carry out the powers delegated to the Association by the Project Documents, without limiting the generality thereof, the Association or its agents, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

1.5.2.1 Operation and Maintenance of Common Area. Operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area, with the Improvements constructed thereon, including but not limited to the Irrigation System, and including but not limited to the repair and replacement of property damaged or destroyed by casualty loss, and including but not limited to any signs placed at the entrances to or otherwise in the vicinity of the Property. The Association shall, at Grantor's discretion, operate and maintain all properties owned by Grantor which are designated by Grantor for temporary or permanent use by Members of the Association;

1.5.2.2 Operation and Maintenance of Storm Drainage Facilities. Operate and maintain or otherwise provide for the operation and maintenance of all public and other storm drainage facilities, including but not limited to drainage pipes and collection ponds located on and through the Lots or Common Area and the repair and replacement of property damaged or destroyed by casualty loss;

1.5.2.3 Reserve Account. Establish and fund a reserve account with a reputable banking institution or savings and loan association or title insurance company authorized to do business in the State of Idaho, which reserve account shall be dedicated to the costs of repair, replacement, maintenance and improvement of the Common Area;

1.5.2.4 Maintenance of Berms, Retaining Walls and Fences. Maintain any berms, retaining walls, fences and water amenities within and abutting any Common Area. The Association shall also be responsible for maintaining or repairing the exterior surface of any fences abutting any Common Areas. For the purposes of this Declaration exterior surface shall be deemed the surface facing the Common Area or public right-of-way. If any repairs or replacements will affect the external appearance of such fences, the Association shall be responsible for such repairs or replacements. Costs of repair, replacement and maintenance of such fences shall be passed on to Owners as a Regular Assessment except for any repair or replacement made necessary as a result of the negligence or willful conduct of an Owner, which shall be the obligation of that Owner;

1.5.2.5 Improvements. Maintain, improve, operate, repair and replace any facilities and Improvements, including but not limited to drainage systems or facilities, street lights, bridge facades, pathways, sidewalks, planter strips, landscape islands or median strips, and landscaping or landscaping improvements, which the Association is obligated, or otherwise deems advisable, to maintain, operate, repair and replace, pursuant to this Declaration, Project Documents, any Plat, license, easement, agreement or applicable governmental approvals;

1.5.2.6 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area or against the Property, the Association and/or any other property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that such taxes and assessments are paid or a bond insuring payment is posted prior to the sale or disposition of any property to satisfy the payment of such taxes and assessments. In addition, the Association shall pay all other federal, state and/or local taxes, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation;

1.5.2.7 Water and Other Utilities. Acquire, provide and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone and

gas and other necessary services for the Common Area, and to own and/or manage for the benefit of the Owners all water rights and rights to receive water held by the Association, whether such rights are evidenced by license, permit, claim, decree, stock ownership or otherwise;

1.5.2.8 Insurance. Obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable, and to the extent possible to obtain, including, without limitation the following policies of insurance:

1.5.2.8.1 Property insurance (special causes of loss form) for the full insurable replacement value of all Improvements, equipment and fixtures located within the Common Area;

1.5.2.8.2 Liability insurance insuring the Association, Grantor and such others as the Association deems advisable against liability incident to the ownership and/or use of the Common Area. Limits on liability of such coverage shall be as follows: Not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) general aggregate;

1.5.2.8.3 Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars (\$250,000);

1.5.2.8.4 Such other insurance, including motor vehicle insurance and worker's compensation insurance, to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other Person charged with the management or possession of any Association funds or other property;

1.5.2.8.5 The Association shall be deemed trustee of the interests of all Owners in connection with any insurance proceeds paid to the Association under such policies, and shall have full power to receive such Owner's interests in such proceeds and to deal therewith; and

1.5.2.8.6 Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.

1.5.2.8.7 Notwithstanding anything to the contrary contained herein, until the Class B Member Termination Date, Grantor reserves the

right to include the insurance obligations of the Association within a master insurance program controlled by the Grantor.

1.5.2.9 Rule Making. Make, establish, promulgate, amend and repeal such Association Rules as the Board shall deem advisable; and

1.5.2.10 Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Project Documents and any and all applicable laws, ordinances, rules and regulations.

1.6 Meetings of the Association. The Association shall hold an annual meeting and special meetings all as provided for in the Bylaws.

1.7 Budgets and Financial Statements. Financial statements for the Association shall be prepared regularly and, upon request, copies shall be distributed to each Member of the Association as follows:

1.7.1 A pro forma operating statement or budget representing the Association for each fiscal year shall be made available for distribution not less than sixty (60) days after the beginning of each fiscal year. The operating statement shall include a schedule of Assessments received and receivable.

1.7.2 Within ninety (90) days after the close of each fiscal year, the Association shall cause to be prepared and available for delivery upon request to each Owner, a balance sheet as of the last day of the Association's fiscal year, and annual operating statements reflecting the income and expenditures of the Association for its last fiscal year. Copies of the balance sheet and operating statement shall be available for distribution upon request to each Member within ninety (90) days after the end of each fiscal year.

1.8 Manager. The Association may employ or contract for the services of a professional manager or management company ("**Manager**"), provided that no such employment or contract shall have a term of more than one (1) year, and each such contract shall be subject to cancellation by the Association with or without cause and without payment of a termination fee; provided thirty (30) days or more prior written notice is provided. The Manager so employed or contracted with shall not have the authority to make expenditures chargeable against the Association except upon specific prior written approval and direction by the Board. The Board shall not be liable for any omission or improper exercise by such Manager of any such duty, power or function so delegated by or on behalf of the Board. The Association may contract with Grantor or any affiliate of Grantor to act as Manager pursuant to the terms of this Section 1.8.

1.9 Personal Liability; Indemnification. No member of the Board, or member of any committee of the Association, or any officer of the Association, or Grantor, or the Manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for

any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association, the Board, the Manager, if any, or any officer, committee or other representative or employee of the Association, Grantor or the Committee, provided that such Person, upon the basis of such information as may be possessed by such Person, has acted in good faith without willful or intentional misconduct.

The Association shall defend, indemnify and hold harmless Grantor against and from any and all actions, causes of action, judgments, damages, liability, costs, attorneys' fees, expenses or compensation of any kind whatsoever, and from any other claim of any nature, known or unknown, raised or not, contingent or mature, that may be brought against Grantor and arise out of or are in any way connected with the Property, the Association, the Board or the Committee.

ARTICLE 2 GOVERNANCE AND ADMINISTRATION: ARCHITECTURAL REVIEW COMMITTEE

2.1 Creation; Grantor's Right of Appointment. At its discretion, the Board shall appoint no less than three (3) and no more than five (5) individuals to serve on an architectural review committee (the "**Architectural Review Committee**" or "**Committee**"). Until such individuals are appointed, the Board shall serve as the Architectural Review Committee. If a vacancy on the Committee occurs and a permanent replacement has not yet been appointed, the Board may appoint an acting Member to serve for a specified temporary period not to exceed one (1) year. A member of the Committee need not be an Owner. The Board shall have the exclusive right to appoint, remove and replace all members of the Committee; members of the Committee may be removed immediately at any time without cause. The Committee shall review, study and either approve or reject the proposed Improvements on the Property, all in compliance with the Declaration and the Architectural Design Guidelines. Except as otherwise set forth herein, any action or decision made by a majority of the Committee shall be the binding decision of the entire Committee. The Committee is authorized to retain the services of one or more consulting architects, landscape architects, engineers, designers and other consultants to advise and assist the Committee on a single project, on a number of projects or on a continuing basis. The actions of the Committee in the exercise of its discretion by its approval or disapproval of the proposed Improvements on the Property, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

2.2 Improvements Generally. No Improvements on any portion of the Property shall be constructed, reconstructed, placed on or removed from the Property without prior written consent of the Committee, and without being in compliance with the Project Documents and the Architectural Design Guidelines. The Architectural Design Guidelines shall be developed and used by the Committee to ensure that all Improvements conform and harmonize as to external design, quality and type of construction, architectural character, materials, color, location on the Building Envelope, height, grade and finish ground elevation, natural conditions, landscaping and all aesthetic considerations, including guidelines designed to protect the special qualities of the Property, and to encourage creative design, by providing general architectural, design and construction guidelines (including Building Envelope guidelines), landscape guidelines (including a description of existing, natural conditions and vegetation), submittal and review

procedures, and fees and charges for review. The Architectural Design Guidelines shall be drafted to conform to this Declaration, the Articles and Bylaws, and must be approved by the Board prior to implementation. In the event of a conflict between the Architectural Design Guidelines and this Declaration, the Articles and the Bylaws, this Declaration, the Articles or Bylaws, as the case may be, shall govern. The content of the Architectural Design Guidelines may be modified and amended from time to time as provided in the Architectural Design Guidelines, and in all events can be modified and changed by a majority vote of the Board.

2.3 Expenses. All expenses of the Committee shall be paid by the Association. The Committee shall have the right to charge reasonable fees for applications submitted to it for review, in amounts which may be established by the Committee from time to time, and such fees shall be collected by the Committee and remitted to the Association to help defray the expenses of the Committee's operation, including reasonable payment to each member of the Committee for their services as provided herein. The Committee fees may also be increased from time to time as necessary to reflect increases in the cost of the Committee's performance of its duties and responsibilities under this Section. Each Owner, by submitting a design review application to the Committee, agrees to pay any additional reasonable fees based on costs incurred by the Committee in retaining consultants for the review and approval of the Owner's application(s).

2.4 Non-Liability of Committee Members. Approval by the Committee does not assure approval of the Improvements by any appropriate governmental or quasi-governmental agency, board or commission. Neither the Committee nor any of its members shall be responsible or liable to any Association or to any Person, Owner or Grantor with respect to any loss, liability, claim or expense which may arise by reason of any approval or denial of any Improvements. Neither the Board, Committee or any agent thereof nor Grantor or any of its partners, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved, nor for any structural or other defects in any work done according to such plans and specifications. In any and all events, the Committee shall be defended, indemnified and held harmless by the Association in any such suit or proceeding which may arise by reason of the Committee's decision. The Association, however, shall not be obligated to defend, indemnify and hold harmless any member of the Committee to the extent any such member of the Committee shall be adjudged (after exhausting any appeal rights) to be liable for willful misconduct or bad faith in the performance of such member's duty as a member of the Committee, unless and only to the extent that the court in which such action or suit may be brought shall determine that, despite the adjudication of liability, but in view of all circumstances of the case, such member is fairly and reasonably entitled to indemnification and defense for such expense if such court shall deem it proper.

2.5 Variances. The Committee may authorize variances from compliance with any of the Architectural Design Guidelines, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by at least three (3) members of the Committee. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or the Architectural Design 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 waive any of the terms and provisions of this Declaration or the Architectural Design Guidelines for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of the Property, including but not limited to zoning ordinances and lot set-back lines or requirements imposed by any governmental or municipal authority.

ARTICLE 3 ASSESSMENTS

3.1 Covenant to Pay Assessments. By acceptance of a deed to any Lot, each Owner of such Lot thereby covenants and agrees to pay when due all Assessments or charges made by the Association, including all Regular Assessments, Special Assessments, Limited Assessments and Irrigation System Assessments and charges made against such Owner pursuant to the provisions of this Declaration or other applicable Project Document.

3.1.1 Assessment Constitutes Lien. Such Assessments and charges, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment or charge is made.

3.1.2 Assessment is Personal Obligation. Each such Assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such property beginning with the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them but shall remain such Owner's personal obligation regardless of whether he or she remains an Owner.

3.2 Uniform Rate of Assessment. Except in the case of Limited Assessments or as otherwise specifically provided in this Declaration, all Assessments must be fixed at a uniform rate for all Lots.

3.3 Initial Set-Up Assessment; Transfer Assessments. Upon conveyance of a Lot from Grantor to an Owner, other than an affiliate of Grantor, Grantor shall pay an "Initial Set-Up Assessment" of Five Hundred and No/100ths Dollars (\$500.00) to the Association at the closing of such conveyance. Upon any subsequent sale, conveyance or other transfer of a Lot, the acquiring Owner shall pay a "Transfer Assessment" of Five Hundred and No/100ths Dollars (\$500.00) to the Association at the closing of such acquisition. The Association may waive the Transfer Assessment where the sale, conveyance or other transfer is (a) conveyance of a Lot between co-Owners of such Lot (i.e., co-tenant owners or community property owners), (b) from an Owner to a trust in which the transferring Owner is the current income beneficiary, (c) from an Owner to an entity wholly owned by the transferring Owner. The amount of the Initial Set-Up Assessment and the Transfer Assessment may be adjusted by the Board from time to time.

3.4 Regular Assessments. Except as provided below with respect to Shortfall Payments, all Owners are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board.

3.4.1 Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including legal and attorneys' fees and other professional fees, for the conduct of its affairs, including but not limited to the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area, including all Improvements located on such areas owned and/or managed and maintained by the Association (the "**Operating Expenses**"), and an amount allocated to an adequate reserve fund to be used for repair, replacement, maintenance and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis (the "**Repair Expenses**"). The Operating Expenses and the Repair Expenses, and any other expenses necessary to acquire all assets and services and to otherwise carry out the powers, duties and responsibilities of an Association, are collectively referred to herein as the "**Expenses.**"

3.4.2 Computation of Regular Assessments. The Association shall compute the amount of its Expenses on an annual basis as provided for in the Bylaws.

3.4.3 Amounts Paid by Owners. The Board can require, in its discretion or as provided in the Project Documents, payment of Regular Assessments to an Association in monthly, quarterly, semi-annual or annual installments. Regardless of the installment schedule adopted by the Board, the Board may bill for Assessments monthly, quarterly, semi-annually or annually, at its discretion. Subject to Section 3.2 above, each Owner shall be assessed and shall pay an amount computed by multiplying the Association's total advance estimate of Expenses by the fraction produced by dividing the Lots attributable to the Owner by the total number of Lots in the Property.

3.5 Special Assessments.

3.5.1 Purpose and Procedure. In the event that the Board of the Association shall determine that its respective Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of such Association for any reason, including but not limited to costs of construction, improvement, protection, maintenance, repair, management and operation of Improvements upon the Common Area, attorneys' fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment against the portions of the Property within its jurisdiction which shall be computed in the same manner as Regular Assessments. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

3.5.2 Consistent Basis of Assessment. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments.

3.6 Limited Assessments. Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Board may levy a Limited Assessment against a Member and/or such Member's Lot as a remedy to collect unpaid fines imposed upon the Member by the Association or to reimburse the Association for costs incurred in bringing the Member and/or the Member's Lot or Improvements into compliance with the provisions of the Project Documents, for damage caused by the Member, or any member of the Member's family, representatives or invitees, to any Common Area or any other portion of the Property, for the operation, maintenance, repair and replacement of any common driveway Lots, or for otherwise providing any goods or services benefiting less than all Members or less than all Lots.

3.7 Irrigation System Assessments. Irrigation System Assessments shall be made by the Association at times and intervals deemed appropriate by the Board. The Irrigation System Assessments shall be based upon advance estimates of cash requirements as determined by the Board for the delivery of water through the Irrigation System, maintenance, repair and replacement of the Irrigation System and any and all assessments or related charges for the administration and enforcement of the rules, regulations and use schedules. Such Irrigation System Assessments may be assessed separately or incorporated into the Regular Assessments as set forth above.

3.8 Assessment Period. Unless otherwise provided in the Project Documents, the Assessment period shall be determined by the Board. The first Assessment shall be pro-rated according to the number of months remaining in the fiscal year and shall be payable in equal installments or in a single payment due at closing on the sale of a Lot, at the discretion of the Board.

3.9 Notice and Assessment Due Date. Except with regard to the initial Assessment, thirty (30) days prior written notice of Regular Assessments and Special Assessments shall be sent to the Owner of every Lot subject thereto, and to any Person in possession of such Lot by the Association. The Association shall determine if payments for all Assessments shall be due monthly, quarterly, semi-annually or annually. The Assessment installment schedule shall be the same for all Association Assessments. The due dates for installment payment of Regular Assessments and Special Assessments shall be the first day of each month unless some other due date is established by the Board. Each monthly installment of the Regular Assessment or Special Assessment shall become delinquent if not paid within ten (10) days after the levy thereof. There may accrue, at the Board's discretion, with each delinquent installment payment a late charge equal to ten percent (10%) of the delinquent installment. In addition, each installment payment which is delinquent for more than twenty (20) days may accrue, at the Board's discretion, interest at eighteen percent (18%) per annum calculated from the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Lot as more fully provided herein. Each Owner is personally liable for Assessments, together

with all interest, costs and attorneys' fees, and no Owner may be exempt from such liability by a waiver of the use and enjoyment of the Common Area, or by lease or abandonment of such Owner's Lot. The Association may apply any payments received by the Association from an Owner to the oldest balances due to the Association from such Owner, despite the fact that the Owner may have designated that the payment is with respect to a newer balance due to the Association from such Owner.

3.10 Special Notice and Quorum Requirements. Notwithstanding anything to the contrary contained in the Project Documents, written notice of any meeting called for the purpose of levying a Special Assessment by the Association, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessment, shall be sent to all Members and to any Person in possession of a Lot not less than fifteen (15) days nor more than thirty (30) days before such meeting. Quorum requirements shall be as provided for in the Bylaws.

ARTICLE 4 ENFORCEMENT OF ASSESSMENTS; LIENS

4.1 Right to Enforce. The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of a Lot, upon becoming an Owner of such Lot, shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorneys' fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided. Such enforcement power and authority include, without limitation, the power and authority to impose fines and forfeitures in accordance with Association Rules.

4.2 Assessment Liens.

4.2.1 Creation. There is hereby created a continuing claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against such Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Lots upon recordation of a claim of lien with the Ada County Recorder's Office. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Lot and Assessments on any Lot in favor of any

municipal or other governmental assessing body which, by law, would be superior thereto.

4.2.2 Claim of Lien. Upon default of any Owner in the payment of any Assessments issued hereunder, the Association may cause to be recorded in the Ada County Recorder's Office a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of preparing and recording such notice, but subtracting therefrom any credits and offsets, if any), a sufficient description of the Lot(s) against which the same have been assessed, the name of the record Owner thereof and the name of the Association. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

4.3 Method of Foreclosure. Such lien may be foreclosed by appropriate action in court.

4.4 Subordination to Certain Trust Deeds. The lien for the Assessments provided for herein in connection with a given Lot shall not be subordinate to the lien of any Mortgage except the lien of a First Mortgage given and made in good faith and for value that is of record as an encumbrance against such Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Article 4, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

4.5 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no Amendment of this Declaration shall operate to defeat the rights of the beneficiary under any deed of trust or a mortgagee under any mortgage upon a Lot made in good faith and for value, and recorded prior to the recordation of such Amendment, provided that after the foreclosure of any such deed of trust or mortgage such Lot shall remain subject to this Declaration as amended.

4.6 Non-Exclusive Remedies. The remedies set forth in this Article 4 or elsewhere in this Declaration shall not be deemed to be exclusive remedies, and the Association may pursue all other remedies available at law or in equity.

ARTICLE 5 RIGHTS TO COMMON AREAS

5.1 Use of Common Area. Every Owner shall have a right to use each parcel of the Common Area which right shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

5.1.1 The right of the Association to levy and increase Assessments for the construction, protection, maintenance, repair, management and operation of Improvements on the Common Area, including the right to Special Assessments;

5.1.2 The right of the Association to suspend the voting rights and rights of use, or interest in, the Common Area by an Owner for any period during which any Assessment or charge against such Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Association Rules;

5.1.3 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility or other Person for such purposes and subject to such conditions as may be permitted by the Project Documents; provided however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by at least two-thirds (2/3) of the Class A and Class B Members has been recorded;

5.1.4 The right of the Association to prohibit the construction of Improvements on all Common Areas;

5.1.5 Common Areas may be used by the public as established from time to time by Grantor on any portion of the Property by specifically describing such area as an area for public use on a recorded Plat, by granting or reserving it in a deed or other instrument or by designating it as such in this Declaration;

5.1.6 The Common Area cannot be mortgaged or conveyed without the approval of the Owners, excluding Grantor, of at least two-thirds (2/3) of the total voting power in the Association. If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of the Common Area shall be subject to an easement of the Owners of such Lots for the purpose of ingress and egress.

5.2 Delegation of Right to Use. Any Owner may delegate, in accordance with the Project Documents, such Owner's right of enjoyment to the Common Area to the members of such Owner's family residing within the Owner's residence and/or to such Owner's contract purchasers who reside on such Owner's Lot. Only Grantor or the Association shall have the right to delegate the right of enjoyment to the Common Area to the general public, and such delegation to the general public shall be for a fee set by Grantor or the Association.

5.3 Damages. Each Owner shall be fully liable for any damage to any Common Area that may be sustained by reason of the negligence or willful misconduct of the Owner, such Owner's contract purchasers or such Owner's family and guests, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited Assessment against the Lot and may be collected as provided herein for the collection of other Assessments.

5.4 Association's Responsibility. The Association shall maintain and keep the Common Area in good repair, such maintenance to be funded as provided in this Declaration.

This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, fencing installed by Grantor along exterior portions of the Property and other Improvements situated within the Common Area.

5.5 No Warranty for Improvements. Grantor makes no warranty, guarantee or undertaking, express or implied, oral or written, with respect to Common Area or the construction thereof. All warranties, guarantees and undertakings are hereby expressly disclaimed, including but not limited to the implied warranties of habitability, merchantability and fitness for a particular purpose.

5.6 Water Bodies. By acceptance of a deed to a Lot, each Owner acknowledges that the water levels of all water bodies may vary. There is no guarantee by the Grantor or the Association that water levels will be constant or aesthetically pleasing at any particular time. In fact, water levels may be non-existent from time to time. Without limiting the generality of the foregoing, this applies to the waters within the Common Area as well as any wetlands or riparian areas within the Common Areas or encroaching on Lots (if any).

ARTICLE 6 STANDARDS, REQUIREMENTS AND RESTRICTIONS

6.1 Improvements – Generally. All Improvements shall be designed, constructed and used in such a manner as to promote compatibility between the types of uses contemplated by this Declaration. Specific design and construction guidelines are contained in the Architectural Design Guidelines. The Architectural Design Guidelines and the general instructions set forth in this Declaration shall govern the right of a Person or Owner to construct, reconstruct, refinish, remove, add, alter or maintain any Improvement upon, under or above the Property, and to make or create any excavation or fill on the Property, or make any change in the natural or existing surface contour or drainage, or install any utility line or conduit on, under or over the Property, including but not limited to any Lot. All Improvements by any Owner must be pre-approved in writing by the Committee prior to their construction or reconstruction. In the event any Improvements are damaged or completely destroyed, the Owner shall repair or reconstruct such Improvements in accordance with the Architectural Design Guidelines governing such repair or reconstruction. No Lots shall be permitted to remain in an unimproved condition, unless the Owner has received prior written approval from the Committee for a landscape plan.

All Lots shall be used exclusively for residential purposes and other appropriate uses permitted under any zoning ordinances applicable to the Property, provided such other appropriate uses are in compliance with local laws, rules, regulations and ordinances. No Lot, other than the Lot(s) used for irrigation or utility facilities and services, shall be improved except with residential structures and accessory structures as permitted under the Architectural Design Guidelines. This Declaration is not intended to serve as authority for the Committee to control the interior layout or design of residential structures except to the extent incidentally necessitated by use, size and height restrictions.

The Association, after reasonable notice to the offender and/or to the Owner, may remove any Improvement constructed, reconstructed, refinished, removed, added, altered or maintained in violation of this Declaration and/or the Architectural Design Guidelines, and the Owner of the Improvements shall immediately reimburse the Association for all expenses incurred with such removal. Each violation of this Declaration and the Architectural Design Guidelines is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against an Owner and/or Member shall be applicable.

6.2 Minimum Building Size. The primary residential structure on any Lot must contain at minimum 1,250 square feet of interior living space, excluding porches, patios and garages. If the primary residential structure on a Lot contains more than one story, the minimum square footage at grade is 800 square feet of interior living space, excluding porches, patios and garages.

6.3 Setbacks. Subject to the requirements of the applicable ordinances of the City of Star and the rights of the Committee to approve the site plan for any Improvement to be constructed upon a Lot:

6.3.1 All residential structures shall be subject to the setbacks set forth in the Architectural Design Guidelines.

6.3.2 All other structures shall be subject to such setbacks as may be required by the Committee.

6.3.3 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.

6.3.4 For the purpose of this Section, eaves, steps, chimneys and gutters shall not be considered as a part of residential structure, provided however that this shall not be construed to permit any eaves, steps, chimneys or gutters or any portion of the residential structure to encroach upon any other Lot.

6.4 Fences and Hedges. No fences or walls shall be constructed, erected, installed or maintained on any Lot unless specifically approved by the 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.

6.5 Exterior Maintenance; Owner's Obligations. All residential structures and accessory structures on each Lot 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. No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. In the event that any Owner(s) permit any Improvement, including but not limited to trees, landscaping and fencing, which is the responsibility of such Owner(s) to maintain, to fall into disrepair, so as to create a dangerous, unsafe, unsightly or unattractive condition, or so as to damage property or facilities on or adjoining his or her Lot, the

Association, upon thirty (30) days' prior written notice to the Owner(s) of such property, shall have the right to correct such condition or damage and to enter upon such Owner's Lot(s) for the purpose of doing so, and such Owner(s) shall promptly reimburse the Association for the cost thereof (or an Owner's share of such costs). Any dispute between neighboring Owners regarding the sharing of such costs shall be resolved in accordance with Section 7.9. The costs incurred pursuant to this Section 6.5 may be treated by the Association as a Limited Assessment and constitute a lien enforceable in the same manner as other Assessments as set forth herein. The Owner(s) of the offending property(ies) shall be personally liable, and such Owner's property(ies) may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or in the event of a dispute between neighboring Owners that is resolved in accordance with Section 7.9, within ten (10) days of the decision by the Board, or the amounts may, at the option of the Board, be added to the amounts payable by such Owner as Regular Assessments.

6.6 Landscaping. Each Owner agrees to maintain, improve, operate, repair and replace landscaping according to the Architectural Design Guidelines. 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 Owner shall submit a landscaping plan to the Committee for written approval as part of the Owner's initial submittals to the Committee. The Owner shall landscape such Lot in conformance with the landscape plan approved by the Committee within thirty (30) days after substantial completion of the primary residential structure, 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 Committee (but shall be completed no later than the next April 30th following occupancy). All Owners shall install, maintain, repair and replace, in at least the Owner's front yard, a timer-controlled automated irrigation system, which shall be operated in accordance with any rules adopted by the Association. All landscaping plan must comply with the applicable ordinances of the City of Star. The rear yard landscaping must be completed within ninety (90) days of occupancy by Owner; 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 Committee (but shall be completed no later than the next April 30th following occupancy). The Owner is responsible for landscaping and maintaining the strip of property between any pathway or sidewalk located on the Owner's Lot and the street running adjacent thereto. The Owners understand and agree that the centers of the tree(s), which the Owners shall plant, pursuant to the Architectural Design Guidelines, within the planter strip on their Lots or adjacent to their Lots, between the sidewalk and the streets, shall be four (4) feet from the back of the curb.

6.7 Mailboxes. Any mailbox or mailbox post or structure constructed by Grantor on a Lot for the purpose of providing a receptacle for mail delivered solely to that Lot, shall be deemed the property of the Owner of such Lot. The Owner shall maintain, repair and replace such mailbox, mailbox post or structure in good condition and repair, and of the same quality and design, at such Owner's sole cost and expense. In accordance with Article 2 hereof, an Owner

shall obtain prior written approval from the Committee before modifying or replacing such Owner's mailbox or mailbox post, unless the replacement is identical to the original.

6.8 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, including the Common Area or vacant Lots, and no odor shall be permitted to arise from any portion of the Property so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to the Property or to its occupants or residents, or to any other property in the vicinity thereof or to its occupants or residents. No business or home occupation, no noise, no exterior fires, no obstructions of pedestrian walkways, no unsightliness or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or residents or to other property in the vicinity or to its occupants or residents, as determined by the Association, in its reasonable judgment, or in violation of any federal, state or local law, rule, regulation or ordinance. Without limiting the generality of any of the foregoing, no whistles, bells or other sound devices (other than security devices used exclusively for security purposes which have been approved by the Committee), flashing lights or search lights shall be located, used or placed on the Property without the prior written approval of the Committee. No unsightly articles shall be permitted to remain on any Lot so as to be visible from any other portion of the Property. Without limiting the generality of the foregoing, refuse, garbage, trash, equipment, gas canisters, propane gas tanks, barbecue equipment, heat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant ways, metals, bulk material and scrap shall be kept at all times in such containers and in areas approved by the Committee. No clothing or fabric shall be hung, dried or aired in such a way as to be visible to any other portion of the Property.

6.8.1 Basketball backboards or posts shall not be installed without prior approval of the 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.

6.8.2 No major appliances, including without limitation clothes washers, dryers, refrigerators or freezers may be kept, stored or operated on any balcony, patio, porch or other exterior area of any Improvement. Window air-conditioning units are not allowed.

6.8.3 Windows shall be covered only by drapes, shades or shutters and shall not be painted or covered by foil, cardboard, sheets or similar materials.

6.9 No Hazardous Activities. No activities shall be conducted on the Property, and no Improvements shall be constructed on any Property which are or might be unsafe or hazardous to any Person or property.

6.10 Insurance Rates. Nothing shall be done or kept on any Lot which will increase the rate of or cancel any insurance on any other portion of the Property without the approval of the Owner of such other portion, nor shall anything be done or kept on the Property or a Lot which would result in the cancellation of insurance on any portion of the Property owned or managed by the Association or which would be in violation of any law.

6.11 Vehicles and Equipment. The use of all vehicles and equipment shall be subject to any of the Project Documents which prohibit or limit the use thereof within the Property. Without limiting the foregoing, the following specific restrictions apply: (1) all on-street parking shall be limited to those specific areas where on-street parking is not expressly prohibited by the governmental or quasi-governmental agencies with responsibility therefor; (2) vehicles shall not extend or otherwise be permitted on or into any sidewalk, bicycle path or pedestrian path unless such vehicle is engaged in an emergency procedure, or as provided elsewhere in the Project Documents; (3) no motor homes, motor coaches, campers, trailers, snowmobiles, aircraft, boats, recreational vehicles, all-terrain vehicles, Abandoned or Inoperable Vehicles, Oversized Vehicles, dilapidated or unrepaired and unsightly vehicles or similar equipment such as snow removal equipment, garden maintenance equipment and all other unsightly equipment and machinery shall be placed upon any portion of the Property, including but not limited to streets, parking areas and driveways, unless the same are located on a concrete pad and enclosed by a structure concealing them from view in a manner approved by the Committee; (4) to the extent possible, garage doors shall remain closed at all times; and (5) the use of any electronic, gas or other fuel operated gardening, yard or snow removal equipment shall only be allowed from 8:00 a.m. to 9:00 p.m.

6.12 Animals/Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that Household Pets (defined below) may be kept for an Owner's personal use provided that (a) such Household Pets are not bred or maintained for any commercial purpose; (b) no more than four (4) domesticated dogs or domesticated cats may be kept on a Lot; and (c) any such Household Pets shall be properly restrained and controlled at any time they are within the Property. "Household Pets" as permitted hereby means generally recognized household pets, such as domesticated dogs, domesticated cats, fish, birds, rodents and non-poisonous reptiles. Household Pets shall not include livestock, poultry, swine or waterfowl. Notwithstanding the foregoing, Household Pets shall not be kept which unreasonably bother or constitute a nuisance (defined below) to other Owners. As used in this paragraph, "nuisance" means any noisy animal (defined below), any vicious animal, any non-domestic household pet or any animal which damages or destroys property. Excessive, continued or untimely barking, molesting passersby, chasing vehicles, pursuing or attacking other animals, including wildlife, and trespassing upon private property in such a manner as to damage the property shall also be deemed a nuisance. As used in this paragraph, "noisy animal" means any animal which habitually, constantly or frequently disturbs the sleep, peace or quiet of any Person. Owners shall contact Ada County Animal Control regarding noisy animals prior to complaining to the Board about such animals. Any costs associated with responding to complaints of a noisy animal or nuisance pet may be levied against an Owner or Occupant as a Limited Assessment. The Owner of a Property 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 roads or other property necessitated by such pet.

6.13 Construction and Temporary Structures. 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 Improvements thereon. 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.

6.14 Drainage. Ada County Highway District ("ACHD") is hereby granted a perpetual blanket storm water, drainage, overflow and retention easement over (a) Lot 2 of Block 2, Lot 12 of Block 5, Lot 1 of Block 6, and a portion of Lot 1 of Block 7, all as shown on the Phase 1 Plat; and (b) Lot 17 of Block 2, and a portion of Lot 1 of Block 8, all as shown on the Phase 2 Plat. All or a portion of said Lots are depicted on the Phase 1 Plat as being servient to the ACHD storm water drainage system pursuant to that certain First Amended Master Perpetual Storm Water Drainage Easement recorded on November 10, 2015 as Instrument No. 2015-103256 in the office of the Recorder of Ada County, Idaho ("Master Easement"), which Master Easement is incorporated herein by this reference as if set forth in full. The Master Easement and the storm water drainage system are dedicated to ACHD pursuant to Idaho Code Section 40-2302. The Master Easement is for the operation and maintenance of the storm water drainage system. The Master Easement shall remain free of all encroachments and obstructions (including fences and trees) which may adversely affect the operation and maintenance of the storm drainage facilities.

There shall be no interference with the established drainage pattern over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Committee and ACHD. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Property is completed by Grantor, or that drainage which is shown on any plans approved by the Committee and/or ACHD, which may include drainage from Common Area over any Lot in the Property.

Storm drainage facilities within the Property shall be located within the ACHD rights-of-way and/or within the Common Area. Maintenance of all the storm drainage facilities within the public rights-of-way shall be the responsibility of ACHD. Surface maintenance (grass, trees, shrubs, etc.) of the storm drainage facilities outside the public rights-of-way ("Storm Water Park Areas") is the responsibility of the Association. This includes the parking area at the pool house, all maintenance and repair of which is the responsibility of the Association. All Storm Water Park Areas are subject to ACHD easements, if any, shown on the Plats. The primary purpose of the Storm Water Park Areas is for the management of storm water. All recreation, aesthetic and other uses of such areas are secondary. ACHD has the right to inspect such facilities and, if necessary, perform any required maintenance or repairs. ACHD has the right to assess the Association for

the costs of any required maintenance or repairs where the Association has failed to adequately maintain the surface areas that are part of the storm water treatment/detention area(s) within the Property, including the use of liens and/or assessments of maintenance costs against the Lots. The Association shall maintain the Storm Water Park Areas in accordance with that certain Maintenance and Operation Manual authored by Justin Bozovich at ESE Consultants and dated July 7, 2021. Any changes or modifications of the Storm Water Park Areas above and beyond the improvements shown on the ACHD approved storm drainage plans for the Property, as set forth in the Maintenance and Operation Manual, shall require the prior approval of ACHD and any other governmental entity having jurisdiction of the Property.

6.15 Grading. Unless otherwise permitted in a grading plan approved by a public agency, or by the Committee, all Lots within the Property shall be graded so that they drain to the street or streets adjacent to such Lots. Under no circumstances shall any Lot drain onto, over, across or under another Lot if such drainage would have a material, adverse effect on such other Lot. The Owner of any Lot within the Property in which grading or other work has been performed pursuant to a grading plan approved by any public agency, or by the Committee, shall maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means or devices which are not the responsibility of any public agency, and plantings and ground cover installed or completed thereon. An Owner failing to perform the Owner's obligations under this Section shall be subject to Regular Assessments, Special Assessments and Limited Assessments provided for herein, as necessary for the Association to perform the Owner's responsibilities herein. Nevertheless, while the Association shall have the authority and power to take corrective actions by performing an Owner's obligations under this Section, the Association shall not have a duty or obligation to take such corrective actions.

6.16 Irrigation System. Each Owner is hereby required to connect such Owner's Lot(s) to the Irrigation System upon the earlier to occur of the issuance of a certificate of occupancy or nine (9) months after the issuance of a building permit to ensure that all required landscaping is maintained in a high quality manner and first class condition and in accordance with this Declaration and all other applicable standards. By accepting a deed to a Lot, each Owner acknowledges and agrees to pay for Irrigation System water, whether or not such Owner actually uses such water, and to abide by all rules and regulations relating to the Irrigation System imposed by the Association. Each Owner also acknowledges and agrees, by accepting a deed to a Lot, that the Irrigation System water may be inadequate, particularly during low water years and seasons, and that each Owner is not guaranteed any specific amount of water for use on such Owner's Lot(s). Grantor shall transfer the Irrigation System to the Association. Except as otherwise approved by the Grantor or the Board in writing, no lands may use or receive water from the Irrigation System unless such lands have first been duly annexed into the Property pursuant to Section 10.11 hereof.

6.17 Water Supply Systems. No separate or individual water supply system, regardless of the proposed use of the water to be delivered by such system, shall be permitted on any Lot unless such system is approved by all government authorities having jurisdiction and designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Committee and Grantor (so long as Grantor owns one or more Lots).

6.18 Sewage Disposal Systems. No individual sewage disposal system shall be used on the Property. Each Owner shall connect the appropriate facilities on such Owner's Lot to the City of Star sewer system and pay all charges assessed thereon.

6.19 Energy Devices, Outside. No energy production devices, including but not limited to generators of any kind and solar energy devices, shall be constructed or maintained on any portion of the Property without the written approval of the Committee, except for mechanical equipment shown in the plans approved by the Committee. This Section shall not apply to passive solar energy systems incorporated into the approved design of a residential structure.

6.20 Signs. Except as specifically provided for in writing within the Project Documents, no more than one (1) sign shall be allowed on any Lot at any one time advertising the property for sale 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 and not more than three (3) feet above grade. In addition, signs may also be allowed as follows:

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

6.20.2 Directional and open house signs may be used during open house time period only.

6.20.3 All Lot signs must be removed within thirty (30) days after occupancy.

6.20.4 Signs advertising a property for rent are not allowed anywhere on the Property.

6.21 Antennae. All exterior radio antenna, television antenna, satellite dish antenna or other antenna of any type shall be screened by a fence, landscaping or similar structures in accordance with the Architectural Design Guidelines, or as otherwise required to ensure the safety of the residents of the Property, except that screening shall not be required where it would unreasonably delay installation or unreasonably increase the cost of installation, maintenance or use of the antennae, or preclude the reception of an acceptable quality signal. No antennae may be installed until after an Owner has received Committee approval for construction of residential Improvements on the Owner's Lot.

6.22 No Further Subdivision. No Lot may be further subdivided unless expressly approved in writing by Grantor, so long as Grantor owns a Lot in the Property, and the Board of the Association. Any such further subdivision shall be consistent with all applicable state and local laws, rules, regulations and ordinances.

6.23 Leasing. No Owner of a Lot may lease to a non-Owner less than all of such Lot or less than all of the Improvements on the Lot. No Owner of a Lot may lease the Lot and the

Improvements thereon for a term of less than six (6) months. For purposes of this Section, the term "lease" refers to any agreement or arrangement involving the renting, leasing, subleasing, letting, subletting, demising or assigning to any non-Owner any right to occupy or possess any Lot or portion of a Lot. By purchasing a Lot in the Property, the Owner of such Lot agrees that the provisions of this Section do not constitute an unreasonable restraint upon the alienation of such Lot. An Owner who leases a Lot or any portion thereof shall be fully responsible for the conduct and activities of any non-Owner who is permitted to occupy or possess all or any portion of the Lot as if such Owner and such non-Owner were the same Person. An Owner of a Lot who leases the Lot or any portion thereof to anyone other than a member of the Owner's family shall do so only pursuant to a written lease agreement and shall promptly provide the Association with a copy of such lease agreement. Any Owner or other Person who occupies or possesses a Lot or portion thereof shall comply with the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, to the extent the same may be applicable to such Owner or other Person. Nothing in this Declaration shall be construed to require any conduct that would violate the Fair Housing Act.

6.24 Compliance with Laws. Subject to the rights of reasonable contest, each Owner and any and all professionals retained by such Owner or any employees, contractors or subcontractors of such professionals, shall promptly comply with the provisions of all applicable laws, regulations, ordinances and other governmental or quasi-governmental regulations with respect to all or any portion of the Property, including but not limited to any and all portions of the Property subject to regulation by the U.S. Army Corps of Engineers as wetlands areas.

ARTICLE 7 EASEMENTS

7.1 Owner's Easements of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment of the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the Restrictions set forth in this Declaration, as supplemented and amended from time to time.

7.2 Delegation of Use. Any Owner may delegate, in accordance with the Project Documents, such Owner's right of enjoyment in the Common Area to such Owner's tenants, employees, family, guests or invitees.

7.3 Recorded Easements. The Property, and all portions thereof, shall be subject to all easements shown on any recorded Plat affecting the Property, or any portion thereof, and to any other easements of record or of use.

7.4 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto, or as between adjacent Lots, due to the unwillful placement or settling or shifting of the Improvements including but not limited to structures, walkways, bike paths, sidewalks and driveways constructed, reconstructed or altered thereon in accordance with the terms of this Declaration. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for

encroachment occur due to the willful or bad faith act(s) of an Owner. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments within and over adjoining Lots that existed prior to the encroachment may be reconstructed pursuant to the easement granted by this Section 7.4.

7.5 Maintenance and Use Easement Between Walls and Property. Whenever the wall of a structure, a fence, eave or overhang constructed on a Lot pursuant to the Committee's approval is located within three (3) feet of the property line of such Lot, the Owner of such Lot is hereby granted an easement over and on the adjoining Lot (not to exceed three (3) feet from the property line of the Lot) for purposes of maintaining, repairing or replacing such wall, fence, eaves or other overhangs, and the Owner of such adjoining Lot is hereby granted an easement for landscaping purposes over and on the area lying between the property line and such structure or fence so long as such use does not cause damage to the structure or fence.

7.6 Easements of Access. Grantor expressly reserves for the benefit of all the Property reciprocal easements of ingress and egress for all Owners to and from their respective Lots for installation and repair of utility services and for necessary maintenance and repair of any Improvement including but not limited to fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees and landscaping. Such easements may be used by Grantor, and by all Owners, their guests, tenants and invitees residing on or temporarily visiting the Property, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot or Common Area.

7.7 Drainage and Utility Easements. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Grantor for the installation and maintenance of utilities and drainage facilities that are required for the development of the Property. In addition, Grantor hereby reserves for the benefit of the Association the right to grant additional easements and rights-of-way over the Property, as appropriate, to utility companies and public agencies as necessary or expedient for the proper development of the Property until close of escrow for the sale of the last Lot in the Property.

The Owners of Lots are hereby restricted and enjoined from constructing or altering any Improvements upon any drainage or utility easement areas as shown on a Plat or otherwise designated in any recorded document which would interfere with or prevent the easement from being used for its intended purpose; provided, however, that the Association, Grantor and any Owner or designated Person having an interest in any landscaping easement described in this Article 7, shall be entitled to install and maintain landscaping on such easement areas, subject to approval by the Committee, so long as the same would not interfere with or prevent the easement areas from being used for their intended purposes; provided, further, that any damage sustained to Improvements on the easement areas as a result of legitimate use of the easement area shall be the sole and exclusive obligation of the Owner of the Lot where Improvements were so damaged, or in the event the easement area where Improvements were so damaged is located in a Common Area, the Association shall be responsible for the damage sustained and may impose a Special or Limited Assessment therefor.

7.8 Rights and Duties Concerning Utility Easements. The rights and duties of the Owners of the Lots within the Property with respect to utilities shall be governed by the following:

7.8.1 Access for Single Owners. Wherever utility house connections are installed within the Property, which connections or any portions thereof lie in or upon Lots owned by an Owner other than the Owner of the Lot served by the connections, the Owner of the Lot served by the connections shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon any Lot or to have their agent enter upon any Lot within the Property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain the connections as and when it may be necessary; and

7.8.2 Access for Multiple Owners. Whenever utility house connections are installed within the Property, which connections serve more than one Lot the Owner of each Lot served by the connections shall be entitled to full use and enjoyment of such portions of said connections as service such Owner's Lot.

7.9 Disputes as to Sharing of Costs. In the event of a dispute between Owners with respect to the repair, replacement or maintenance of any Improvement or utility connections, or with respect to the sharing of the cost therefor, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute and, if appropriate, make an appropriate Assessment against any or all of the Owners involved on behalf of the prevailing Owner(s), which Assessment shall be collected and enforced in the manner provided by this Declaration for Limited Assessments.

7.10 General Landscape Easement. An easement is hereby reserved to the Association, its contractors, employees and agents to enter all Lots, for the purpose of installing, maintaining, replacing and restoring the Irrigation System, exterior landscaping and natural vegetation and habitat. Such landscaping activity shall include, by way of illustration and not of limitation, the mowing of lawns, irrigation, sprinkling, tree and shrub trimming and pruning, walkway Improvement, seasonal planting and such other landscaping activities within the Property as the Association shall determine to be necessary from time to time.

7.11 Easements Deemed Created. All conveyances of Lots made after the date of the recording of the Declaration, as amended and supplemented from time to time whether by Grantor or otherwise, shall be construed to grant and reserve the easements contained in this Article 7, even though no specific reference to such easements or to this Article 7 appears in the instrument for such conveyance.

7.12 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons to enter upon the Property in the proper performance of their duties.

7.13 Maintenance Easement. An easement is hereby reserved to Grantor, which may be assigned by Grantor to the Association, and any member of the Board or Manager, if any, and

its respective officers, agents, employees and assigns, upon, across, over, in and under the Lots and a right to make such use of the Lots as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Project Documents, including but not limited to the right to enter upon any Lot for the purpose of performing maintenance to sidewalks, pathways, landscaping, the drainage system and the exterior of Improvements to such Lot as required by the Project Documents.

7.14 No Easement for Light, Air or View. No Owner shall have an easement for light, air or view over the Lot of another Owner and no diminution of light, air or view by any Improvement now existing or hereafter erected shall entitle an Owner or any other Person to claim any easement for light, air or view within the Property.

ARTICLE 8 ALTERNATIVE DISPUTE RESOLUTION

8.1 Agreement to Encourage Resolution of Disputes Without Arbitration/Litigation.

8.1.1 The Association, the Grantor, all Owners and all Persons subject to this Declaration (and any Person not otherwise subject to this Declaration who agrees to submit to this Article 8) (collectively, "**Bound Parties**" and each a "**Bound Party**"), agree to attempt to resolve disputes against other Owners, the Grantor and/or the Association without the emotional and financial costs of arbitration/litigation (as applicable). Accordingly, each Bound Party agrees not to file arbitration/suit (as applicable) against another Owner, the Association and/or the Grantor in any tribunal with respect to a Claim described in Section 8.1.2, unless and until such Bound Party has first submitted such Claim to the alternative dispute resolution procedures set forth in Sections 8.2.1, 8.2.2 and 8.2.3 in a good faith effort to resolve the Claim. The provisions of this Article 8 shall not apply to any efforts of the Association to collect Assessments or other amounts owed to the Association from any Owner other than Grantor.

8.1.2 As used in this Article 8, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

8.1.2.1 The interpretation, application, or enforcement of this Declaration, the Bylaws and/or any Association Rules;

8.1.2.2 The rights, obligations, and duties of any Bound Party under this Declaration, the Bylaws and/or Association Rules.

8.1.2.3 The design or construction of improvements within the Property, including, without limitation, any improvements located within Common Area; and/or

8.1.2.4 Any actions taken or untaken by the Executive Board or by the Grantor.

8.1.3 The foregoing notwithstanding, the following shall be considered Claims and shall be subject to the binding arbitration procedure set forth in Section 8.2.4, but shall not be subject to the procedures set forth in Sections 8.2.1, 8.2.2 or 8.2.3:

8.1.3.1 Any action to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the arbitrator may deem necessary in order to maintain the status quo and preserve the ability to enforce the provisions of this Declaration;

8.1.3.2 Any suit as to which the applicable statute of limitations would expire within ninety (90) days of giving the Notice required by Section 8.2.1, unless the party or parties against whom the Claim is made agree in writing to toll, or extend, the Claim's statute of limitations to comply with this Article 8.

8.1.4 The foregoing notwithstanding, the following shall not be considered a Claim unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 8.2:

8.1.4.1 Any suit that does not include Grantor and/or the Association as a party if such suit asserts a Claim that would constitute a cause of action independent of the Declaration.

8.2 Dispute Resolution Procedures.

8.2.1 Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") to each Respondent and Grantor (if the Grantor itself is not the Respondent and is still selling Lots in the Property) stating plainly and concisely:

8.2.1.1 The nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

8.2.1.2 The legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

8.2.1.3 The Claimant's proposed resolution or remedy; and

8.2.1.4 The Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

8.2.2 Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

8.2.3 Mediation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other agreed upon period), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by Grantor if Grantor is not a party to the Claim or, if Grantor is a party to the Claim, to an independent agency providing dispute resolution services in the County in which the Property is located. Each Bound Party shall present the mediator with a written summary of the Claim.

8.2.3.1 If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

8.2.3.2 If the parties do not settle the Claim within thirty (30) days after submitting the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file arbitration as set forth below.

8.2.3.3 Each Bound Party shall bear its own costs hereunder, including attorneys' fees, and each Party shall pay an equal share of the mediator's fees.

8.2.4 Binding Arbitration. If parties to such Claim cannot resolve the Claim as set forth in Section 8.2.3 above, or the Claim is exempt from the above resolution process as set forth in Section 8.1.3, then such Claims shall be resolved by binding arbitration. Each Bound Party shall bear its own costs hereunder, including attorney's fees and each Bound Party shall pay an equal share of the arbitrator's fees.

8.2.4.1 Such binding arbitration shall be before a single arbitrator selected through the American Arbitration Association ("AAA"), unless a single arbitrator is otherwise mutually agreed upon by the Respondent(s) and Claimant(s). Absent a mutual agreement to the contrary, the arbitration shall be conducted in accordance with its Expedited Procedures of the Commercial Arbitration Rules, which rules can be viewed at www.adr.org. If AAA is unable to arbitrate a particular Claim, then that Claim shall be resolved by binding arbitration by a single arbitrator selected through AAA's successor or an equivalent organization, or by any other single arbitrator mutually agreed upon by the parties. **The arbitrator may not preside over any form of representative, collective or class proceeding, all of which are hereby expressly waived and precluded by this paragraph. Absent agreement of the parties, no arbitration between the parties or any claims asserted in an arbitration between the parties shall be consolidated with another arbitration for any purposes.** Notwithstanding anything in the Commercial Arbitration Rules to the

contrary, and except as provided for in any state or federal statutory law that may not be waived, in no event shall any Bound Party be entitled to recover its attorney's fees or costs in any arbitration.

8.2.4.2 The provisions of this Section 8.2.4 shall be governed by the provisions of the Federal Arbitration Act, 9 U.S.C. §1, *et seq.*

8.2.4.3 Each Bound Party agrees that Grantor may include in any arbitration Grantor's claims against its design professionals, contractors, subcontractors and suppliers for contribution, indemnity or any other contractual or common law relief.

8.2.4.4 EACH BOUND PARTY HEREBY WAIVES THE RIGHT TO A PROCEEDING IN A COURT OF LAW (INCLUDING WITHOUT LIMITATION A TRIAL BY JURY) FOR ANY CLAIMS OR COUNTERCLAIMS BROUGHT HEREUNDER.

8.2.5 Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file arbitration without the need to again comply with the procedures set forth in Sections 8.2.1, 8.2.2 or 8.2.3.

ARTICLE 9 INSPECTION OF ASSOCIATION BOOKS AND RECORDS

9.1 Member's Right of Inspection. The membership register, books of account and minutes of meetings of the board and committees of the Association shall be made available for inspection and copying by any Member, or by such Member's duly appointed representatives, at any reasonable time and for a purpose reasonably related to such Member's interest as a Member at the office of the Association or at such other place as the Board shall prescribe. No Member or any other Person shall copy the membership register for the purposes of solicitation of or direct mailing to any Member.

9.2 Rules Regarding Inspection of Books and Records. The Board shall establish reasonable rules with respect to (1) notice to be given to the custodians of the records by the Persons desiring to make the inspection; (2) hours and days of the week when such an inspection may be made; and (3) payment of the cost of reproducing copies of documents requested pursuant to this Article 9.

9.3 Director's Rights of Inspection. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association, and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

ARTICLE 10 GRANTOR RIGHTS

10.1 Right of Development. Nothing contained in this Declaration shall limit the right of Grantor to grant licenses, to reserve rights-of-ways and easements for utility companies, public agencies or others, to complete excavation, grading and construction of Improvements to and on any portion of the Property owned by Grantor, to alter the foregoing and its construction plans and designs or to construct such additional Improvements as Grantor deems advisable in the course of development of the Property. Such right shall include, but shall not be limited to, erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Grantor's business of completing the work and disposing of the same by sales, lease or otherwise. Grantor shall have the right at any time prior to acquisition of title to a Lot by a purchaser to grant, establish and/or reserve on that Lot additional licenses, reservations and rights-of-way to Grantor, to utility companies or to others as may from time to time be reasonably necessary for the proper development and disposal of the Property. Grantor may use any structures owned or controlled by Grantor on the Property as model home complexes or real estate sales or leasing offices. Grantor need not seek or obtain Association or Committee approval of any Improvement constructed or placed by Grantor, or its affiliated entities, on any portion of the Property.

Each Owner by acceptance of a deed to any Lot or other portion of the Property agrees that such Owner shall not object to or oppose any development of any portion of the Property or other property annexed to the Property pursuant to Section 10.11 below. Such agreement not to oppose development is a material consideration to the conveyance of any portion of the Property by Grantor to any and all Owners.

No provision of this Declaration shall be construed as to prevent or limit Grantor's right to complete development of the Property, including any subdivision or re-subdivision of the Property, or to construct Improvements thereon, nor Grantor's right to maintain model homes, construction, sales or leasing offices or similar facilities on any portion of the Property, including the Common Area or any public right-of-way, nor Grantor's right to post signs incidental to construction, sales or leasing.

10.2 Rights Incident to Construction. Grantor, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Property and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property owned by Grantor; provided, however, that no such rights shall be exercised by Grantor in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or such Owner's family, tenants, employees, guests or invitees.

10.3 Water Rights Appurtenant to Subdivision Lands. Grantor hereby reserves unto itself any and all water rights and rights to receive water (including, but not limited to, stock in irrigation and ditch companies) appurtenant to or currently associated with the Property, and Owners of any and all Lots accordingly shall have no right, title or interest in any of said water rights or rights to receive water. To the extent owned by the Grantor and appurtenant to or

currently associated with the Property, the Grantor shall transfer to the Association sufficient water rights and rights to receive water to enable the Association to operate the Irrigation System.

10.4 Exemption From Architectural Review. Any and all Improvements constructed by Grantor on or to the Property are not subject to review and approval by the Committee. Lots owned by Grantor may remain in an unimproved condition.

10.5 Construction and Temporary Structures. Grantor or its authorized agents, to facilitate Lot sales, may place a temporary sales office or construction trailer of a portable nature upon any Lot.

10.6 Signs. Grantor is entitled to place signs of such size, design and number, as Grantor 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.

10.7 Regular Assessments. Until the Class B Member Termination Date, Grantor shall not be assessed any Regular Assessments for any Lots owned by Grantor. However, until the Class B Member Termination Date, Grantor shall pay an amount equal to the Operating Expenses shortfall of the Association (the "**Shortfall Payment**"), which Shortfall Payment shall be the lesser of (i) the actual Operating Expenses shortfall, or (ii) the Regular Assessments that Grantor would otherwise be assessed as an Owner of a Lot multiplied by the total number of Lots owned by Grantor on the date Regular Assessments are assessed against the Owners of Lots. After the Class B Member Termination Date, Grantor shall be assessed Regular Assessments for each Lot of which Grantor is an Owner.

10.8 Membership Register. Grantor may copy the membership register for the purposes of solicitation of or direct mailing to any Member.

10.9 Declaration Amendment. Except as provided in Section 10.10, until the recordation of the first deed from Grantor for a Lot, the provisions of this Declaration may be amended, modified, clarified, supplemented, added to or terminated (each, an "**Amendment**") by Grantor by recordation of a written instrument setting forth such Amendment. In addition, Grantor, regardless of whether it has conveyed any Lot(s) to an Owner, shall have the exclusive right, power and authority to add to and/or amend this Declaration or any of the Project Documents, at any time and at its sole discretion, to comply with any and all requirements and conditions of the Federal National Mortgage Association ("**FNMA**"), the Government National Mortgage Association ("**GNMA**"), the Federal Housing Administration ("**FHA**"), the Veterans Administration ("**VA**") and the Federal Home Loan Mortgage Corporation ("**FHLMC**").

10.10 Mortgage Protection. Notwithstanding any other provision of this Declaration, no Amendment of this Declaration or any supplement hereto shall operate to defeat or render invalid the rights of the beneficiary or mortgagee under any First Mortgage upon a Lot made in good faith and for value, and recorded prior to the recordation of such Amendment, provided that after foreclosure of any such First Mortgage, such Lot shall remain subject to this Declaration, as amended and/or supplemented. In order to induce the FHLMC, GNMA, FHA, VA and FNMA

to participate in the financing of the sale of Lots, any provisions hereof or of the Association's Articles of Incorporation and/or Bylaws, which conflict with or are not adequate to meet the requirements of FHLMC, GNMA, FHA, VA and FNMA, may be amended and supplemented by Grantor, in its sole discretion and without needing to obtain any approvals or consents, to meet such requirements.

In addition to the foregoing, Grantor may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of FHLMC, GNMA, FHA, VA and FNMA, or any similar entity, so as to allow the purchase, guaranty or insurance, as the case may be, by such entities of First Mortgages encumbering Lots with residences thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of their Lots, if such agencies approve the Property as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Beneficiaries and mortgagees under a Mortgage are hereby authorized to furnish information to Grantor concerning the status of any Mortgage encumbering a Lot.

10.11 Annexation. Grantor may annex additional lands into the Property by recording a supplement to this Declaration declaring such additional lands to be part of the Property and subject to this Declaration. Grantor may exercise the foregoing annexation rights at any time and from time to time without the approval of any Owner or the Association. The supplement to this Declaration may set forth additional or different covenants and restrictions applicable to the annexed lands, as Grantor may deem appropriate, and may delete or modify as to the annexed lands such covenants or restrictions as are contained herein which Grantor deems not appropriate for the annexed lands, so long as the quality of Property is not materially adversely affected. The Owners of Lots within annexed lands shall become Members of the Association with all rights, privileges and obligations as all other Members. Grantor shall not be obligated in any manner by this Declaration to annex additional lands to the Property or to annex any particular tract, or to annex tracts in any particular sequence, or to annex continuous tracts, it being the intention hereof that Grantor may decline to exercise the rights granted in this Article or may elect to exercise such rights only to a limited extent.

10.12 De-Annexation. Grantor shall have the right to delete all or a portion of the Property from the coverage of this Declaration and the jurisdiction of the Association, provided that Grantor is the owner of all property to be de-annexed. Such deannexation shall be effective upon Grantor's recordation of a supplement to this Declaration identifying the de-annexed lands and declaring that such lands shall no longer be subject to this Declaration.

10.13 Assignment of Grantor's Rights. The rights of Grantor under this Declaration may be assigned, in whole or in part, by Grantor, with respect to all or any portion of the Property, or with respect to other lands that may in the future be annexed pursuant to Section 10.11 above, by an express written assignment recorded in the office of the Recorder of Ada County. An assignee of Grantor's rights may include, without limitation, a beneficiary under a deed of trust on real property who exercises its remedies and acquires such real property or another who purchases any portion of such real property from such beneficiary. Such

assignment may be part of a supplement to this Declaration annexing additional lands pursuant to Section 10.11 above. A transferee of a Lot from Grantor does not become, as a result of such transfer, a Grantor under this Declaration with respect to such Lot.

ARTICLE 11 DEFINITIONS

- 11.1 "AAA" has the meaning ascribed to it in Section 8.2.4.1.
- 11.2 "Abandoned or Inoperable Vehicle" means any vehicle which has not been driven under its own propulsion for a period of seven (7) days or longer.
- 11.3 "Amendment" has the meaning ascribed to it in Section 10.9.
- 11.4 "Architectural Design Guidelines" means the architectural design guidelines and rules promulgated, published, amended and supplemented from time to time pursuant to Article 2.
- 11.5 "Articles" means the Articles of Incorporation of the Association, as the same may be amended or revised from time to time.
- 11.6 "Assessments" means those payments required of Owners who are Association Members, including Regular Assessments, Special Assessments, Limited Assessments or Irrigation System Assessments.
- 11.7 "Association" means Heirloom Ridge Homeowners Association, Inc., an Idaho nonprofit corporation.
- 11.8 "Association Rules" means those rules and regulations promulgated by the Association from time to time governing conduct upon and use of the Property, the imposition of fines and forfeitures and other penalties for violation of Association Rules or any other Project Documents, and procedural matters for use in the conduct of business of the Association.
- 11.9 "Board" means the Board of Directors of the Association.
- 11.10 "Bound Parties" and "Bound Party" have the meaning ascribed to them in Section 8.1.1.
- 11.11 "Building Envelope" means the area within a Lot where a residential structure and accessory structures may be located, always subject to the prior written approval of the Committee. Unless otherwise designated by Grantor, the Building Envelope shall be that portion of the Lot not located within legal setback areas or designated easements.
- 11.12 "Bylaws" means the Bylaws of the Association, as the same may be amended or revised from time to time.
- 11.13 "Claim" has the meaning ascribed to it in Section 8.1.2.

11.14 "Claimant" has the meaning ascribed to it in Section 8.2.1.

11.15 "Class A Member" has the meaning ascribed to it in Section 1.3.1.

11.16 "Class B Member" has the meaning ascribed to it in Section 1.3.2.

11.17 "Class B Member Termination Date" has the meaning ascribed to it in Section 1.3.2.

11.18 "Committee" means the Architectural Review Committee described in Article 2 hereof.

11.19 "Common Area" means (a) Lot 1 of Block 1, Lots 2 & 8 of Block 2, Lot 2 of Block 3, Lot 2 of Block 4, Lots 1 & 12 of Block 5, Lots 1 & 7 of Block 6, and Lots 1, 9 and 13 of Block 7, all as platted on the Phase 1 Plat; (b) Lots 9, 17 & 25 of Block 2, and Lot 1 of Block 8, all as platted on the Phase 2 Plat; and (c) any other parcels of real property in which the Association holds an interest or which is held or maintained for the benefit of the Association and its Members, including personal property or improvements located thereon. The Association may acquire any Common Area it deems necessary and/or beneficial to the Property. Common Area may include easement and/or license rights. The Irrigation System is a part of the Common Area owned and governed by the Association, including without limitation any portions of the Irrigation System located in areas on Lots that are the subject of easements in favor of the Association.

11.20 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Heirloom Ridge Subdivision, as it may be amended and supplemented from time to time.

11.21 "Discretion" or "discretion" means the freedom or authority to act according to one's own judgment.

11.22 "Expenses" has the meaning ascribed to it in Section 3.4.1.

11.23 "First Mortgage" means any Mortgage which is not subordinate to any other Mortgage or to any other financial lien except liens for taxes and assessments or other non-consensual liens that are given priority by statute.

11.24 "Grantor" means TOLL SOUTHWEST LLC, a Delaware limited liability company, whose complete mailing address is 3103 W. Sheryl Drive, Suite 100, Meridian, Idaho 83642, its successors or any Person to whom such company's rights as "Grantor" under this Declaration are expressly assigned, directly or indirectly, in whole or in part.

11.25 "Improvement" means any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed, placed upon or allowed on, under or over any portion of the Property, including but not limited to residential structures, accessory buildings, club houses, pump or lift stations, fences, streets, drives, driveways, parking areas, sidewalks, bridges, bicycle paths, curbs, landscaping, walls, hedges, plantings, trees,

wildlife habitat improvements, living and/or dead vegetation, rocks, signs, lights, mail boxes, electrical lines, pipes, pumps, ditches, recreational facilities, grading, road construction, utility improvements, trees, plantings, landscaping and any exterior construction or exterior improvement which may not be included in the foregoing. Improvement(s) includes both original improvements existing on the Property on the date hereof and all later changes and new Improvements.

11.26 "Irrigation System" means the irrigation system contained within the Property, existing separate and apart from the potable water system, including all Improvements associated therewith, which supplies the entire Property with irrigation water and is more fully described in Section 6.16 hereof.

11.27 "Irrigation System Assessment" means an Assessment levied by the Association in accordance with Article 3 against each Lot for the payment of the expenses incurred by the Association for the delivery of water through the Irrigation System, maintenance, repair and replacement of the Irrigation System and any and all assessments or related charges for the administration and enforcement of the rules, regulations and use schedules relating to the Irrigation System.

11.28 "Limited Assessment" means a charge against a particular Owner and such Owner's Lot, directly attributable to the Owner, equal to the cost incurred by the Association in connection with corrective action or maintenance, repair, replacement and operation activities performed pursuant to the provisions of this Declaration, including but not limited to damage to or maintenance, repair, replacement and operation activities performed for any Common Area or the failure of an Owner to keep the Owner's Lot in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all Owners.

11.29 "Lot" means a lot depicted on a Plat upon which Improvements may be constructed. For voting, membership and Assessment purposes herein, "Lot" shall not include any lots owned by the Association as Common Area.

11.30 "Manager" has the meaning ascribed to it in Section 1.8.

11.31 "Member" means each Owner holding a membership in the Association, including Grantor.

11.32 "Mortgage" means any mortgage, deed of trust, or other document pledging any portion of the Property or interest therein as security for the payment of a debt or obligation.

11.33 "Notice" has the meaning ascribed to it in Section 8.2.1.

11.34 "Occupant" means any resident or occupant of a Lot other than the Owner, including but not limited to family members, guests, invitees and tenants.

11.35 "Operating Expenses" has the meaning ascribed to it in Section 3.4.1.

11.36 "Oversized Vehicles" means vehicles which are too high or too wide to clear the entrance of a normal residential garage door opening.

11.37 "Owner" means the record owner, whether one or more Persons, including Grantor, holding fee simple interest of record to a Lot that is a part of the Property, and buyers under executory contracts of sale, but excluding those Persons having such interest merely as security for the performance of an obligation, unless and until such Person has acquired fee simple title pursuant to foreclosure or other proceedings.

11.38 "Person(s)" means any individual, partnership, corporation, trust, estate or other legal entity, including Grantor.

11.39 "Phase 1 Plat" has the meaning set forth in the first recital of this Declaration.

11.40 "Phase 2 Plat" has the meaning set forth in the first recital of this Declaration.

11.41 "Plat" means any subdivision plat covering any portion of the Property as recorded in the office of the Recorder of Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.

11.42 "Project Documents" means the basic documents creating and governing the Property including but not limited to this Declaration, the Articles, Bylaws, Association Rules, the Architectural Design Guidelines and any other procedures, rules, regulations or policies adopted under such documents by the Association or the Committee.

11.43 "Property" has the meaning set forth in the recitals of this Declaration, as such term may be amended from time to time including, without limitation, pursuant to Sections 10.11 and 10.12.

11.44 "Regular Assessment" means the portion of the cost of maintaining, improving, repairing, managing and operating the Common Area, including all Improvements located thereon, and the other costs and expenses incurred to conduct the business and affairs of the Association which is levied against the Lot of each Owner by the Association pursuant to the terms of this Declaration.

11.45 "Respondent" has the meaning ascribed to it in Section 8.2.1.

11.46 "Restrictions" has the meaning set forth in the recitals of this Declaration.

11.47 "Special Assessment" means that portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration.

ARTICLE 12 MISCELLANEOUS

12.1 Term. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions and equitable servitudes of this Declaration shall run until December 31, 2051, unless amended as herein provided. After December 31, 2051, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by Members holding at least a majority of the voting power of the Association and such written instrument is recorded in the office of the Recorder of Ada County, Idaho.

12.2 Amendment.

12.2.1 By Owners. Except as provided in Sections 10.9 and 10.10, after the recordation of the first deed from Grantor for a Lot, any Amendment to any provision of this Declaration, other than to this Section 12.2, shall be by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such Amendment has been approved by the vote or written consent of Members representing more than sixty-five percent (65%) of the total voting power in the Association, except where a greater percentage is required by express provision in this Declaration, and such Amendment shall be effective upon its recordation in the office of the Recorder of Ada County, Idaho. Any Amendment to this Section 12.2 shall require the vote or written consent of Members holding ninety-five percent (95%) of the voting power of the Association.

12.2.2 Effect of Amendment. Any Amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners and their respective properties notwithstanding that such Owners may not have voted for or consented to such Amendment. Such Amendments may add to and increase the covenants, conditions, restrictions and easements applicable to the Property but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's property which existed prior to the said Amendment.

12.3 Notices. Any notices permitted or required to be delivered as provided in this Declaration shall be in writing and may be delivered either personally, by fax, electronic mail or by United States mail. If delivery is made by United States mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, first class, postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the residence of such Person if no address has been given to the Association or to the address of such Person as contained in the Ada County tax assessor's rolls. Such address may be changed from time to time by notice in writing to the Association.

12.4 Enforcement and Non-Waiver.

12.4.1 Right of Enforcement. Except as otherwise provided in this Declaration, Grantor, the Association or any Owner shall have the right to enforce any or all of the provisions hereof against any property within the Property and against the Owners thereof.

12.4.2 Violations and Nuisances. The failure of any Owner of a Lot to comply with any provision hereof, or with any provision of the Project Documents, is hereby declared a nuisance and will give rise to a cause of action in Grantor, the Association or any Owner for recovery of damages or for negative or affirmative injunctive relief or both.

12.4.3 Violation of Law. Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration and any or all enforcement procedures in law and equity.

12.4.4 Remedies Cumulative. Except as otherwise expressly provided in this Declaration, each remedy provided herein is cumulative and not exclusive.

12.4.5 Non-Waiver. The failure to enforce any of the provisions of this Declaration or any other Project Document at any time shall not constitute a waiver of the right to enforce any such provision.

12.5 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho. In the event of any conflict between this Declaration and any other of the Project Documents, this Declaration shall control.

12.5.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the recitals of this Declaration.

12.5.2 Restrictions Severable. Notwithstanding the provisions of the foregoing ~~Section 12.5.1~~, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

12.5.3 Singular Includes Plural. Unless the context requires a contrary construction, 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.

12.5.4 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

12.5.5 Government Rules and Ordinances. In the event any of these Restrictions are less restrictive than any government rules, regulations or ordinances, then the more restrictive government rule, regulation or ordinances shall apply. These Restrictions are subject to all rules, regulations, laws and ordinances of all applicable government bodies. In the event a governmental rule, regulation, law or ordinance would render a part of these Restrictions unlawful, then in such event that portion shall be deemed to be amended to comply with the applicable rule, regulation, law or ordinance.

12.6 Successors and Assigns. All references herein to Grantor, the Association, Owners, Members or Persons shall be construed to include all successors, assigns, and authorized agents of such Grantor, Association, Owners, Members or Persons.

12.7 Owner's Acknowledgements. The following acknowledgments identify additional information currently known by Grantor about the Property which each Owner should consider when purchasing a Lot. Each Owner understands that these acknowledgments may not be a complete list of issues that an Owner may wish to consider prior to purchasing a Lot since Grantor cannot control future events and may not be aware of certain issues existing at this time, including without limitation, future development requirements of governmental organizations claiming jurisdiction over the Property, or how such requirements may impact the future development plans of the Property. Each Owner, by accepting a deed to any Lot, acknowledges and agrees to the following:

12.7.1 Irrigation System.

12.7.1.1 Non-potable water supplied to the Property for irrigation of the Common Area and Lots will be supplied by the Association through an Irrigation System that will be owned, operated and maintained by the Association. The Association may promulgate rules and regulations, including water use schedules, controlling the allocation, distribution and flow of water among the various Lots. Grantor anticipates that the primary source of the irrigation water will be ditches and canals owned or operated by Middleton Irrigation Association, Inc. and Foothill Ditch Company. As a result, the availability of irrigation water to each Lot will depend on, among other things, the presence of water in those ditches and canals. Each Owner acknowledges the obligation to pay assessments to Middleton Irrigation Association, Inc. and Foothill Ditch Company for such irrigation water and the maintenance of such ditches and canals, regardless of whether the Owner uses any irrigation water and regardless of whether those assessments are invoiced directly to the Owner or indirectly through the Association. It is the obligation of each Owner to determine, in accordance with all Project Documents, the amount of irrigation water needed to irrigate such Owner's

Lot, and to ensure that the grading and drainage pattern established on such Lot is adequate to drain irrigation water away from the residential dwelling Improvements located on such Lot.

12.7.1.2 Water from the Irrigation System is unfit for human consumption. It contains untreated surface water that may contain disease causing organisms and/or other contaminants. Surface water can also contain agricultural chemicals that can be hazardous to health. Drinking the water from the Irrigation System will likely result in sickness, and in some cases, death or permanent disability. It is each Owner's responsibility to ensure that all irrigation water faucets and risers are adequately marked and/or identified for each such Owner's safety. It is also each Owner's responsibility to ensure that no cross-connections between the Irrigation System and the potable water system were made by previous Owners.

12.7.2 Ongoing Development. Owner acknowledges that the development of the Property will occur over time and that construction activities will be present on the Property throughout the development process. No Owner shall object to, interfere with or otherwise impede the development of any remaining portion of the Property and that this acknowledgment and agreement is a material consideration to Grantor.

12.7.3 Due Diligence; Acceptance of Lots "As-Is". Owner acknowledges that the information contained in the Project Documents is not a complete or exhaustive collection of information about the Property or any Lot. Each prospective Owner must conduct a full and complete due diligence of the Property and any Lot therein to such prospective Owner's satisfaction. Owner accepts title to the Lot(s) after conducting all necessary inquiries and due diligence. Owner further takes the Lot(s) "As-Is, Where-Is."

12.7.4 No Warranties. Owner acknowledges that no warranties, express or implied, written or verbal, or understandings other than those expressly contained in any written document between Grantor and an Owner.

Each Owner understands that these acknowledgments may not be a complete list of issues that an Owner may wish to consider prior to purchasing a Lot since Grantor cannot control future events and may not be aware of certain issues existing at this time, including but not limited to future development requirements of governmental or municipal organizations claiming jurisdiction over the Property or how such requirements may impact the future development plans of the Property.

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